



Petroleum Underground Storage Tank Release Compensation Board

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**MINUTES OF THE 196th MEETING OF THE
PETROLEUM UNDERGROUND STORAGE TANK
RELEASE COMPENSATION BOARD
November 30, 2022 – 10:00 a.m.**

BOARD MEMBERS IN ATTENDANCE

Jim Rocco
John Hull
Steve Bergman
Don Bryant
Scott Fleming
Dan Ridi
Tom Stephenson

EX-OFFICIO MEMBERS IN ATTENDANCE

Donna Waggener, representing Director Laurie Stevenson, Ohio Environmental Protection Agency
Michael Lenzo, representing Robert Sprague, State Treasurer of Ohio

OTHERS IN ATTENDANCE

Starr Richmond	Executive Director, PUSTRCB
Madelin Esquivel	Assistant Director, PUSTRCB
Don Leasor	Chief Fiscal Officer, PUSTRCB
Hannah Brame	Claims Supervisor, PUSTRCB
Jonathan Maneval	Executive Assistant, PUSTRCB
Beth Fligner	Assistant Attorney General
Scott Sigler	Bureau of UST Regulations
Danny Sklenicka	Rea & Associates
Leigha Moran	Rea & Associates
Michael Baker	BJAAM Environmental, Inc.

Minutes submitted by:


Jonathan Maneval
Executive Assistant

Call to Order:

Chairman Rocco convened the one hundred ninety-sixth meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, November 30, 2022.

The following members were in attendance: Jim Rocco; Steve Bergman; Don Bryant; Scott Fleming; John Hull; Dan Ridi; Tom Stephenson; Donna Waggener, representing Director Laurie Stevenson, Ohio Environmental Protection Agency; and Michael Lenzo, representing Robert Sprague, State Treasurer of Ohio.

The following members were not in attendance: Larry Burks and Scott King, the designee of Director Sheryl Creed Maxfield, Ohio Department of Commerce.

Minutes:

Chairman Rocco asked if there were any comments or questions regarding the minutes from the September 14, 2022 Board meeting and there were none. Vice-Chairman Hull moved to approve the minutes and Mr. Fleming seconded. A vote was taken and Ms. Waggener and Messrs. Bergman, Bryant, Fleming, Hull, Ridi, Lenzo, and Rocco were in favor. Mr. Stephenson abstained. The minutes were approved as presented.

BUSTR Report:

Chairman Rocco called upon Scott Sigler, Corrective Action Supervisor, to present the Bureau of Underground Storage Tank Regulations' (BUSTR) report.

Mr. Sigler reported that Cincinnati and Cleveland fire inspectors were hired to fill regional inspector openings in the release prevention side of the program. He said an offer had been made to a gentleman to replace inspector James Johnson, who recently retired. He commented that it will be the first time in a number of years that both the release prevention and corrective action sides of the program are fully staffed.

Mr. Sigler said two vendors are working through the responsible party searches for the new fiscal year and they are doing a great job.

Mr. Sigler said BUSTR is working on a new database and the vendor indicated that it should be completed by August of 2023. He said there might be some challenges and to call with questions, concerns, or if information from the database is needed.

Mr. Sigler reported that BUSTR's staff is working remotely three days a week and working in the office two days a week. He commented that teleworking is working pretty well with staff meeting the goals and deadlines.

Mr. Sigler mentioned that a grant request for the release prevention side of the program will be submitted in April or May of 2023, and no changes to the grant funding are expected.

Mr. Sigler reported that 350 petroleum releases had been granted no further action (NFA) status in the federal fiscal year which recently ended. He said the number of NFAs issued decreased slightly but the

number is consistent with the national trend. He noted that the easier releases have pretty much been taken care of and the remaining releases are the more challenging ones, brand new releases, and releases for which there is no viable responsible party. He mentioned that a number of stagnate releases are being addressed through the abandoned gas station cleanup grant program. He said the program has been beneficial for both BUSTR and the Department of Development. He said the biggest impacts from the program are being seen in the southeast and southern areas of Ohio.

Financial Reports:

Chairman Rocco called upon Don Leasor, Chief Fiscal Officer, to present the financial reports.

Audit Update

Mr. Leasor said the auditors completed their in-house portion of the audit and they are awaiting the finalized annual financial statements, management discussion and analysis, notes to the financial statements, and the estimated claim liability report. He explained that in order to submit the audited financial statements to the Auditor of State by the December 31st deadline, the plan is to email a draft copy of the audited financial statements to the Board members no later than December 9, 2022. He asked the members to review the report and to reply with any questions or comments by December 16, 2022, so they can be addressed prior to the December 31, 2022 filing deadline. He noted that the auditors would present the final audit report at the next Board meeting.

Mr. Leasor then introduced Danny Sklenicka and Leigha Moran from Rea & Associates and asked them to provide an audit update. Mr. Sklenicka said the firm had completed most of the audit process. He said they are working through the actuarial analysis of the claims liability estimates, which he mentioned is one of the biggest components of the financial statements. He said, at this point, there are no issues or concerns to report to the Board and they are confident the audit will be completed and submitted to the Auditor of State before the deadline. He said they would return to discuss the audit report along with any findings once it is completed.

August, September, and October Financials

Mr. Leasor said the August, September, and October financials were emailed to each member. He said he would be discussing the October 2022 financial report.

Mr. Leasor reported that, as of November 29, 2022, the unobligated account balance is \$15.5 million. He said this amount includes \$1.56 million in STAR Ohio (State Treasury Asset Reserve of Ohio) and \$13.94 million invested in U.S. treasuries and U.S. agency callable bonds. He said the obligated account balance for the payment of claims, as of November 29, 2022, is \$6.4 million.

Mr. Leasor said tank revenues would be discussed during his presentation of the fee statement statistics report.

Mr. Leasor pointed out that in October, the value of the investments decreased due to unrealized losses on the investments in U.S. treasuries and U.S. agency callable bonds. He said as of October 31, 2022, the unrealized losses totaled \$305,000. He explained that for accounting purposes, the value of the Board's investments are recorded on a monthly basis. He specified that the amount reported includes the interest earned on the investments and the change in the market value of the investments. He said,

as the market value of the investments decrease, the decrease is reported as an unrealized loss. He stated that the decrease in market value is driven by an increase in interest rates, which has an inverse effect on the market price of the bonds. He commented that the Board's policy is to hold these investments to maturity; and therefore, the full principle is received upon maturity and there will be no realized loss on the investments.

Mr. Leasor reported that, as of October 31, 2022, expenses should be about 33% of the budgeted amount. He said the claims expense for the month of October was approximately \$95,000. He mentioned that this amount was low due to claim warrants for the month of October being issued on November 1, 2022. He said, to date, \$2.62 million has been paid for claims for fiscal year 2023. He pointed out that this equates to 29.2% of the \$9 million obligated by the Board for the payment of claims for the fiscal year and includes the final payment to BP under the settlement agreement and release approved by the Board.

Mr. Leasor reported that legal and professional expenses were 41% of the amount budgeted. He said this includes payments for Assistant Attorney General services for the fourth quarter of fiscal year 2022 and the first quarter of fiscal year 2023; payment for offsite data backup and software updates to the backup hardware; and payment for actuarial services for the unpaid claims liability estimate. He said postage expenses were 51% of the amount budgeted. He said this was due to postage fees for the final quarter of fiscal year 2022 being paid in August. He pointed out that some of the temporary services budget was expended due to a temporary employee being used to fill a vacant position in the compliance section. He said other expenses are at, or below, where they should be at this time in the fiscal year.

Fee Statement Statistics

Mr. Leasor said, as of October 31, 2022, the per-tank fees collected for the current 2022 program year were \$8.1 million, which represents 98% of the billed amount. He said that between July 1 and October 31, 2022, approximately \$83,100 was collected for prior years' fees, net of refunds of \$74,000.

Mr. Leasor said, for program year 2022, a total of 15,382 tanks were billed at the standard deductible (\$55,000) per-tank fee and 5,277 tanks were billed at the reduced deductible (\$11,000) per-tank fee. Mr. Leasor said as of October 31, 2022, fees had been paid at the standard deductible rate for 14,615 tanks and at the reduced deductible rate for 5,323 tanks. He said fees for a total of 19,938 tanks had been paid by 2,937 owners. He said this compares to fees being paid for 19,799 tanks by 2,984 owners for the same period of time in the prior year.

Mr. Leasor reported that, as of October 31, 2022, fees had been paid for a total of 20,390 tanks by 3,067 owners for program year 2021.

Mr. Leasor said the \$8.18 million collected to date represents 97.4% of the \$8.4 million budgeted for program year 2022. He said so far, for program year 2022, 98.8% of the fees had been received for the 20,180 tanks budgeted.

Compliance and Fee Assessment Report:

Chairman Rocco called on Madelin Esquivel, Assistant Director, to present the compliance and fee

assessment report.

Ms. Esquivel reported that between July 1, 2022 and October 31, 2022 the amount of refunds paid totals \$137,985. She mentioned that the amount of refunds paid in her report differs from the amount reported by Mr. Leasor due to certain refunds entered prior to October 31, 2022 being paid on November 1, 2022. She said 251 refunds were paid to 85 owners. She said the amount of pending refunds currently totals \$1,418,690. She said \$32,000 of pending refunds had been used to offset outstanding fees.

Ms. Esquivel said since July 1, 2022, the fees collected by the Attorney General's Office and Special Counsel less collection costs totaled \$46,354. She noted that no accounts had been certified to the Attorney General's Office for collection since July 1, 2022. She said the unpaid program year 2022 fees are currently being reviewed with the intent to certify them for collection in January 2023.

Ms. Esquivel reported that five Orders Pursuant to Law are currently under appeal and information to support those appeals is expected. She said four Determinations to Deny a Certificate of Coverage were under appeal and information to support three appeals was received and is under review. She said information to support one appeal is expected.

Ms. Esquivel stated that one Ability to Pay Application is pending review. She noted the Application is not shown in the report because it was received after October 31, 2022. The Ability to Pay program allows former underground storage tank (UST) owners experiencing financial difficulty to apply for and receive a determination of their ability to pay delinquent fees.

Ms. Esquivel reported that, as of November 10, 2022, Certificates of Coverage had been issued to 2,669 owners for program year 2022. She said there are 164 Applications for Certificates of Coverage currently being processed. She said for program year 2022, there are 77 owners with unresolved Notice of Pending Denials and 19 owners with unresolved Determinations to Deny a Certificate of Coverage.

Ms. Esquivel stated that there are 29 uncashed refund checks totaling \$25,238. She said there are 17 owners with pending refunds totaling \$87,610 to whom more information request letters had been sent notifying them that additional information is needed before the refund may be issued. She said there are 37 owners with pending refunds totaling \$68,865 for which information had been requested, but no responses have been received.

Chairman Rocco pointed out that a little over 3,100 fee statements were mailed but fewer fee statements have been received. He asked if the difference is due to fee statements being mailed for tanks that no longer exist or because owners have not paid their fees. Ms. Esquivel said fee statements are occasionally sent to owners that have removed their tanks but noted that owners generally provide notification when their tanks are removed. In addition, the staff use removal permits provided by BUSTR to check for removals and update the system. She indicated that owners who have not paid their fees account for most of the missing fee statements.

Claims Reports:

Chairman Rocco called on Hannah Brame, Claims Supervisor, to present the claims reports.

Ms. Brame reported, as of November 1, 2022, the total maximum liability of in-house open claims is approximately \$9.9 million. She said using the claim payout ratio of 79%, which is the average ratio over the past five years, the anticipated payout of unpaid in-house claims is about \$7.8 million.

Ms. Brame reported, as of November 1, 2022, a total of 527 claims with a total face value above the deductible amount were pending review and noted that claims received prior to July 2022 are currently being reviewed by the staff. She stated that 19 claim settlement determinations were under appeal, as of November 1, 2022. She explained that these appeals pertain to only three release sites, as there are multiple appeals for two of those sites. She noted that the staff is waiting for information to support the appeals for 17 of the appealed determinations and additional information provided is under review for two appeals.

Ms. Brame stated that, as of November 1, 2022, a total of 160 claims were received and a total of 164 claim determinations were issued this program year. She noted that no payment could be issued for 16 of these claims as the total face values were below the deductible amount and the releases had received NFA status, meaning no additional corrective actions were required. She said the average payout per claim application this program year is \$13,288 and the average claim payout is 77.6% of the net claim value (face value – deductible). She noted that on average 19.2% of the claim face value is disallowed as nonreimbursable.

Mr. Stephenson asked Ms. Brame to clarify why some claims are not eligible for reimbursement when an NFA is issued. Ms. Brame explained that when claims are received, no action is taken on them until the total face value exceeds the deductible amount. She said in instances where an NFA is issued before the total face value of the claims exceeds the deductible, the claims are closed without them being individually reviewed for disallowed costs. She said a letter is sent explaining that the claims are being closed since the face value of the claims is less than the deductible. Vice-Chairman Hull asked if the average claim payout of 77.6% includes the 2019 settlement agreement with the payout percentage of 55%. Ms. Brame said the payout percentage shown excludes the anomalous year with the large settlement.

Ms. Brame reported so far for program year 2022, a total of 27 eligibility applications were received and 34 eligibility determinations were issued. She said of these eligibility determinations, 26 were approved and eight were denied. She said the reasons for denial included one for no release demonstrated, three for late filing of the application, one for lack of a valid Certificate of Coverage, and three for no corrective actions being required by BUSTR. She noted that since November 1, 2022, 10 additional eligibility determinations had been issued.

Ms. Brame stated that, as of November 1, 2022, a total of 93 eligibility applications were open. She noted that 16 applications were unreviewable until the necessary reports are received and more information has been requested for eight applications. She noted that, as of November 1, 2022, 10 eligibility determinations were under appeal. She said additional information is expected for three appeals and information for seven appeals has been received and is under review.

Ms. Brame reported, as of November 1, 2022, a total of 32 cost pre-approval requests were received. She said the cost pre-approval requests include three requests for new remedial action plans (RAPs);

14 requests for annual costs for remedial action plans or free product recovery; one request for an interim response action requiring BUSTR approval; nine requests for either Tier 3, monitoring or calibration plans; one cost exceedance notification; and [four] voluntary requests for cost pre-approval. She said as of November 1, 2022, a total of 29 cost pre-approval notifications had been issued and 45 cost pre-approval requests were pending review. She noted that 14 additional cost pre-approval notifications were issued since November 1, 2022.

Chairman Rocco stated that he would like to know the number of times monitoring has been reapproved as part of the RAP implementation. He said when sites are in long-term monitoring, there is a question of how to get the sites to closure. Mr. Sigler said he recently worked with Board staff to address a site that was in monitoring for half a decade and was not achieving any goals. He said in situations where it appears that no progress is being made, BUSTR's staff can work with the Board's staff to reevaluate the plan to move the site out of the monitoring phase. Vice-Chairman Hull mentioned that monitoring can be very costly and changing the frequency of monitoring can result in significant cost savings. Chairman Rocco asked the staff to provide a listing of the sites in the RAP stage that includes ongoing monitoring, the number of years active remediation with monitoring has been conducted at these sites, and the total amount that has been pre-approved for the RAP at each of these sites. Vice-Chairman Hull asked that the percentage of monitoring costs in comparison to the total RAP costs also be provided.

Ms. Brame said based on the discussion at the previous meeting, the staff looked at sites in long-term monitoring. She stated that sites in long-term monitoring fall under mandatory cost pre-approval and the staff looked at the annual cost pre-approvals for sites that have had four or more annual cost pre-approvals over the past five years. She said the vast majority of sites in long-term monitoring are doing groundwater monitoring in concert with active remediation such as free product recovery, VAC trucks, or remediation system operation. She said no sites were identified as having just monitoring over a long period of time. She commented that when claims analysts review costs for pre-approval, they are pretty technical in looking at the results to ensure actual progress is being made.

Mr. Stephenson commented that it can be frustrating for tank owners because the consultant keeps sending reports, the owner keeps paying, and the owner does not understand why an NFA is not being issued. He said if there is better communication with tank owners it could lower costs for everybody. Chairman Rocco said the challenge is many small tank owners are dependent on their consultants to handle the cleanup project from start to finish. Vice-Chairman Hull suggested that an article or seminar presentation for tank owners might be beneficial. Following some further discussion, Chairman Rocco said the first step is to better understand the sites in monitoring and to track them.

Finance Committee Report:

Chairman Rocco said prior to the Board meeting, the Finance Committee met to discuss the next year's tank fees and deductible amounts, which the statute requires be set by the Board on an annual basis. The Chairman then called on Mr. Leasor to present a financial projections chart, which was distributed to the members.

Mr. Leasor said the five-year pro forma is based on a number of assumptions including projected tank counts, fees, interest rates, and expenses. He explained that the chart shows projections in two scenarios; one with a \$50 fee increase in fiscal year 2024 shown as a blue line on the chart and one with no fee increase shown as a red line. He pointed out that if fees are increased \$50 for fiscal year 2024, the projections show an unobligated account balance of \$23 million in fiscal year 2027. He said with no fee increase the unobligated account balance is projected to be \$17.8 million in fiscal year 2027. He explained that the bold black line at \$15 million is significant because it represents the solvency line. He said if the unobligated account balance falls below \$15 million, the statute allows for a supplemental fee to be assessed.

Chairman Rocco said annual expenditures are currently about \$10 million and the objective is to have sufficient funds to handle annual expenditures from the Fund. He said if the unobligated account balance falls below \$15 million, the Board will need to start looking at whether there are sufficient funds to pay claims. He pointed out that the projections indicate the balance will start to dip below the \$15 million threshold line starting in 2025.

Chairman Rocco said there was a lot of discussion about raising fees but the committee concluded that the fees could be maintained with no change for one more year. He said it is inevitable that fees will need to be raised and the Board will likely be looking at a \$50 fee increase next year. Mr. Stephenson noted that the Board had lowered fees a number of times and Mr. Leasor stated that per-tank fees had been as high as \$600 for the standard deductible and \$800 for the reduced deductible. He said the fees were reduced by \$100 for two consecutive years and then reduced by another \$50¹.

Chairman Rocco said the current economic situation was another consideration of the committee and the committee concluded that adding an additional \$50 worth of financial burden on owners this year did not make sense. The Chairman asked if there were any comments or questions concerning the committee's recommendation to make no changes to the deductibles or fees for the next fiscal year and Mr. Ridi asked if a \$25 fee increase was considered. Mr. Leasor said a \$25 increase was not considered but noted it would increase income by approximately \$500,000 each year. Mr. Ridi said looking forward, it appears a fee increase will be necessary. He commented that with electric vehicles coming along, a lot of small gas stations might be going out of business and resources will be needed to pay the cleanup. The Chairman agreed this was a good point and noted that if the attrition of gas stations increases at a greater rate going forward, then the number of eligibilities and claims increase and income decreases.

Chairman Rocco then requested a motion to adopt the recommendation of the Finance Committee to make no changes to the deductible amounts or per-tank fee amounts for program year 2023. Vice-Chairman Hull so moved and Mr. Stephenson seconded. A vote was taken and all were in favor. The motion passed.

Rules Committee Report:

Chairman Rocco said in previous meetings, the Board had discussed modifications to one of the

¹ The per-tank fees were set at \$500 in program year 2014; \$400 in program year 2015; and \$350 in program year 2018. The per-tank fees have not changed since program year 2018.

Board's rules. He said comments were received on the draft rule and the Rules Committee met with commenters and some additional revisions were made. The Chairman directed members to the draft rule amendment and then called on Starr Richmond, Executive Director, to discuss the changes to the rule.

Ms. Richmond stated that most changes to the rule are editorial. She said one major change will be a huge benefit to tank owners. She said the rule, as currently written, requires the new owner of a facility to notify the Board, pay a transfer fee, and complete paperwork within 30 days of the transfer in order to keep the Certificate of Coverage in place. She said that 30 days was found to be insufficient because it takes longer to do all of those things, especially when a corporation needs to request a check. She explained that the proposed change will give the new owner 30 days from assessment of the transfer fee to complete the paperwork and pay the transfer fee. She said this gives owners more time to provide the information and avoid the Certificate of Coverage from becoming invalid.

Mr. Stephenson asked if the rule requires the new owner to provide notification of the transfer and Ms. Richmond confirmed that the existing rule states that the new responsible person is to provide notification of the transfer. She noted that any party can provide notification and the staff will act on it. She commented that some transfers are found through county auditor records and that serves as the notification.

Chairman Rocco then requested a motion to approve the draft amendments to rule 3737-1-04 proposed by the Rules Committee; and to file the amended rule with the Joint Committee on Agency Rule Review, the Legislative Service Commission, and the Secretary of State. Mr. Bergman so moved and Vice-Chairman Hull seconded. A vote was taken and all were in favor. The motion passed.

Chairman Rocco stated that due to the timing of the rule filing, a public hearing will need to be held in February. He stated that the January 2023 Board meeting is being cancelled because holding meetings back-to-back in January and February is not needed. He said a public hearing will be conducted on February 8, 2023 at 10:00 a.m. and the Board meeting will follow.

New Business:

Hardship Application

Chairman Rocco called upon Don Leasor, Chief Fiscal Officer, to present the hardship applications.

Mr. Leasor stated that the Board's rule 3737-1-08 provides for an owner experiencing financial hardship to apply for hardship status with the Fund. He said granting hardship status allows for the acceleration of the review of the claims submitted by the owner. He noted that granting hardship status does not increase the amount of reimbursement to the tank owner. He stated that accelerating the review of the claim reduces the financial burden the owner would experience if the claims were reviewed and settled in the normal course of business. He said, once granted, the hardship status remains in effect for a two-year period and, at that time, the owner may reapply for hardship status.

Mr. Leasor stated that, in determining hardship status, the application and a minimum of two years of income tax records are reviewed. He said, in addition, a U.S. Environmental Protection Agency (U.S. EPA) financial capacity test is used to evaluate the owner's cash flow and determine whether the owner

is able to carry debt, in which case, the owner could finance the costs of corrective actions over time.

Claim # 3275-0001/09/10/20, Owner – Dupont Service Company

Mr. Leasor said Dupont Service Company is the responsible party for a release discovered in program year 2020 at 501 Maple Street in Dupont, Ohio. He said Steven Troyer submitted the application requesting the Board grant hardship status to the company. He noted this was Dupont Service Company's first request for hardship status.

Mr. Leasor stated that, to date, the Fund has reimbursed \$17,500 for corrective action costs for this release. He said one claim in the amount of \$35,900 is currently pending review and the cost of corrective action work expected to be conducted over the next 24 months is estimated to be \$440,000.

Mr. Leasor said Dupont Service Company ceased selling gasoline in 2020 and the release was discovered when the USTs were removed. He said Mr. Troyer still operates a service station at the facility. Mr. Leasor said the IRS tax forms submitted indicate the company has operated at a loss for two of the last three years. He stated that based on the application and tax information, the U.S. EPA model estimates a less than 50% probability the company can afford \$440,000 in corrective actions costs estimated to be incurred over the next two years. Therefore, the Director is recommending the Board approve the application and grant hardship status to Dupont Service Company. Vice-Chairman Hull moved to approve the application and Mr. Bryant seconded. A vote was taken and all members voted in the affirmative. The motion passed.

Claim # 20645-0001/11/01/19, Owner – Laxmi Distributors, LLC

Mr. Leasor said Laxmi Distributors, LLC is the responsible party for a release that was discovered in 2019 at 205 South Main Street in Bluffton, Ohio. He said Praveen Vohra submitted the application requesting the Board grant hardship status to the LLC. He noted this was Laxmi Distributors' second request for hardship status.

Mr. Leasor stated that, to date, the Fund has reimbursed \$509,300 for corrective action costs for this release, including a \$20,000 third-party claim. He noted that another third-party claim for \$25,000 has been submitted and one claim in the amount of \$133,000 is pending review. He said the corrective action costs for the next two years are estimated to be \$385,000 for this release.

Mr. Leasor explained that Mr. Vohra has operated the facility since 2006 and he is paying \$51,000 annually towards the purchase of the property through a land contract, which is to be completed in 2026. Mr. Leasor said on his most recent tax return, Mr. Vohra reported a total income of \$136,000, which was \$45,400 more than his household expenses. He said the U.S. EPA model estimates the LLC cannot afford the \$385,000 in corrective action costs and, therefore, the Director is recommending the Board approve the application and grant hardship status to Laxmi Distributors, LLC. Vice-Chairman Hull moved to approve the hardship application and Mr. Fleming seconded. A vote was taken and all members voted in the affirmative. The motion passed.

Certificates of Coverage – Ratifications:

Chairman Rocco called on Madelin Esquivel, Assistant Director, to present the lists of owners who have either been issued or denied a Certificate of Coverage for ratification by the Board.

Ms. Esquivel said the process used to review the fee applications and issue or deny a Certificate of Coverage includes a review for completeness to determine full payment was received; financial responsibility for the deductible has been demonstrated; and the owner has certified with his signature that he is in compliance with the State Fire Marshal's rules for the operation and maintenance of petroleum underground storage tanks; and, if the tanks existed in previous years, a Certificate for the subject tanks has been issued to the owner in at least one of the prior two years. She said if a Certificate has not been issued in one of the prior two years and the tanks existed during those years, the owner must comply with rule 3737-1-04.1 by demonstrating the tanks are in compliance with the Fire Marshal's rules for the operation and maintenance of USTs.

Ms. Esquivel stated that, if the requirements are met, a Certificate is issued. She said if the requirements are not met, the Certificate is denied. She explained that if the Certificate is denied, the owner is provided with an opportunity to appeal the denial. She said that, throughout the denial process, the Board's staff works closely with the owner to resolve any deficiencies. She stated that all processes within the Board's rules and Revised Code were followed to make a determination to issue or deny the Certificates of Coverage.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the issuance of the program year 2021 Certificates of Coverage for the 15 owners of the 78 facilities included on the program year 2021 Certificates issued list.

Vice-Chairman Hull moved to ratify the issuance of the 2021 Certificates of Coverage for the facilities listed. Mr. Fleming seconded. A vote was taken and all members were in favor. The motion passed.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the denial of the program year 2021 Certificates of Coverage for the 41 tanks located at the 11 facilities included on the program year 2021 Certificates denied list.

Vice-Chairman Hull moved to ratify the denial of the 2021 Certificates of Coverage that were listed. Mr. Fleming seconded. A vote was taken and Ms. Waggner and Messrs. Bergman, Bryant, Fleming, Hull, Lenzo, Stephenson, and Rocco were in favor. Mr. Ridi abstained. The motion passed.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the issuance of the program year 2022 Certificates of Coverage for the 408 owners of the 736 facilities included on the program year 2022 Certificates issued list.

Vice-Chairman Hull moved to ratify the issuance of the 2022 Certificates of Coverage for the tanks listed. Mr. Fleming seconded. A vote was taken and all members were in favor. The motion passed.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the denial of the program year 2022 Certificates of Coverage for the 82 tanks located at the 33 facilities included on the program year 2022 Certificates denied list.

Vice-Chairman Hull moved to ratify the denial of the 2022 Certificates of Coverage that were listed. Mr. Stephenson seconded. A vote was taken and all members were in favor. The motion passed.

Executive Session:

Chairman Rocco stated that an executive session was needed and requested a motion to enter into executive session with counsel pursuant to Ohio Revised Code 121.22(G)(3) to discuss matters of pending or imminent court action. Vice-Chairman Hull and Mr. Stephenson seconded. The Chairman called for a roll call. The following members voted in the affirmative: Ms. Waggener and Messrs. Bergman, Bryant, Fleming, Hull, Ridi, Stephenson, Lenzo, and Rocco. There were no nays. The motion passed.

Reconvene Meeting

The Board adjourned from the executive session and reconvened the public meeting.

Chairman Rocco stated that based on the members' discussions, a motion was needed to authorize the Chairman, Vice Chairman, and Executive Director in consultation with the Assistant Attorney General to do all things necessary to implement a settlement agreement, including drafting and executing any and all appropriate documents, between the Petroleum Underground Storage Tank Release Compensation Board and Sunoco in the amount of \$3.2 million in exchange for a mutually agreed upon release of liability pursuant to the issues covered within the mediation of November 15, 2022. Mr. Stephenson so moved and Mr. Ridi seconded. A vote was taken and all members were in favor. The motion passed.

Confirm Next Meeting and Adjourn:

Chairman Rocco stated that no Board meeting would be held in January 2023. He said there will be a public hearing on Wednesday, February 8, 2023, at 10:00 a.m. for the purpose of soliciting comments on the proposed rule amendment. The next Board meeting will commence immediately following the public hearing.

Mr. Ridi made a motion to adjourn the meeting and Ms. Waggener seconded. All members were in favor.

Note: Numbers in brackets [] were incorrectly stated at the meeting. The numbers as written reflect the correct numbers from the report materials provided at the meeting.