STATE OF LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY MOTOR FUELS UNDERGROUND STORAGE TANK TRUST FUND ADVISORY BOARD

The above-entitled meeting was held at the LDEQ, Galvez Building, Conference Center, 602 North 5th Street, Baton Rouge, Louisiana, beginning at 1:12 p.m., on February 18, 2016.

BEFORE:

Lori B. Overland Certified Court Reporter In and For the State of Louisiana

ASSOCIATED REPORTERS, INC.

(225) 216-2036

APPEARANCES

Kerry Hill Chairman

Durwood Franklin
Jeff Baker
Gary Fulton
Karyn Andrews
Cy Morin
Frank Marcello
Perry Theriot
Nick St. Romain
Steve Burnham

Melissa Vizinat Sam Broussard Tad Loupe Linda Hicks Rhonda Cook Trey Kemp Jason Efferson Amber Pino Ian Kelley

INDEX

EXAMINATION:

PAGE (S):

None

EXHIBITS:

None

REPORTER'S PAGE

3 4

REPORTER'S CERTIFICATE

3 5

* * * *

```
1
  2
           MR. HILL:
  3
                 We'll call this meeting to order.
          Good morning, Ladies and Gentlemen. I'm
  4
          glad everyone could attend. Thank ya'll for
  5
  6
          showing up. I'd like to start off first
  7
          with a roll call and then consideration and
  8
          adoption of the December 3 Board Minutes.
  9
          So let's have a roll call first.
10
          MR. THERIOT:
11
                Perry Theriot, Louisiana Department of
12
          Environmental Quality Legal Section.
13
          MR. FRANKLIN:
_14
                Durwood Franklin, DEQ Trust Fund.
15
          MR. BAKER:
16
                Jeff Baker, DEQ Trust Fund.
17
         MR. FULTON:
18
               Gary Fulton, DEQ Underground Storage
19
         Tank and Remediation Division.
20
         MR. BURNHAM:
21
               Steve Burnham, Engineering Associates.
22
         MR. ST. ROMAIN:
23
               Nick St. Romain, St. Romain Oil and
24
         LOMA.
25
         MR. HILL:
```

```
Kerry Hill, Reladine Hill Oil Company,
 1
 2
          Louisiana Oil Marketers.
          MR. MARCELLO:
 3
                Frank Marcello representing Louisiana
          Oil Marketers and Convenience Store
 5
          Association.
 7
          MS. ANDREWS:
                Karyn Andrews, Department of
 8
          Environmental Quality, Financial Services.
          MR. MORIN:
10
                Cy Morin, DEQ Audit Services.
11
          MS. VIZINAT:
12
                Melissa Vizinat, DEQ Trust Fund.
13
          MS. HICKS:
14
                Linda Hicks, PPM Consultants.
15
          MS. COOK:
16
                Rhonda Cook, PPM Consultants.
17
          MR. BROUSSARD:
18
                Samuel Broussard, DEQ USTR Division.
19
          MR. LOUPE:
20
                Tad Loupe, DEQ UST Division.
21
          MR. EFFERSON:
22
                Jason Efferson, DEQ Trust Fund.
23
          MR. KEMP:
24
                Trey Kemp, DEQ Trust Fund.
25
```

```
1
           MS. PINO:
  2
                 Amber Pino, DEQ Trust Fund.
  3
           MR. KELLY:
                 Ian Kelly, DEQ Trust Fund.
  4
  5
           MR. HILL:
  6
                 Thank ya'll. Do I -- does anybody
  7
           want to comment on the December 3rd Board
  8
          Minutes? Anything that stands out before we
  9
          move forward?
 10
          (No response.)
11
          MR. MARCELLO:
12
                 If not, Mr. Chairman, I'll make a
          motion that we adopt them as -- as noted.
13
14
          MR. BURNHAM:
15
                I second.
16
          MR. HILL:
17
                I have a motion. Do I have a second?
18
          MR. BURNHAM:
19
             Second.
20
          MR. HILL:
21
                Thank you. We will accept the Board
22
         Minutes as printed.
23
                And go to item number three. Election
         of a Chairperson for 2016.
24
25
```

MR. MARCELLO:

```
Mr. Chairman, that would be -- Mr.
 1
          Chairman Pro Tem, that would be a simple
 2
          matter on my part to nominate Mr. Kerry Hill
 3
          as Chairperson for 2016.
 4
          MR. ST. ROMAIN:
 5
 6
                I second.
 7
          MR. HILL:
                Are we sure there are no objections?
 8
 9
          (No response.)
10
          MR. HILL:
                If so, we will carry on.
11
                Thank ya'll. We will go to item
12
          number four. At this time, I'd like Karyn
13
          Andrews to deliver the Financial services
14
15
          report.
16
          MS. ANDREWS:
                Thank you. And if you could turn to
17
          tab four. This first sheet that we're
18
          looking at is the details of how we
19
          calculate the amount transferred from the
20
          Motor Fuel Trust Fund back to the
21
          Environmental Trust Fund. This is the
22
          details of those revenues and expenditures.
23
                As we talked about at the last
24
          meeting, we're now reporting to you on a
25
```

1	cash basis. And this demonstrates the
2	transfer that actually occurred in fiscal
3	year 2016, but the expenditures you are
4	looking at in that far right column are the
5,	actual expenditures from fiscal year '15.
6	So there is a slight lag time on that. But
7	these are the numbers showing the transfer
8	of \$5,327,246, occurred in 2016.
9	Go ahead and turn the page. This is
10	our statement showing the cash basis assets
11	and fund balances with our cash receipts,
12	disbursement and changes in cash fund
13	balance.
14	In the current fiscal year, as of
15	December 31st, we have deposited \$13,657,649
16	into the Trust Fund. Of that amount
17	\$63,362,000 is interest money. And we have
18	reimbursed RACs for sites the amount of
19	\$6,582,230. We have an obligation we
20	have a balance after obligations in the fund
21	of minus \$2,522,996.
22	Anyone have any questions?
23	MR. BURNHAM:
24	Last year, we had an unobligated
25	balance of 13 million. And this year, we're

DEPARTMENT OF ENVIRONMENTAL QUALITY

- 1 -- we have a minus two million, 2.5? 2 MS. ANDREWS: Yes, we do. And I think last meeting, 3 we kind of talked about a recalculation of 4 the way we're looking at the obligation. 5 6 Jeff had done an analysis and -- and in 7 working with the Legislative Auditors to --8 to determine that we were missing some --9 some sites or some parts of the sites into the fund. And we wanted to make sure that 10 11 we accurately captured that. And this is 12 now how we're using it. MR. BURNHAM: 13 I recall that. 14 15 MS. ANDREWS: 16 I think -- and I believe everybody, 17 last time, should've received a copy to see 18 exactly how we did calculate. If you -- if 19 we want to have some more talks about that, 20 we can. But I think we went through that 21 last meeting.
- MR. BURNHAM:
- 23 That is the primary reason for that
- 24 big --
- MS. ANDREWS:

```
1
                 Absolutely.
 2
          MR. BURNHAM:
 3
                 -- jump?
 4
          MS. ANDREWS:
 5
                 Yes, it is.
 6
          MR. HILL:
 7
                 Are there anymore questions related to
 8
          the financial report Ms. Andrews delivered?
 9
          (No response.)
10
          MR. HILL:
11
                 If not, do I hear a motion to accept
12
          the financials in their current status?
          MR. MARCELLO:
13
14
                So moved, Mr. Chairman.
15
          MR. FULTON:
16
                Second.
17
          MR. HILL:
18
                I got a first by Frank and second by
19
          Gary. Thank you.
20
                Item number five, the auditor's status
21
          report. Cy, will you --
22
          MR. MORIN:
23
                Yes, sir. Turn to tab number five,
24
          please.
25
                The first two pages of this report
```

detail 29 open motor fuel cases initiated

since 2014 that have not reached the status

of going to legal.

Twenty-two cases are under review or awaiting review, pending final review.

These represent one potential credit of approximately \$3,200; five potential assessments, totaling approximately \$1,500; and six potential clean audits with no assessment. Six cases are still in progress, representing one potential assessment of approximately \$11,000, of which \$9,700 has been paid. Five cases were — the results are still outstanding for the other five cases.

We've added one more case that's to be scheduled -- that's been scheduled to be done in March.

I'd just like to note that since the last meeting, four new audits have been added to this list and four have been removed. They've been resolved with no findings and closed.

Now, if we'll turn to page three.

This list, as we've talked about before, has

five legal cases that are still outstanding.

I'll give you the current status of the five cases.

The first case, a new DEQ attorney was enrolled on November 9, 2016 as additional counsel of record on behalf of DEQ. The attorneys are preparing to request a status conference to set a trial date and prepare discovery.

The second case is a business that has been sending in payments of \$300 every month. The last payment of \$300 was received in January on the 15th. The February payment is currently due. If the business misses a payment, the case will be referred to the Office of Debt Recovery.

The third case was referred to the Office of Debt Recovery for collection on October 14. I've mentioned this before.

The fourth case was referred to legal recently in November of 2015. On January 29, the business paid \$3,975, which leaves a balance of \$405.44. We're hoping to collect this without having to initiate more legal proceedings.

1	Judgment was rendered for the fifth
2	case on November 24th in the amount of
3	\$4,016.58. It was recorded in the mortgage
4	records. The file is being prepared for
5	referral to the Office of Debt Recovery.
6	And as you can see, these five cases
7	represent a total outstanding amount of
8	approximately \$121,000 of which \$12,368 is
9	attorney's fees, court cost and judicial
10	interest. And approximately \$109,000 is
11	going from waste tire fees and related late
12	payment fees.
13	(An off-the-record discussion
14	followed.)
15	MR. MORIN:
16	If I misspoke and said waste tire, I
17	meant motor fuel.
18	That will conclude it.
19	MR. HILL:
20	Does anyone have any questions related
21	to Cy's report?
22	MR. MARCELLO:
23	Cy, your sheet could say like, these
24	were from 2004 to 2013, these audits are
25	from '13 to present, if you will.

```
1
           MR. MORIN:
  2
                 These audits are from '14 to present,
  3
           yes.
  4
           MR. MARCELLO:
  5
                 So there's nothing -- it looks like
  6
          pretty clean audits --
 7
          MR. MORIN:
 8
                 Well, yes --
 9
          MR. MARCELLO:
10
                 -- since 2013.
11
          MR. MORIN:
12
                 I -- I anticipate 16 to be clean, 16
13
          of those to be clean audits. As I said, six
          of them are still in the process. We don't
14
15
          quite know yet --
16
          MR. MARCELLO:
17
                Right.
18
          MR. MORIN:
19
                -- if there will be any findings.
20
          MR. MARCELLO:
21
                Right.
22
          MR. MORIN:
23
                And then, there are a handful of them
          that -- that the auditor has determined
24
         there's some type of assessment or credit.
25
```

```
It just needs to finish going through the
 1
 2
          process.
 3
          MR. MARCELLO:
                 And just -- just for -- just for my
          knowledge, this case number two, that
 6
          resulted in an overpayment. Who discovered
 7
          the overpayment? Was it the audit or the
 8
          customer -- or the vendor or vendee, if you
 9
          will?
10
          MR. MORIN:
11
                 On case number two on the first page?
12
          MR. MARCELLO:
13
                Yes.
14
          MR. MORIN:
15
                This was discovered by the auditor.
16
          MR. MARCELLO:
17
                Auditor?
18
          MR. MORIN:
19
                Yes.
20
          MR. MARCELLO:
21
                Okay. And I ask that only to say, I
22
          remember an error in my office with sales
23
          taxes and we called a local sales tax office
24
          and we could prove this -- the error but
25
          they said we just can't send you the money
```

```
1
          back, we have to audit you to give you your
 2
          money back.
 3
          MS. ANDREWS:
                 Well, we can -- we do get request from
 5
          our distributors all the -- I -- I don't
 6
          want to say all the time, but often. And
 7
          they've determined that they've made a -- a
 8
          calculation error and they do request
 9
          refunds.
10
          MR. MARCELLO:
11
                Okay.
12
          MS. ANDREWS:
13
                And we do that without going through
14
          the audit process.
15
          MR. MARCELLO:
16
                Right.
17
          MS. ANDREWS:
18
                They do have to submit to us proper
19
          documentation.
20
          MR. MARCELLO:
21
                No -- no question. No question.
22
          MS. ANDREWS:
23
                But we do --
24
          MR. MARCELLO:
25
                Right.
```

```
1
           MS. ANDREWS:
 2
                 -- handle those cases on --
 3
           MR. MARCELLO:
                 Good.
          MS. ANDREWS:
                 -- on a -- on a normal basis. They
 7
          are not all -- if it's -- if it's a
 8
          substantial number, we may have -- bring the
 9
          audit section in.
10
          MR. MARCELLO:
11
                Right.
12
          MS. ANDREWS:
13
                But the financial services division
14
          handles most.
15
          MR. MARCELLO:
16
                Which I think is the right thing.
          MS. ANDREWS:
17
18
                Right.
19
          MR. MARCELLO:
20
                So good. That -- that's --
21
          MR. MORIN:
22
                And if it's discovered during the
23.
          audit then --
24
          MR. MARCELLO:
25
               Right.
```

```
1
          MR. MORIN:
 2
                 -- we go ahead and take care of it.
 3
          MR. MARCELLO:
                Okay. Thank you. That's all I had.
 5
          MR. ST. ROMAIN:
 6
                These audits are all chosen at random
 7
          or are there reasons that --
          MR. MORIN:
 8
 9
                Well, the -- the reason for the audit
10
          is listed on the report.
11
          MR. ST. ROMAIN:
12
                Okay.
13
          MR. MORIN:
14
                You know, you can see --
15
          MR. ST. ROMAIN:
16
                Okay.
17
          MR. MORIN:
18
                Just like case number one was never -
19
          - had never been audited prior to this
20
          audit. Number two had late payments.
21
          MR. ST. ROMAIN:
22
                Three was not audited.
23
          MR. MORIN:
24
                Right. I mean, so it tells you there
25
         the main reason why it was selected. And --
```

```
1
           and right now, we're trying to get through
 2
           all the -- the distributors, so --
 3
          MR. MARCELLO:
                 Right.
 5
          MR. MORIN:
                -- we're trying to get ones that
 6
 7
          haven't been --
          MR. MARCELLO:
 9
                No question.
10
          MR. MORIN:
11
                Yes.
12
          MR. HILL:
13
                I think I was randomly audited two or
14
          three years ago. No problem. They came up
15
          and spent a day, day and a half.
16
          MR. MORIN:
17
                Yes.
18
          MR. HILL
19
                If you got it right, it wasn't a
20
          problem.
21
                Are there anymore questions related to
22
          Cy's auditor's status report?
23
          (No response.)
24
          MR. HILL:
25
                If not, do I hear a motion to accept
```

```
1
          it in it's current status?
 2
          MR. MARCELLO:
 3
                 I move that as well, Mr. Chairman.
          MR. HILL:
 5
                Do I have a second.
 6
          MR. FULTON:
 7
                Second.
 8
          MR. HILL:
 9
                Gary. We have a second from Gary.
10
                Thank you, Cy.
11
          MR. MORIN:
12
                You're welcome.
13
          MR. HILL:
14
                We'll go to item number six, the Trust
15
          Fund Status Report and ask Jeff Baker will
16
          he bring us up to date?
17
          MR. BAKER:
18
                No problem. Good afternoon. Please
19
          refer to your tab number six in your
20
          packets. These are the figures for the
21
          second quarter of fiscal year '16.
22
                During the second quarter of fiscal
23
         year 2016, the Trust Fund has received 187
24
         applications, totaling $2,988,407. At the
25
         end of December 2015, the Trust Fund had 161
```

pending applications to process which had
requested amounts totaling \$2,634,327. 151
applications were processed for payment
during the fiscal year, totaling \$2,565,290.
And 19 applications were returned with
deficiencies.

If ya'll will turn to the next page titled Monthly Motor Fuel Trust Fund Obligation Determination. This is the new worksheet that we were talking about earlier, listing the various components for the determination of potential obligation of the Trust Fund against the Trust Fund as of the end of December 2015.

For sites currently in the corrective action phase, the outstanding liability of corrective action plan budget and estimated cost to reach closure as of the end of December 2015 was \$28,854,606. This total includes the CAP budget remaining amounts and the RAC estimated cost to closure amounts.

The fund obligation also recognizes sites without ROG approved CAP budgets as \$35,401,856. This is determined using a

three year average site closure cost and applying these costs to the active Trust Fund sites without current CAP budgets.

The fund obligation recognizes sites that have been determined to be Trust Fund eligible, however, have not been submitted — they have not submitted a reimbursement application. This amount is \$9,567,406. This is also determined by using the three year site closure cost and applying these costs to the sites that have requested eligibility but have not yet submitted a request for reimbursement from the fund.

This was as -- one of the things that we had noted were not -- were not being including in the obligation prior to that. If you'll notice, it's a substantial amount. That's part of the reason why we had that differential you described.

The five year projected fund obligation related to the Motor Fuel Trust Fund -- to the Motor Fuel Trust Fund to Environmental Trust Fund transfers is \$17,020,861. This estimate uses a three year average dollars transferred from Motor

Fuel Trust Fund to the Environmental Trust

Fund and multiples this average by five

years.

If you'll note the legal-sized page at the back of your packets. The number of Trust Fund sites that have received no further action during the fiscal year 2016 is ten.

The number of potential Trust Fund sites that were reviewed and made eligible during the current fiscal year is 13, representing 14 active incidents.

Just some points of interest.

Currently, the Trust Fund legal and UST staff are working to review the current

Trust Fund regulations to ensure they follow the current statutes, they're also -- and that they are being implemented correctly.

Any recommendations that this workgroup pulls out will be brought to the board at a future date.

Also recently, the Trust Fund had a number of our experienced application reviewers resign to pursue other opportunities. We have hired three new

```
1
          reviewers in the last few months and they're
  2
          -- they're actively being trained in their
  3
          positions. These new reviewers represent
          about 60 percent of the staff processing
 5
          Trust Fund reimbursement applications. This
 6
          has and will have an impact on our ability
          to timely process applications; however, we
 8
          are working to minimize that impact. And
 9
          hopefully, we'll have these staff -- have
10
          these staff contributing at a high level
11
          very soon.
12
                That concludes mine. Does anybody
13
          have any questions?
14 .
          (No response.)
15
          MR. HILL
16
                If no further questions, do I hear a
17
          motion to accept Jeff's Trust Fund Report?
18
          MR. MARCELLO:
19
                I make that motion, Mr. Chairman.
20
         MR. HILL:
21
                I got a first.
22
         MR. ST. ROMAIN:
23
                I second.
24
         MR. HILL:
```

I got Nick St. Romain as a second.

1 Thank you, Jeff.

Moving on along, we'll ask Mr. Perry

to deliver us the third party claim status.

MR. THERIOT:

Okay. Good afternoon. I'm happy to report we have not received any new third party claim applications. And we were successful in the summary judgment on one where the attorney for AT&T had to file suit on a third party claim for a release that got into the manhole servitude and deteriorated a bunch of the fiber optic cable. As we all know, that stuff is not cheap.

They made a claim on the third party.

We countered saying that that's not covered under the Trust Fund third party suit because it's not damage to property as described in a third party claim. They maintained that it was an un-reimbursed cost of remediation under the statute. There was a summary judgment. And we were successful. And the judge ruled for us that that did not qualify for the fund for reimbursement, that they -- that the fund was not set up

```
1
          for those purposes. That -- they have filed
 2
          for a writ application to the court of
 3
          appeals and we have not heard back yet from
          that. But I don't think that they're going
 5
          to be successful, so we should be okay on
 6
          that one.
 7
                I have a report that I'm getting ready
 8
          to do for you guys. Before we go in, I
 9
          would like to move to executive session
10
          because it's going to involve information
11
          involving some cost recovery actions that
12
          are still ongoing.
13
                So at this time, I'd ask that we move
14
          to executive session and all of those that
15
          are not on the board leave the room
16
          temporarily.
17
          (The board went into executive session.)
18
          (The meeting resumed.)
19
         MR. HILL:
20
                Okay. Thank ya'll for stepping out
21
         and now for joining us back.
22
               At this time, we'll look at item
23
         number eight. Is there any other business
24
         that anybody would like to discuss at this
```

time?

1 MS. ANDREWS:

I did want to go ahead and let 2 everybody know that the department is going 3 to be looking at presenting a fee package 4 for this legislative session, and it will be 5 -- have a mix of fee increases. 6 underground storage tank program will be one 7 of them that is going to be a part of that. 8 Our proposal will be a -- a ten percent fee 9 increase on -- on this media. And we're 10 also looking at adding a CPI index on that 11 to -- to be able to allow us to analyze it 12 beginning in the year 2020, to be able to 13 adjust it on a -- on a yearly basis for the 14 CPI. So that's -- that's kind of what --15 one of the issues that we're working on that 16 may affect --17 MR. ST. ROMAIN: 18

That's adjusting the tank registration fees?

MS. ANDREWS:

Yes. It would -- it would -- it would
allow us to adjust all of our fees by that,
this being one of them. And so right now,
this -- the tank registration fee,

```
1
           specifically, right now, we're collecting
  2
           $54.
  3
           MR. MARCELLO:
  4
                 Right.
  5
           MS. ANDREWS:
  6
                 It would then go up -- our proposal
  7
          would be, it would be $60.
  8
          MR. HILL
 9
                 $60?
10
          MS. ANDREWS:
11
                 Yes.
12
          MR. HILL:
13
                And you -- you will try to go this --
14
          go through the session with this?
15
          MS. ANDREWS:
16
                We -- yes, we are. We are already
17
          working with our attorneys and we've been
18
          meeting with a lot of the -- the groups that
19
          have a lot larger increases. This one is --
          you know, it's -- in our eyes, it's actually
20
21
          fairly negligible, but really important for
         us to try to get on -- on the right track
22
         with our Environmental Trust Fund.
23
24
         been very fortunate with underground storage
25
         tanks that it is supplemented with our Motor
```

```
1
          Fuel Underground Storage Tank Trust Fund.
          We do not have such a luxury with many other
 2
 3
          programs. And so it's really important that
          we get back on track of how much it cost for
 4
 5
          this agency to -- to do business by media.
 6
          So some of them have -- have ten percent,
 7
          some of them have 20 percent proposals, some
          of them have 25 percent proposals.
 8
          one, we're going to recommend at the ten
 9
10
          percent.
          MR. ST. ROMAIN:
11
                And that would be effective this
12
13
          summer?
          MS. ANDREWS:
14
15
                It would be in effect for this summer;
16
          however, we have to go through rulemaking,
          so it actually would not be effective until
17
          fiscal year '18. So --
18
19
          MR. MARCELLO:
20
                Okay.
21
          MS. ANDREWS:
22
                -- that -- that would give everybody
23
          the opportunity to build that into their
24
         budgets and -- and take -- take that into
25
          account. So it -- it gives everyone enough
```

```
1
          time, for us to notice them and -- and them
 2
          be able to work -- work that in.
 3
          MR. MARCELLO:
                And it'll effect more than just the
          registration, you said --
 6
          MS. ANDREWS:
 7
                Yes.
 8
          MR. MARCELLO:
 9
                -- correct?
10
          MS. ANDREWS:
11
                Yes. It's -- it's across our entire
12
          department. But the entire department is
13
          not ten percent. There are -- there are
          some adjustments that may be a little bit
14
15
          different.
16
          MR. MARCELLO:
17
                How many --
18
          MS. ANDREWS:
19
                I don't know if we have a solid --
20
         MR. MARCELLO:
21
                How many fees offhand are there?
22
         MS. ANDREWS:
23
                Oh, I can't even tell you. We -- I
24
         mean, I -- I've got so many fees.
```

MR. MARCELLO:

```
1
                 Where it relates to underground tanks?
 2
           MS. ANDREWS:
 3
                 I don't know if you guys have any
 4
           water -- I don't think ya'll have any water
 5
          discharge permits, so unless you have
 6
          carwashes, then you might --
 7
          MR. ST. ROMAIN:
 8
                 Treatment plants, sewer -- sewer
 9
          treatment plants.
10
          MS. ANDREWS:
11
                Okay. So if you have a sewer
12
          treatment --
13
          MR. MARCELLO:
14
                Okay.
15
          MS. ANDREWS:
16
                If you have a sewer treatment plant --
17
          is that under the water regs, Jeff?
18
          MR. BAKER:
19
                And -- and any air -- any air fees
20
          related to --
21
          MS. ANDREWS:
22
                So -- so under the water fees, just so
23
          you'll know, we're proposing a ten percent
24
          on that. On air, for the most part, it's
25
          ten percent also. There's a few little
```

```
1
          caveats in the air for air fees that we're
 2
          looking at that would have a minimum but
 3
          that's for some oil and gas permits. I
          don't -- I really don't think that applies
 5
          to you guys because it's more fields. And
 6
          that would have a minimum fee from 99 to
 7
                 Those are very complicated permits
 8
          that we do for $99.
 9
                So I -- we wanted to let you know
          that. And if -- if you want some more
10
11
          information, I'll be glad to share it with
12
          you.
13
          MR. HILL:
14
                Okay. And you'll be emailing us once
15
16
          MS. ANDREWS:
17
                Yes. Yes, we'll -- we'll be emailing
18
          you our -- our legislative update packages
19
          that -- that we're working on.
20
         MR. HILL:
21
                Okay. Thank you.
22
                Does anybody else have anymore
23
         questions?
24
          (No response.)
25
         MR. HILL:
```

1	well, I guess at this time, we will
2	adjourn this meeting. And thanks to
3	everybody for attending.
4	MS. ANDREWS:
5	Before before we adjourn, I know
6	Secretary Brown wanted to send his apologies
7	for not being here to meet you guys for this
8	first meeting. He had to go to New Orleans
9	to speak. So we'll make sure that that
10	we have him scheduled well in advance next
11	time that we meet. And if we're going
12	through session and we run into each other,
13	we'll make sure that that we have you
14	meet him, if you haven't already done so.
15	MR. HILL:
16	Thank you. Look forward to meeting
17	him.
18	Well, at this time, we're going to
19	close this meeting. And all things good
20	seemingly came out of it and thank everybody
21	for attending.
22	THE MEETING ADJOURNED AT 2:44 P.M.
23	* * * *

1	REPORTER'S PAGE
2	I, Lori B. Overland, Certified Court
3	Reporter, in and for the State of Louisiana, the
4	officer, as defined in Rule 28 of the Federal
5	Rules of Civil Procedure and/or Article 1434(b)
6	of the Louisiana code of Civil Procedure, before
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9	That due to the interaction in the
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22	# 07002

1 CERTIFICATION

2 I, Lori B. Overland, Certified Court Reporter in 3 and for the State of Louisiana, as the officer 4 before whom this testimony was taken, do hereby 5 certify that the above referenced individual to whom oath was administered, after having been duly sworn 7 by me upon authority of R.S. 37:2554, did testify as 8 hereinbefore set forth in the foregoing pages, that 9 this testimony was reported by me in the stenomask 10 reporting method, was prepared and transcribed by me 11 or under my personal direction and supervision, and 12 is a true and correct transcript to the best of my 13 ability and understanding; that the transcript has 14 been prepared in compliance with transcript format quidelines required by statute or by rules of the 15 16 board, that I have acted in compliance with the 17 prohibition on contractual relationships, as defined 1.8 by Louisiana Code of Civil Procedure Article 1434 19 and in rules and advisory opinions of the board; 20 that I am not related to counsel or to the parties 21 herein, nor am I otherwise interested in the outcome 22 of this matter. 23

Lori Overland C.C.R.

25 # 97083

In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY MOTOR FUELS UNDERGROUND STORAGE TANK TRUST

MEETING February 18, 2016

Associated Reporters, Incorporated 225-216-2036

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In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST

*MEETING*February 18, 2016

Associated Reporters, Incorporated 225-216-2036

Original File Trust.txt
Win-U-Script® with Word Index



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1 2 3		1	INDEX
3	STATE OF LOUISIANA	2	EXAMINATION: PAGE (
4	DEPARTMENT OF ENVIRONMENTAL QUALITY	3	None
5	MOTOR FUELS UNDERGROUND STORAGE TANK TRUST	4	None
6	FUND ADVISORY BOARD	5	EXHIBITS:
7		6	None
8		7	
9		8	REPORTER'S PAGE
10		9	REPORTER'S CERTIFICATE
11		10	
		11	* * * *
12	The above-entitled meeting was held at the	12	
13	LDEQ, Galvez Building, Conference Center, 602 North 5th Street, Baton Rouge, Louisiana,	13	
14	beginning at 1:12 p.m., on February 18, 2016.	14	
15		15	
16		16	
L7		17	
.8		18	
9	BEFORE:	19	
20	Lori B. Overland Certified Court Reporter	20	
21	In and For the State of Louisiana	21	
22		22	
23		23	
24			
25		24	
		25	
	Page 2		Page
1	APPEARANCES	1	* * * * *
2	Kerry Hill	2	MR. HILL:
3	Chairman	3	We'll call this meeting to order.
4	Durwood Franklin Jeff Baker	4	Good morning, Ladies and Gentlemen. I'm
5	Gary Fulton Karyn Andrews	5	glad everyone could attend. Thank ya'll for
6	Cy Morin Frank Marcello	6	showing up. I'd like to start off first
7	Perry Theriot	7	with a roll call and then consideration and
8	Nick St. Romain Steve Burnham	8	adoption of the December 3 Board Minutes.
9	Melissa Vizinat	9	So let's have a roll call first.
0	Sam Broussard Tad Loupe	10	MR. THERIOT:
1	Linda Hicks Rhonda Cook	11	Perry Theriot, Louisiana Department of
2	Trey Kemp Jason Efferson	12	Environmental Quality Legal Section.
3	Amber Pino Ian Kelley	13	MR. FRANKLIN:
4	* * * *	14	Durwood Franklin, DEQ Trust Fund.
5		15	MR. BAKER:
6		16	Jeff Baker, DEQ Trust Fund.
7		17	MR. FULTON:
8		18	Gary Fulton, DEQ Underground Storage
9		19	Tank and Remediation Division.
0		20	MR. BURNHAM:
		21	Steve Burnham, Engineering Associates.
1		22	MR. ST. ROMAIN:
		23	Nick St. Romain, St. Romain Oil and
		20	
3		24	LOMA
2 3 4 5		24 25	LOMA. MR. HILL:

Page 5 Page 7 Kerry Hill, Reladine Hill Oil Company, 1 Mr. Chairman, that would be -- Mr. Louisiana Oil Marketers. 2 Chairman Pro Tem, that would be a simple MR. MARCELLO: 3 matter on my part to nominate Mr. Kerry Hill Frank Marcello representing Louisiana 4 as Chairperson for 2016. 4 Oil Marketers and Convenience Store 5 MR. ST. ROMAIN: 5 Association. 6 6 I second. MS. ANDREWS: 7 7 MR. HILL: Karyn Andrews, Department of 8 8 Are we sure there are no objections? 9 Environmental Quality, Financial Services. (No response.) 9 MR. MORIN: 10 MR. HILL: 10 Cy Morin, DEO Audit Services. 11 If so, we will carry on. 11 MS. VIZINAT: 12 12 Thank ya'll. We will go to item 13 Melissa Vizinat, DEQ Trust Fund. number four. At this time, I'd like Karyn 13 14 MS. HICKS: Andrews to deliver the Financial services 14 Linda Hicks, PPM Consultants. 1.5 15 report. 16 MS. COOK: 16 MS. ANDREWS: 17 Rhonda Cook, PPM Consultants. 17 Thank you. And if you could turn to 18 MR. BROUSSARD: 18 tab four. This first sheet that we're Samuel Broussard, DEQ USTR Division. 19 looking at is the details of how we 19 20 MR. LOUPE: calculate the amount transferred from the 20 Tad Loupe, DEQ UST Division. 21 Motor Fuel Trust Fund back to the 21 MR. EFFERSON: 22 Environmental Trust Fund. This is the 22 23 Jason Efferson, DEQ Trust Fund. details of those revenues and expenditures. 23 24 MR. KEMP: 24 As we talked about at the last Trey Kemp, DEQ Trust Fund. 25 meeting, we're now reporting to you on a 25 Page 6 Page 8 MS. PINO: cash basis. And this demonstrates the Amber Pino, DEO Trust Fund. 2 transfer that actually occurred in fiscal MR. KELLY: 3 year 2016, but the expenditures you are Ian Kelly, DEQ Trust Fund. 4 looking at in that far right column are the MR. HILL: 5 5 actual expenditures from fiscal year '15. Thank ya'll. Do I -- does anybody 6 So there is a slight lag time on that. But 6 want to comment on the December 3rd Board 7 these are the numbers showing the transfer 7 Minutes? Anything that stands out before we 8 of \$5,327,246, occurred in 2016. 8 9 move forward? Go ahead and turn the page. This is 9 (No response.) 10 10 our statement showing the cash basis assets MR. MARCELLO: 11 11 and fund balances with our cash receipts, 12 If not, Mr. Chairman, I'll make a disbursement and changes in cash fund 12 motion that we adopt them as -- as noted. 13 balance. 13 14 MR. BURNHAM: 14 In the current fiscal year, as of 15 I second. 15 December 31st, we have deposited \$13,657,649 MR. HILL: 16 into the Trust Fund. Of that amount 16 I have a motion. Do I have a second? 17 17 \$63,362,000 is interest money. And we have MR. BURNHAM: 18 18 reimbursed RACs for sites the amount of Second. 19 \$6,582,230. We have an obligation -- we 19 MR. HILL: 20 20 have a balance after obligations in the fund Thank you. We will accept the Board 21 21 of minus \$2,522,996. 22 Minutes as printed. 22 Anyone have any questions? 23 And go to item number three. Election 23 MR. BURNHAM: 24 of a Chairperson for 2016. 24 Last year, we had an unobligated MR. MARCELLO: 25 25 balance of 13 million. And this year, we're

Page 9 detail 29 open motor fuel cases initiated -- we have a minus two million, 2.5? since 2014 that have not reached the status MS. ANDREWS: 2 of going to legal. Yes, we do. And I think last meeting, 3 3 Twenty-two cases are under review or we kind of talked about a recalculation of 4 4 the way we're looking at the obligation. 5 awaiting review, pending final review. 5 These represent one potential credit of Jeff had done an analysis and -- and in 6 6 approximately \$3,200; five potential working with the Legislative Auditors to --7 7 assessments, totaling approximately \$1,500; to determine that we were missing some --8 and six potential clean audits with no 9 some sites or some parts of the sites into 9 assessment. Six cases are still in the fund. And we wanted to make sure that 10 10 progress, representing one potential we accurately captured that. And this is 11 11 assessment of approximately \$11,000, of now how we're using it. 12 12 which \$9,700 has been paid. Five cases were MR. BURNHAM: 13 13 -- the results are still outstanding for the 14 I recall that. 14 MS. ANDREWS: other five cases. 15 15 We've added one more case that's to be I think -- and I believe everybody, 16 16 last time, should've received a copy to see scheduled -- that's been scheduled to be 17 17 done in March. exactly how we did calculate. If you -- if 18 18 I'd just like to note that since the 19 we want to have some more talks about that, 19 we can. But I think we went through that last meeting, four new audits have been 20 20 added to this list and four have been last meeting. 21 21 removed. They've been resolved with no MR. BURNHAM: 22 22 findings and closed. 23 That is the primary reason for that 23 Now, if we'll turn to page three. 24 big --24 MS. ANDREWS: This list, as we've talked about before, has 25 25 Page 10 Page 12 Absolutely. five legal cases that are still outstanding. 1 MR. BURNHAM: I'll give you the current status of the five 2 2 cases. 3 -- jump? 3 MS. ANDREWS: The first case, a new DEO attorney was 4 4 Yes, it is. enrolled on November 9, 2016 as additional 5 6 MR. HILL: 6 counsel of record on behalf of DEQ. The Are there anymore questions related to attorneys are preparing to request a status 7 7 the financial report Ms. Andrews delivered? conference to set a trial date and prepare 8 (No response.) discovery. 9 9 MR. HILL: 10 The second case is a business that has 10 11 If not, do I hear a motion to accept 11 been sending in payments of \$300 every the financials in their current status? month. The last payment of \$300 was 12 12 MR. MARCELLO: received in January on the 15th. The 13 13 So moved, Mr. Chairman. February payment is currently due. If the 14 14 MR. FULTON: business misses a payment, the case will be 15 15 16 Second. 16 referred to the Office of Debt Recovery. MR. HILL: The third case was referred to the 17 17 I got a first by Frank and second by Office of Debt Recovery for collection on 18 18 October 14. I've mentioned this before. Gary. Thank you. 19 19 Item number five, the auditor's status The fourth case was referred to legal 20 20 report. Cy, will you --21 recently in November of 2015. On January 21 MR. MORIN: 29, the business paid \$3,975, which leaves a 22 22

please.

23

24

25

Yes, sir. Turn to tab number five,

The first two pages of this report

23 24

25

proceedings.

balance of \$405.44. We're hoping to collect

this without having to initiate more legal

ŀе	bruary 18, 2016	MO	OTO	R FUELS UNDERGROUND STORAGE TANK TRU
	F	Page 13		Page 1
1	Judgment was rendered for the fifth		1	It just needs to finish going through the
2			2	process.
3	\$4,016.58. It was recorded in the mortgage		3	MR. MARCELLO:
4	1 771 771 1 1 1		4	And just just for just for my
5	6 1 0 00 00 1		5	knowledge, this case number two, that
6			6	resulted in an overpayment. Who discovered
1 7			7	the overpayment? Was it the audit or the
8	approximately \$121,000 of which \$12,368 is		8	customer or the vendor or vendee, if you
و	attorney's fees, court cost and judicial		9	will?
10	interest. And approximately \$109,000 is		10	MR. MORIN:
11	going from waste tire fees and related late		11	On case number two on the first page?
12	payment fees.		12	MR. MARCELLO:
13	(An off-the-record discussion		13	Yes.
14	followed.)		14	MR. MORIN:
15	MR. MORIN:		15	
16	If I misspoke and said waste tire, I		16	This was discovered by the auditor. MR. MARCELLO:
17	meant motor fuel.			Auditor?
18	That will conclude it.	1	17	
19	MR. HILL:		18	MR. MORIN:
20			19	Yes.
21	Does anyone have any questions related to Cy's report?		20	MR. MARCELLO:
22	MR. MARCELLO:		21	Okay. And I ask that only to say, I
23		Ì	22	remember an error in my office with sales
24	Cy, your sheet could say like, these were from 2004 to 2013, these audits are	İ	23	taxes and we called a local sales tax office
25	from '13 to present, if you will.		24	and we could prove this the error but
23	nom 13 to present, a you wim.	1	25	they said we just can't send you the money
	. Pa	age 14		Page 16
1	MR. MORIN:		1.	back, we have to audit you to give you your
2	These audits are from '14 to present,	ľ	2	money back.
3	yes.	1	3	MS. ANDREWS:
4	MR. MARCELLO:		4	Well, we can we do get request from
5	So there's nothing it looks like	ľ	5	our distributors all the I I don't
6	pretty clean audits		6	want to say all the time, but often. And
7	MR. MORIN:	- 1	7	they've determined that they've made a a
8	Well, yes	1	8	calculation error and they do request
9	MR. MARCELLO:		9	refunds.
10	since 2013.	į.	10	MR. MARCELLO:
11	MR. MORIN:	f	11	Okay.
12	I I anticipate 16 to be clean, 16		12	MS. ANDREWS:
13	of those to be clean audits. As I said, six	- 1	13	And we do that without going through
14	of them are still in the process. We don't	- 1	14	the audit process.
15	quite know yet	- 1	15	MR. MARCELLO:
		1 -		
16	•		16	Kiant
	MR. MARCELLO:		16	Right.
L7	MR. MARCELLO: Right.		1.7	MS. ANDREWS:
17 18	MR. MARCELLO: Right. MR. MORIN:	=	1.7 1.8	MS. ANDREWS: They do have to submit to us proper
17 18 19	MR. MARCELLO: Right. MR. MORIN: if there will be any findings.		17 18 19	MS. ANDREWS: They do have to submit to us proper documentation.
17 18 19 20	MR. MARCELLO: Right. MR. MORIN: if there will be any findings. MR. MARCELLO:	2	17 18 19 20	MS. ANDREWS: They do have to submit to us proper documentation. MR. MARCELLO:
17 18 19 20	MR. MARCELLO: Right. MR. MORIN: if there will be any findings. MR. MARCELLO: Right.		17 18 19 20 21	MS. ANDREWS: They do have to submit to us proper documentation. MR. MARCELLO: No no question. No question.
17 18 19 20 21	MR. MARCELLO: Right. MR. MORIN: if there will be any findings. MR. MARCELLO: Right. MR. MORIN:		17 18 19 20 21	MS. ANDREWS: They do have to submit to us proper documentation. MR. MARCELLO: No no question. No question. MS. ANDREWS:
17 18 19 20 21 22	MR. MARCELLO: Right. MR. MORIN: if there will be any findings. MR. MARCELLO: Right. MR. MORIN: And then, there are a handful of them		17 18 19 20 21 22	MS. ANDREWS: They do have to submit to us proper documentation. MR. MARCELLO: No no question. No question. MS. ANDREWS: But we do
1.6 1.7 1.8 1.9 2.0 2.1 2.2 2.3 2.4	MR. MARCELLO: Right. MR. MORIN: if there will be any findings. MR. MARCELLO: Right. MR. MORIN:	2 2 2 2 2	17 18 19 20 21	MS. ANDREWS: They do have to submit to us proper documentation. MR. MARCELLO: No no question. No question. MS. ANDREWS:

111	TOK FOETZ ONDEKCKOAND ZIOKACE I YNY IX		Tebruary 10, 2010
	Page 17		Page 19
1	MS. ANDREWS:	1	and right now, we're trying to get through
2	handle those cases on	2	all the the distributors, so
3	MR. MARCELLO:	3	MR. MARCELLO:
4	Good.	4	Right.
5	MS. ANDREWS:	5	MR. MORIN:
6	on a on a normal basis. They	6	we're trying to get ones that
7	are not all if it's if it's a	7	haven't been
8	substantial number, we may have bring the	8	MR. MARCELLO:
9	audit section in.	9	No question.
10	MR. MARCELLO:	10	MR. MORIN:
11	Right.	11	Yes.
12	MS. ANDREWS:	12	MR. HILL:
13	But the financial services division	13	I think I was randomly audited two or
14	handles most.	14	three years ago. No problem. They came up
15	MR. MARCELLO:	15	and spent a day, day and a half.
16	Which I think is the right thing.	16	MR. MORIN:
17	MS. ANDREWS:	17	Yes.
18	Right.	18	MR. HILL
19	MR. MARCELLO:	19	If you got it right, it wasn't a
20	So good. That that's	20	problem.
21	MR. MORIN:	21	Are there anymore questions related to
22	And if it's discovered during the	22	Cy's auditor's status report?
23	audit then	23	(No response.)
24	MR. MARCELLO:	24	MR. HILL:
25	Right.	25	If not, do I hear a motion to accept
ľ	<u> </u>		
	Page 18		Page 20
		1	
1 2	MR. MORIN:	1 2	it in it's current status?
2	MR. MORIN: we go ahead and take care of it.		it in it's current status? MR. MARCELLO:
2	MR. MORIN: we go ahead and take care of it. MR. MARCELLO:	2	it in it's current status? MR. MARCELLO: I move that as well, Mr. Chairman.
2 3 4	MR. MORIN: we go ahead and take care of it. MR. MARCELLO: Okay. Thank you. That's all I had.	2	it in it's current status? MR. MARCELLO:
2 3 4 5	MR. MORIN: we go ahead and take care of it. MR. MARCELLO: Okay. Thank you. That's all I had. MR. ST. ROMAIN:	2 3 4	it in it's current status? MR. MARCELLO: I move that as well, Mr. Chairman. MR. HILL: Do I have a second.
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2 3 4 5 6 7 8 9 10 11 12 13 14	MR. MORIN: we go ahead and take care of it. MR. MARCELLO: Okay. Thank you. That's all I had. MR. ST. ROMAIN: These audits are all chosen at random or are there reasons that MR. MORIN: Well, the the reason for the audit is listed on the report. MR. ST. ROMAIN: Okay. MR. MORIN: You know, you can see MR. ST. ROMAIN:	2 3 4 5 6 7 8 9 10 11 12 13 14	it in it's current status? MR. MARCELLO: I move that as well, Mr. Chairman. MR. HILL: Do I have a second. MR. FULTON: Second. MR. HILL: Gary. We have a second from Gary. Thank you, Cy. MR. MORIN: You're welcome. MR. HILL: We'll go to item number six, the Trust Fund Status Report and ask Jeff Baker will
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	MR. MORIN: we go ahead and take care of it. MR. MARCELLO: Okay. Thank you. That's all I had. MR. ST. ROMAIN: These audits are all chosen at random or are there reasons that MR. MORIN: Well, the the reason for the audit is listed on the report. MR. ST. ROMAIN: Okay. MR. MORIN: You know, you can see MR. ST. ROMAIN: Okay.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	it in it's current status? MR. MARCELLO: I move that as well, Mr. Chairman. MR. HILL: Do I have a second. MR. FULTON: Second. MR. HILL: Gary. We have a second from Gary. Thank you, Cy. MR. MORIN: You're welcome. MR. HILL: We'll go to item number six, the Trust Fund Status Report and ask Jeff Baker will he bring us up to date?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	MR. MORIN: we go ahead and take care of it. MR. MARCELLO: Okay. Thank you. That's all I had. MR. ST. ROMAIN: These audits are all chosen at random or are there reasons that MR. MORIN: Well, the the reason for the audit is listed on the report. MR. ST. ROMAIN: Okay. MR. MORIN: You know, you can see MR. ST. ROMAIN: Okay. MR. MORIN: Just like case number one was never had never been audited prior to this audit. Number two had late payments. MR. ST. ROMAIN: Three was not audited. MR. MORIN:	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	it in it's current status? MR. MARCELLO: I move that as well, Mr. Chairman. MR. HILL: Do I have a second. MR. FULTON: Second. MR. HILL: Gary. We have a second from Gary. Thank you, Cy. MR. MORIN: You're welcome. MR. HILL: We'll go to item number six, the Trust Fund Status Report and ask Jeff Baker will he bring us up to date? MR. BAKER: No problem. Good afternoon. Please refer to your tab number six in your packets. These are the figures for the second quarter of fiscal year '16. During the second quarter of fiscal year 2016, the Trust Fund has received 187

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Page 21

pending applications to process which had 1 2 requested amounts totaling \$2,634,327. 151 applications were processed for payment 3 during the fiscal year, totaling \$2,565,290. And 19 applications were returned with 5 deficiencies. 6

If ya'll will turn to the next page titled Monthly Motor Fuel Trust Fund Obligation Determination. This is the new worksheet that we were talking about earlier, listing the various components for the determination of potential obligation of the Trust Fund against the Trust Fund as of the end of December 2015.

For sites currently in the corrective action phase, the outstanding liability of corrective action plan budget and estimated cost to reach closure as of the end of December 2015 was \$28,854,606. This total includes the CAP budget remaining amounts and the RAC estimated cost to closure amounts.

The fund obligation also recognizes sites without ROG approved CAP budgets as \$35,401,856. This is determined using a

Fuel Trust Fund to the Environmental Trust

2 Fund and multiples this average by five

years. 3

4 If you'll note the legal-sized page at 5 the back of your packets. The number of

Trust Fund sites that have received no 6

7 further action during the fiscal year 2016

8 is ten.

9 The number of potential Trust Fund sites that were reviewed and made eligible 10 11 during the current fiscal year is 13,

12 representing 14 active incidents.

13 Just some points of interest.

14 Currently, the Trust Fund legal and UST staff are working to review the current 15

Trust Fund regulations to ensure they follow 16

17 the current statutes, they're also -- and

18 that they are being implemented correctly.

19 Any recommendations that this workgroup

20 pulls out will be brought to the board at a

future date. 21

22 Also recently, the Trust Fund had a 23

number of our experienced application

reviewers resign to pursue other 24

25 opportunities. We have hired three new

Page 22

Page 24

Page 23

three year average site closure cost and applying these costs to the active Trust Fund sites without current CAP budgets. 3

The fund obligation recognizes sites that have been determined to be Trust Fund eligible, however, have not been submitted -- they have not submitted a reimbursement application. This amount is \$9,567,406. This is also determined by using the three year site closure cost and applying these

costs to the sites that have requested eligibility but have not yet submitted a request for reimbursement from the fund.

This was as -- one of the things that we had noted were not -- were not being including in the obligation prior to that. If you'll notice, it's a substantial amount. That's part of the reason why we had that differential you described.

The five year projected fund obligation related to the Motor Fuel Trust Fund -- to the Motor Fuel Trust Fund to Environmental Trust Fund transfers is \$17,020,861. This estimate uses a three year average dollars transferred from Motor reviewers in the last few months and they're

-- they're actively being trained in their

3 positions. These new reviewers represent

about 60 percent of the staff processing

Trust Fund reimbursement applications. This 5

has and will have an impact on our ability

7 to timely process applications; however, we

8 are working to minimize that impact. And

hopefully, we'll have these staff -- have

these staff contributing at a high level 10

11 very soon.

12

That concludes mine. Does anybody

13 have any questions?

(No response.) 14

MR. HILL 15

If no further questions, do I hear a 16 17 motion to accept Jeff's Trust Fund Report?

18 MR. MARCELLO:

I make that motion, Mr. Chairman. 19

MR. HILL: 20

21 I got a first.

22 MR. ST. ROMAIN:

23 I second.

24 MR. HILL:

I got Nick St. Romain as a second. 25

Page 27 Page 25 MS. ANDREWS: Thank you, Jeff. 1 1 I did want to go ahead and let Moving on along, we'll ask Mr. Perry 2 2 everybody know that the department is going to deliver us the third party claim status. 3 3 to be looking at presenting a fee package MR. THERIOT: 4 4 for this legislative session, and it will be Okay. Good afternoon. I'm happy to 5 5 -- have a mix of fee increases. The report we have not received any new third 6 6 underground storage tank program will be one party claim applications. And we were 7 7 of them that is going to be a part of that. successful in the summary judgment on one 8 8 Our proposal will be a -- a ten percent fee where the attorney for AT&T had to file suit 9 on a third party claim for a release that increase on -- on this media. And we're 10 10 also looking at adding a CPI index on that got into the manhole servitude and 11 11 deteriorated a bunch of the fiber optic to -- to be able to allow us to analyze it 12 12 beginning in the year 2020, to be able to cable. As we all know, that stuff is not 13 13 adjust it on a -- on a yearly basis for the 14 14 cheap. CPI. So that's -- that's kind of what --They made a claim on the third party. 15 15 one of the issues that we're working on that We countered saying that that's not covered 16 16 may affect ---17 under the Trust Fund third party suit 17 MR. ST. ROMAIN: 18 because it's not damage to property as 18 That's adjusting the tank registration 19 described in a third party claim. They 19 maintained that it was an un-reimbursed cost 20 fees? 20 MS. ANDREWS: of remediation under the statute. There was 21 21 a summary judgment. And we were successful. Yes. It would -- it would -- it would 22 22 allow us to adjust all of our fees by that, And the judge ruled for us that that did not 23 23 this being one of them. And so right now, qualify for the fund for reimbursement, 24 24 that they -- that the fund was not set up 25 this -- the tank registration fee, Page 26 Page 28 for those purposes. That -- they have filed specifically, right now, we're collecting 1 for a writ application to the court of 2 \$54. 2 MR. MARCELLO: appeals and we have not heard back yet from 3 that. But I don't think that they're going Right. 4 4 to be successful, so we should be okay on MS. ANDREWS: 5 5 6 that one. 6 It would then go up -- our proposal I have a report that I'm getting ready would be, it would be \$60. 7 7

to do for you guys. Before we go in, I 9

would like to move to executive session because it's going to involve information involving some cost recovery actions that are still ongoing.

So at this time, I'd ask that we move to executive session and all of those that are not on the board leave the room temporarily.

(The board went into executive session.) 17

(The meeting resumed.) 18

MR. HILL: 19

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Okay. Thank ya'll for stepping out 20 and now for joining us back. 21

At this time, we'll look at item number eight. Is there any other business that anybody would like to discuss at this time?

MR. HILL 8

\$60? 9

MS. ANDREWS: 10

11 Yes.

MR. HILL: 12

And you -- you will try to go this --13

go through the session with this? 14

MS. ANDREWS: 15

16 We -- yes, we are. We are already working with our attorneys and we've been 17 meeting with a lot of the -- the groups that 18

have a lot larger increases. This one is --19

you know, it's -- in our eyes, it's actually 20

21 fairly negligible, but really important for

us to try to get on -- on the right track 22

with our Environmental Trust Fund. We've 23

been very fortunate with underground storage 24

tanks that it is supplemented with our Motor 25

Page 29 Page 31 Fuel Underground Storage Tank Trust Fund. Where it relates to underground tanks? 1 We do not have such a luxury with many other 2 MS. ANDREWS: 2 programs. And so it's really important that 3 I don't know if you guys have any we get back on track of how much it cost for water -- I don't think ya'll have any water 4 this agency to -- to do business by media. discharge permits, so unless you have 5 So some of them have -- have ten percent, 6 carwashes, then you might --6 some of them have 20 percent proposals, some 7 7 MR. ST. ROMAIN: of them have 25 percent proposals. This 8 Treatment plants, sewer -- sewer 9 one, we're going to recommend at the ten 9 treatment plants. percent. 10 MS. ANDREWS: 10 11 MR. ST. ROMAIN: Okay. So if you have a sewer 11 12 And that would be effective this 12 treatment --summer? 13 MR. MARCELLO: 13 MS. ANDREWS: 14 Okay. 14 MS. ANDREWS: 15 It would be in effect for this summer; 15 however, we have to go through rulemaking, 16 16 If you have a sewer treatment plant --17 so it actually would not be effective until is that under the water regs, Jeff? 17 fiscal year '18. So --18 MR. BAKER: 18 MR. MARCELLO: 19 And -- and any air -- any air fees 19 20 Okay. related to ---20 MS. ANDREWS: 21 21 MS. ANDREWS: 22 -- that -- that would give everybody So -- so under the water fees, just so 22 the opportunity to build that into their 23 you'll know, we're proposing a ten percent 23 24 budgets and -- and take -- take that into on that. On air, for the most part, it's 24 account. So it -- it gives everyone enough 25 ten percent also. There's a few little 25 Page 30 Page 32 time, for us to notice them and -- and them caveats in the air for air fees that we're be able to work -- work that in. looking at that would have a minimum but 2 MR. MARCELLO: 3 3 that's for some oil and gas permits. I And it'll effect more than just the 4 don't -- I really don't think that applies 4 5 registration, you said -to you guys because it's more fields. And MS. ANDREWS: 6 that would have a minimum fee from 99 to Yes. 7 \$500. Those are very complicated permits MR. MARCELLO: 8 that we do for \$99. 8 9 -- correct? So I -- we wanted to let you know 9 MS. ANDREWS: that. And if -- if you want some more 10 10 Yes. It's -- it's across our entire information, I'll be glad to share it with 11 11 department. But the entire department is 12 you. 12 not ten percent. There are -- there are 13 MR. HILL: 13 14 some adjustments that may be a little bit Okay. And you'll be emailing us once 14 different. 15 15 MR. MARCELLO: MS. ANDREWS: 16 16 How many --17 17 Yes. Yes, we'll -- we'll be emailing MS. ANDREWS: 18 you our -- our legislative update packages 18 I don't know if we have a solid ---19 19 that -- that we're working on. 20 MR. MARCELLO: MR. HILL: 20 21 How many fees offhand are there? 21 Okay. Thank you. MS. ANDREWS: 22 Does anybody else have anymore 22 Oh, I can't even tell you. We -- I 23 questions? 23 24 mean, I -- I've got so many fees. 24 (No response.) 25 MR. MARCELLO: MR. HILL: 25



1

Well, I guess at this time, we will 1 adjourn this meeting. And thanks to 2 3 everybody for attending. MS. ANDREWS: 4 Before -- before we adjourn, I know 5 Secretary Brown wanted to send his apologies for not being here to meet you guys for this 7 first meeting. He had to go to New Orleans 9 to speak. So we'll make sure that -- that we have him scheduled well in advance next 10 time that we meet. And if we're going 11 through session and we run into each other, 12 13 we'll make sure that -- that we have you meet him, if you haven't already done so. 14 MR. HILL: 15 16 Thank you. Look forward to meeting 17 him. Well, at this time, we're going to 18 close this meeting. And all things good 19 seemingly came out of it and thank everybody 20 21 for attending. THE MEETING ADJOURNED AT 2:44 P.M. 22 * * * * * 23 23 24 24 25

Page 35

Lori Overland C.C.R.

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CERTIFICATION

2 I. Lori B. Overland, Certified Court Reporter in 3 and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby 5 certify that the above referenced individual to whom 6 oath was administered, after having been duly sworn 7 by me upon authority of R.S. 37:2554, did testify as 8 hereinbefore set forth in the foregoing pages, that 9 this testimony was reported by me in the stenomask 10 reporting method, was prepared and transcribed by me 11 or under my personal direction and supervision, and 12 is a true and correct transcript to the best of my 13 ability and understanding; that the transcript has 14 been prepared in compliance with transcript format 15 guidelines required by statute or by rules of the 16 board, that I have acted in compliance with the 17 prohibition on contractual relationships, as defined 18 by Louisiana Code of Civil Procedure Article 1434 19 and in rules and advisory opinions of the board; 20 that I am not related to counsel or to the parties 21 herein, nor am I otherwise interested in the outcome 22 of this matter.

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25

REPORTER'S PAGE

- I, Lori B. Overland, Certified Court
- 3 Reporter, in and for the State of Louisiana, the
- 4 officer, as defined in Rule 28 of the Federal
- 5 Rules of Civil Procedure and/or Article 1434(b)
- 6 of the Louisiana code of Civil Procedure, before
- 7 whom this sworn testimony was taken, do hereby
- 8 state on the Record
- That due to the interaction in the
- 10 spontaneous discourse of this proceeding, dashes
- (--) have been used to indicate pauses, changes
- 12 in thought, and/or talk overs; that same is the
- 13 proper method for a Court Reporters's
- 14 transcription of proceeding, and that the dashes
- (--) do not indicated that words or phrases have
- 16 been left out of this transcript;
- That any words and/or names which could not 17
- 18 be verified through reference material have been
- denoted with the phrase "(inaudible)." 19

20 21

Lori Overland, C.C.R.

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Min-U-Script®

MOTOR FOELS OND				
	27.12 12.20.2	25:2	12:7;28:17	BURNHAM (8)
	27:12,13;30:2	1	attorney's (1)	4:20,21;6:14,18;
\$	Absolutely (1)	Amber (1) 6:2	13:9	8:23;9:13,22;10:2
	10:1)	1	business (5)
\$1,500 (1)	accept (4)	amount (7)	Audit (8)	
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13:10	account (1)	amounts (3)	audited (3)	
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11:12	accurately (1)	analysis (1)	auditor (3)	
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13:8	across (1)	analyze (1)	Auditors (1)	25:13
\$121,000 (1)	30:11	27:12	9:7	calculate (2)
13:8	action (3)	and/or (3)	auditor's (2)	7:20;9:18
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8:21	, , ,		awaiting (1)	came (2)
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21:4	actual (1)	10,15,21;32:16;33:4	11.5	· ·
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21:2	actually (3)	14:12	Ъ	9:20;13:6;16:4;
\$2,988,407 (1)	8:2;28:20;29:17	anymore (3)		18:14
20:24	added (2)	10:7;19:21;32:22	back (7)	CAP (3)
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21:19	adding (1)	33:6	26:3,21;29:4	captured (1)
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11:7	additional (1)	26:3	4:15,16;20:15,17;	care (1)
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12:23	adjustments (1)	approved (1)	behalf (1)	11:1,4,10,13,15;12:1,
\$5,327,246 (1)	30:14	21:24	12:6	3;13:6;17:2
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28:2	advance (1)	assessment (3)	Board (6)	CCR (1)
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\$63,362,000 (1) 8:17	against (1)	Associates (1)	23:20	20:3;24:19
\$63,362,000 (1) 8:17 \$9,567,406 (1)	against (1) 21:13	Associates (1) 4:21	23:20 BROUSSARD (2)	20:3;24:19 Chairperson (2)
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In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST

MEETING February 18, 2016

Associated Reporters, Incorporated 225-216-2036

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4	DEPARTMENT OF ENVIRONMENTAL QUALITY	3	
5	MOTOR FUELS UNDERGROUND STORAGE TANK TRUST	4	None
6	FUND ADVISORY BOARD	5	EXHIBITS:
7		6	None
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9		8	REPORTER'S PAGE 34
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11		10	
12		11	* * * * *
13	The above-entitled meeting was held at the	12	
	LDEQ, Galvez Building, Conference Center, 602 North 5th Street, Baton Rouge, Louisiana,	13	
14	beginning at 1:12 p.m., on February 18, 2016.	14	
15		15	
16		16	
17		17	
18		18	
19	BEFORE: Lori B. Overland	19	
20	Certified Court Reporter In and For the State of	20	
21	Louisiana	21	
22		22	
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1	APPEARANCES	1	* * * *
2	Kerry Hill	2	MR. HILL:
3	Chairman	3	We'll call this meeting to order.
4	Durwood Franklin Jeff Baker	4	Good morning, Ladies and Gentlemen. I'm
5	Gary Fulton Karyn Andrews	5	glad everyone could attend. Thank ya'll for
6	Cy Morin Frank Marcello	6	showing up. I'd like to start off first
7	Perry Theriot Nick St. Romain	7	with a roll call and then consideration and
8	Steve Burnham	8	adoption of the December 3 Board Minutes.
9	Melissa Vizinat Sam Broussard	9	So let's have a roll call first.
10	Tad Loupe Linda Hicks	10	MR. THERIOT:
11	Rhonda Cook Trey Kemp	11	Perry Theriot, Louisiana Department of
12	Jason Efferson Amber Pino	12	Environmental Quality Legal Section.
13	Ian Kelley * * * * *	13	MR. FRANKLIN:
14		14	Durwood Franklin, DEQ Trust Fund.
15		15	MR. BAKER:
16		16	Jeff Baker, DEQ Trust Fund.
17		17	MR. FULTON:
18		18	Gary Fulton, DEQ Underground Storage
19		19	Tank and Remediation Division.
20		20	MR. BURNHAM:
21		21	Steve Burnham, Engineering Associates.
22	[발동생산 - 12] - 14 [12] - 12 [12] - 12 [12] - 12 [12] - 12 [12] - 12 [12] - 12 [12] - 12 [12] - 12 [12] - 12 [12]	22	MR. ST. ROMAIN:
23		23	Nick St. Romain, St. Romain Oil and
24		24	LOMA.
25		25	MR. HILL:
7			

Page 5 Page 7 Kerry Hill, Reladine Hill Oil Company, Mr. Chairman, that would be -- Mr. Louisiana Oil Marketers. 2 2 Chairman Pro Tem, that would be a simple MR. MARCELLO: matter on my part to nominate Mr. Kerry Hill 3 3 Frank Marcello representing Louisiana 4 as Chairperson for 2016. 4 Oil Marketers and Convenience Store MR. ST. ROMAIN: 5 Association. 6 I second. 6 MS. ANDREWS: 7 7 MR. HILL: Karyn Andrews, Department of 8 8 Are we sure there are no objections? Environmental Quality, Financial Services. 9 9 (No response.) MR. MORIN: MR. HILL: 10 10 Cy Morin, DEO Audit Services. If so, we will carry on. 11 11 12 MS. VIZINAT: Thank ya'll. We will go to item 12 Melissa Vizinat, DEQ Trust Fund. number four. At this time, I'd like Karyn 13 13 MS. HICKS: Andrews to deliver the Financial services 14 14 Linda Hicks, PPM Consultants. 15 report. 15 MS. COOK: MS. ANDREWS: 16 16 17 Rhonda Cook, PPM Consultants. Thank you. And if you could turn to 17 MR. BROUSSARD: tab four. This first sheet that we're 18 18 Samuel Broussard, DEQ USTR Division. 19 19 looking at is the details of how we MR. LOUPE: calculate the amount transferred from the 20 20 Tad Loupe, DEQ UST Division. 21 21 Motor Fuel Trust Fund back to the MR. EFFERSON: 22 Environmental Trust Fund. This is the 22 23 Jason Efferson, DEQ Trust Fund. details of those revenues and expenditures. 23 24 MR. KEMP: As we talked about at the last 24 25 Trey Kemp, DEQ Trust Fund. meeting, we're now reporting to you on a 25 Page 6 Page 8 MS. PINO: cash basis. And this demonstrates the Amber Pino, DEQ Trust Fund. transfer that actually occurred in fiscal 2 MR. KELLY: year 2016, but the expenditures you are 3 Ian Kelly, DEQ Trust Fund. looking at in that far right column are the 4 4 MR. HILL: actual expenditures from fiscal year '15. 5 5 Thank ya'll. Do I -- does anybody 6 So there is a slight lag time on that. But 6 want to comment on the December 3rd Board these are the numbers showing the transfer 7 7 Minutes? Anything that stands out before we of \$5,327,246, occurred in 2016. 8 8 move forward? 9 9 Go ahead and turn the page. This is (No response.) our statement showing the cash basis assets 10 10 MR. MARCELLO: 11 and fund balances with our cash receipts, 11 If not, Mr. Chairman, I'll make a 12 disbursement and changes in cash fund 12 motion that we adopt them as -- as noted. 13 13 balance. MR. BURNHAM: In the current fiscal year, as of 14 14 15 I second. December 31st, we have deposited \$13,657,649 15 MR. HILL: 16 into the Trust Fund. Of that amount 16 I have a motion. Do I have a second? 17 \$63,362,000 is interest money. And we have 17 MR. BURNHAM: 18 reimbursed RACs for sites the amount of 18 Second. 19 \$6,582,230. We have an obligation -- we 19 MR. HILL: have a balance after obligations in the fund 20 20 21 Thank you. We will accept the Board of minus \$2,522,996. 21 Minutes as printed. Anyone have any questions? 22 22 And go to item number three. Election 23 23 MR. BURNHAM: of a Chairperson for 2016. 24 24 Last year, we had an unobligated MR. MARCELLO: 25 balance of 13 million. And this year, we're

detail 29 open motor fuel cases initiated -- we have a minus two million, 2.5? 1 since 2014 that have not reached the status MS. ANDREWS: 2 2 3 Yes, we do. And I think last meeting, 3 of going to legal. we kind of talked about a recalculation of Twenty-two cases are under review or 4 4 awaiting review, pending final review. the way we're looking at the obligation. 5 These represent one potential credit of Jeff had done an analysis and - and in 6 6 working with the Legislative Auditors to -approximately \$3,200; five potential 7 7 to determine that we were missing some --8 assessments, totaling approximately \$1,500; 8 some sites or some parts of the sites into and six potential clean audits with no 9 9 the fund. And we wanted to make sure that 10 assessment. Six cases are still in 10 progress, representing one potential we accurately captured that. And this is 11 11 now how we're using it. assessment of approximately \$11,000, of 12 12 MR. BURNHAM: which \$9,700 has been paid. Five cases were 13 13 I recall that. -- the results are still outstanding for the 14 14 15 MS. ANDREWS: 15 other five cases. We've added one more case that's to be I think -- and I believe everybody, 16 16 last time, should've received a copy to see scheduled -- that's been scheduled to be 17 17 exactly how we did calculate. If you -- if done in March. 18 18 we want to have some more talks about that, I'd just like to note that since the 19 19 we can. But I think we went through that last meeting, four new audits have been 20 20 added to this list and four have been 21 last meeting. 21 MR. BURNHAM: removed. They've been resolved with no 22 22 findings and closed. 23 That is the primary reason for that 23 Now, if we'll turn to page three. 24 big --24 MS. ANDREWS: This list, as we've talked about before, has 25 25 Page 10 Page 12 Absolutely. five legal cases that are still outstanding. 1. 2 MR. BURNHAM: 2 I'll give you the current status of the five 3 -- jump? 3 cases. MS. ANDREWS: 4 The first case, a new DEQ attorney was 4 Yes, it is. enrolled on November 9, 2016 as additional 5 MR. HILL: 6 counsel of record on behalf of DEO. The 7 Are there anymore questions related to 7 attorneys are preparing to request a status 8 the financial report Ms. Andrews delivered? 8 conference to set a trial date and prepare (No response.) discovery. 9 9 MR. HILL: 10 10 The second case is a business that has If not, do I hear a motion to accept been sending in payments of \$300 every 11 11 the financials in their current status? 12 12 month. The last payment of \$300 was 13 MR. MARCELLO: received in January on the 15th. The 13 So moved, Mr. Chairman. February payment is currently due. If the 14 14 MR. FULTON: business misses a payment, the case will be 15 15 Second. referred to the Office of Debt Recovery. 16 16 MR. HILL: 17 17 The third case was referred to the I got a first by Frank and second by 18 Office of Debt Recovery for collection on 18 Gary. Thank you. October 14. I've mentioned this before. 19 19 Item number five, the auditor's status The fourth case was referred to legal 20 20 report. Cy, will you -recently in November of 2015. On January 21 21 MR. MORIN: 22 29, the business paid \$3,975, which leaves a 22 Yes, sir. Turn to tab number five, balance of \$405.44. We're hoping to collect 23 23

Page 9

please.

The first two pages of this report

24

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24

25

proceedings.

this without having to initiate more legal

reb	ruary 18, 2016	MOTO	OR FUELS UNDERGROUND STORAGE TANK TRU
	F	Page 13	Page 1
1	Judgment was rendered for the fifth	1	It just needs to finish going through the
2	case on November 24th in the amount of	2	
3	\$4,016.58. It was recorded in the mortgage	3	
4	records. The file is being prepared for	4	
5	referral to the Office of Debt Recovery.	5	
6	And as you can see, these five cases	6	
7	represent a total outstanding amount of	7	
8	approximately \$121,000 of which \$12,368 is	8	customer or the vendor or vendee, if you
9	attorney's fees, court cost and judicial	٩	1110
10	interest. And approximately \$109,000 is	10	MR. MORIN:
11	going from waste tire fees and related late	11	On case number two on the first page?
12	payment fees.	12	MR. MARCELLO:
13	(An off-the-record discussion	13	
14	followed.)	14	MR. MORIN:
15	MR. MORIN:	15	
16	If I misspoke and said waste tire, I	16	MR. MARCELLO:
17	meant motor fuel.	17	Auditor?
18	That will conclude it.	18	MR. MORIN:
19	MR. HILL:	19	Yes.
20	Does anyone have any questions related	20	MR. MARCELLO:
21	to Cy's report?	21	Okay. And I ask that only to say, I
22	MR. MARCELLO:	22	remember an error in my office with sales
23	Cy, your sheet could say like, these	23	taxes and we called a local sales tax office
24	were from 2004 to 2013, these audits are	24	and we could prove this the error but
25	from '13 to present, if you will.	25	they said we just can't send you the money
		23	they said we just can't solid you the money
	Pa	age 14	Page 10
1	MR. MORIN:	1	back, we have to audit you to give you your
2	These audits are from '14 to present,	2	money back.
3	yes.	3	MS. ANDREWS:
4	MR. MARCELLO:	4	Well, we can we do get request from
5	So there's nothing it looks like	5	our distributors all the I I don't
6	pretty clean audits	6	want to say all the time, but often. And
7	MR. MORIN:	7	they've determined that they've made a a
8	Well, yes	8	calculation error and they do request
9	MR. MARCELLO:	9	refunds.
.0	since 2013.	10	MR. MARCELLO:
.1	MR. MORIN:	11	Okay.
.2	I I anticipate 16 to be clean, 16	12	MS. ANDREWS:
.3	of those to be clean audits. As I said, six	13	And we do that without going through
	of them are still in the process. We don't	14	the audit process.
	quite know yet	15	MR. MARCELLO:
	MR. MARCELLO:	16	Right.
7	Right.	17	MS. ANDREWS:
	MR. MORIN:	18	They do have to submit to us proper
9	if there will be any findings.	19	documentation.
	MR. MARCELLO:	20	MR. MARCELLO:
0		21	No no question. No question.
	Right.		
1	MR. MORIN:	22	MS. ANDREWS:
1 2	MR. MORIN:		MS. ANDREWS: But we do
21 22 23		22	MS. ANDREWS: But we do MR. MARCELLO:

	TOK FUELS UNDERGROUND STOKAGE TANK TR		1 cor uary 10, 2010
	Page 17		Page 19
1	MS. ANDREWS:	1	and right now, we're trying to get through
2	handle those cases on	2	all the the distributors, so
3	MR. MARCELLO:	3	MR. MARCELLO:
4	Good.	4	Right.
5	MS. ANDREWS:	5	MR. MORIN:
6	on a on a normal basis. They	6	we're trying to get ones that
7	are not all if it's if it's a	7	haven't been
8	substantial number, we may have bring the	8	MR. MARCELLO:
9	audit section in.	وا	No question.
10	MR. MARCELLO:	10	MR. MORIN:
11	Right.	11	Yes.
12	MS. ANDREWS:	12	MR. HILL:
13	But the financial services division	13	I think I was randomly audited two or
14	handles most.	14	three years ago. No problem. They came up
15	MR. MARCELLO:	15	and spent a day, day and a half.
16	Which I think is the right thing.	16	MR. MORIN:
17	MS. ANDREWS:	17	Yes.
18	Right.	18	MR. HILL
19	MR. MARCELLO:	19	If you got it right, it wasn't a
20	So good. That that's	20	problem.
21	MR. MORIN:	21	Are there anymore questions related to
22	And if it's discovered during the	22	Cy's auditor's status report?
23	audit then	23	(No response.)
24	MR. MARCELLO:	24	MR. HILL:
25	Right.	25	If not, do I hear a motion to accept
	- (
	Page 18		Page 20
1	MR. MORIN:	1	it in it's current status?
2	we go ahead and take care of it.	1 ~	it in it's carroit status:
		12	MR MARCELLO
3		2	MR. MARCELLO: I move that as well. Mr. Chairman.
1	MR. MARCELLO:	3 4	I move that as well, Mr. Chairman.
3	MR. MARCELLO: Okay. Thank you. That's all I had.	3 4	I move that as well, Mr. Chainnan. MR. HILL:
3 4 5	MR. MARCELLO: Okay. Thank you. That's all I had. MR. ST. ROMAIN:	3 4 5	I move that as well, Mr. Chainnan. MR. HILL: Do I have a second.
3	MR. MARCELLO: Okay. Thank you. That's all I had. MR. ST. ROMAIN: These audits are all chosen at random	3 4	I move that as well, Mr. Chainnan. MR. HILL: Do I have a second. MR. FULTON:
3 4 5 6	MR. MARCELLO: Okay. Thank you. That's all I had. MR. ST. ROMAIN:	3 4 5 6	I move that as well, Mr. Chainnan. MR. HILL: Do I have a second. MR. FULTON: Second.
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3 4 5 6 7 8 9	MR. MARCELLO: Okay. Thank you. That's all I had. MR. ST. ROMAIN: These audits are all chosen at random or are there reasons that MR. MORIN: Well, the the reason for the audit	3 4 5 6 7 8	I move that as well, Mr. Chainnan. MR. HILL: Do I have a second. MR. FULTON: Second. MR. HILL:
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3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	MR. MARCELLO: Okay. Thank you. That's all I had. MR. ST. ROMAIN: These audits are all chosen at random or are there reasons that MR. MORIN: Well, the the reason for the audit is listed on the report. MR. ST. ROMAIN: Okay. MR. MORIN: You know, you can see MR. ST. ROMAIN: Okay. MR. MORIN: Just like case number one was never had never been audited prior to this audit. Number two had late payments. MR. ST. ROMAIN: Three was not audited. MR. MORIN:	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	I move that as well, Mr. Chainnan. MR. HILL: Do I have a second. MR. FULTON: Second. MR. HILL: Gary. We have a second from Gary. Thank you, Cy. MR. MORIN: You're welcome. MR. HILL: We'll go to item number six, the Trust Fund Status Report and ask Jeff Baker will he bring us up to date? MR. BAKER: No problem. Good afternoon. Please refer to your tab number six in your packets. These are the figures for the second quarter of fiscal year '16. During the second quarter of fiscal year 2016, the Trust Fund has received 187

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Page 21

pending applications to process which had
requested amounts totaling \$2,634,327. 151
applications were processed for payment
during the fiscal year, totaling \$2,565,290.
And 19 applications were returned with
deficiencies.

If ya'll will turn to the next page titled Monthly Motor Fuel Trust Fund Obligation Determination. This is the new worksheet that we were talking about earlier, listing the various components for the determination of potential obligation of the Trust Fund against the Trust Fund as of the end of December 2015.

For sites currently in the corrective action phase, the outstanding liability of corrective action plan budget and estimated cost to reach closure as of the end of December 2015 was \$28,854,606. This total includes the CAP budget remaining amounts and the RAC estimated cost to closure amounts.

The fund obligation also recognizes sites without ROG approved CAP budgets as \$35,401,856. This is determined using a

1 Fuel Trust Fund to the Environmental Trust

2 Fund and multiples this average by five

3 years.

If you'll note the legal-sized page at the back of your packets. The number of

6 Trust Fund sites that have received no

7 further action during the fiscal year 2016

is ten.

8

The number of potential Trust Fund sites that were reviewed and made eligible during the current fiscal year is 13,

12 representing 14 active incidents.

Just some points of interest.
Currently, the Trust Fund legal and UST

staff are working to review the current

16 Trust Fund regulations to ensure they follow

17 the current statutes, they're also -- and

18 that they are being implemented correctly.

19 Any recommendations that this workgroup

20 pulls out will be brought to the board at a

21 future date.

Also recently, the Trust Fund had a number of our experienced application

24 reviewers resign to pursue other

25 opportunities. We have hired three new

Page 22

Page 24

Page 23

three year average site closure cost and applying these costs to the active Trust Fund sites without current CAP budgets.

The fund obligation recognizes sites that have been determined to be Trust Fund eligible, however, have not been submitted - they have not submitted a reimbursement application. This amount is \$9,567,406. This is also determined by using the three year site closure cost and applying these costs to the sites that have requested

costs to the sites that have requested eligibility but have not yet submitted a request for reimbursement from the fund.

This was as -- one of the things that we had noted were not -- were not being including in the obligation prior to that. If you'll notice, it's a substantial amount. That's part of the reason why we had that differential you described.

differential you described.
The five year projected fund
obligation related to the Motor Fuel Trust
Fund -- to the Motor Fuel Trust Fund to
Environmental Trust Fund transfers is
\$17,020,861. This estimate uses a three
year average dollars transferred from Motor

1 reviewers in the last few months and they're

2 -- they're actively being trained in their

3 positions. These new reviewers represent

4 about 60 percent of the staff processing

5 Trust Fund reimbursement applications. This

6 has and will have an impact on our ability

7 to timely process applications; however, we

8 are working to minimize that impact. And

9 hopefully, we'll have these staff -- have

10 these staff contributing at a high level

11 very soon.

12

19

That concludes mine. Does anybody

13 have any questions?

14 (No response.)

15 MR. HILL

15 MW. UILL

If no further questions, do I hear amotion to accept Jeff's Trust Fund Report?

18 MR. MARCELLO:

I make that motion, Mr. Chairman.

20 MR. HILL:

21 I got a first.

22 MR. ST. ROMAIN:

23 I second.

24 MR. HILL:

I got Nick St. Romain as a second.

25

Page 25

2

1 Thank you, Jeff.

Moving on along, we'll ask Mr. Perry 2

to deliver us the third party claim status.

MR. THERIOT: 4

Okay. Good afternoon. I'm happy to 5 report we have not received any new third 6

party claim applications. And we were

successful in the summary judgment on one

where the attorney for AT&T had to file suit

10 on a third party claim for a release that

got into the manhole servitude and 11

deteriorated a bunch of the fiber optic 12

cable. As we all know, that stuff is not 13

14 cheap.

They made a claim on the third party. 15

We countered saying that that's not covered

under the Trust Fund third party suit 17

because it's not damage to property as 18

described in a third party claim. They 19

maintained that it was an un-reimbursed cost 20

of remediation under the statute. There was 21

a summary judgment. And we were successful. 22

And the judge ruled for us that that did not 23

24 qualify for the fund for reimbursement,

25 that they -- that the fund was not set up

MS. ANDREWS: 1

I did want to go ahead and let

3 everybody know that the department is going

to be looking at presenting a fee package 4

for this legislative session, and it will be

-- have a mix of fee increases. The 6

7 underground storage tank program will be one

8 of them that is going to be a part of that.

Our proposal will be a -- a ten percent fee 9

increase on -- on this media. And we're 10

also looking at adding a CPI index on that 11

to -- to be able to allow us to analyze it 12

13 beginning in the year 2020, to be able to

adjust it on a -- on a yearly basis for the 14

CPI. So that's -- that's kind of what --15

one of the issues that we're working on that 16

may affect ---17

18 MR. ST. ROMAIN:

That's adjusting the tank registration 19

20 fees?

MS. ANDREWS: 21

22 Yes. It would -- it would -- it would

allow us to adjust all of our fees by that, 23

this being one of them. And so right now, 24

this -- the tank registration fee,

Page 26

Page 28

for those purposes. That -- they have filed

for a writ application to the court of 2

appeals and we have not heard back yet from 3

that. But I don't think that they're going

to be successful, so we should be okay on 5

6 that one.

7

13

14

I have a report that I'm getting ready

to do for you guys. Before we go in, I 8

would like to move to executive session 9

because it's going to involve information 10

involving some cost recovery actions that 11

12 are still ongoing.

> So at this time, I'd ask that we move to executive session and all of those that

are not on the board leave the room 15

16 temporarily.

17 (The board went into executive session.)

(The meeting resumed.) 18

MR. HILL: 19

20 Okay. Thank ya'll for stepping out

and now for joining us back. 21

At this time, we'll look at item 22 number eight. Is there any other business 23

that anybody would like to discuss at this 24

25 time? specifically, right now, we're collecting

\$54. 2

25

7

9

MR. MARCELLO: 3

Right. 4

MS. ANDREWS: 5

It would then go up -- our proposal 6

would be, it would be \$60.

MR. HILL 8

\$60?

MS. ANDREWS: 10

Yes. 11

12 MR. HILL:

And you -- you will try to go this --13

go through the session with this? 14

15 MS. ANDREWS:

We -- yes, we are. We are already 16

working with our attorneys and we've been 17

meeting with a lot of the -- the groups that 18

have a lot larger increases. This one is --19

you know, it's -- in our eyes, it's actually 20

fairly negligible, but really important for 21

us to try to get on -- on the right track 22

with our Environmental Trust Fund. We've 23

been very fortunate with underground storage 24

tanks that it is supplemented with our Motor 25

Page 29 Page 31 Fuel Underground Storage Tank Trust Fund. 1 Where it relates to underground tanks? 1 We do not have such a luxury with many other 2 2 MS. ANDREWS: programs. And so it's really important that 3 I don't know if you guys have any 3 we get back on track of how much it cost for 4 water -- I don't think ya'll have any water this agency to -- to do business by media. 5 discharge permits, so unless you have 5 So some of them have -- have ten percent, 6 carwashes, then you might --6 some of them have 20 percent proposals, some 7 MR. ST. ROMAIN: 7 of them have 25 percent proposals. This 8 Treatment plants, sewer -- sewer 8 one, we're going to recommend at the ten 9 treatment plants. 9 percent. 10 MS. ANDREWS: 10 MR. ST. ROMAIN: 11 Okay. So if you have a sewer 11 12 And that would be effective this treatment --12 summer? 13 MR. MARCELLO: 13 MS. ANDREWS: 14 14 Okay. 15 It would be in effect for this summer; MS. ANDREWS: 15 however, we have to go through rulemaking, 16 If you have a sewer treatment plant --16 17 so it actually would not be effective until 17 is that under the water regs, Jeff? fiscal year '18. So --18 MR. BAKER: 18 MR. MARCELLO: And -- and any air -- any air fees 19 19 20 Okav. related to --20 MS. ANDREWS: 21 MS. ANDREWS: 21 22 -- that -- that would give everybody 22 So -- so under the water fees, just so the opportunity to build that into their 23 23 you'll know, we're proposing a ten percent budgets and -- and take -- take that into 24 24 on that. On air, for the most part, it's 25 account. So it -- it gives everyone enough ten percent also. There's a few little 25 Page 30 Page 32 time, for us to notice them and -- and them caveats in the air for air fees that we're be able to work -- work that in. 2 looking at that would have a minimum but 2 MR. MARCELLO: 3 that's for some oil and gas permits. I And it'll effect more than just the don't -- I really don't think that applies 4 4 5 registration, you said --to you guys because it's more fields. And 5 MS. ANDREWS: that would have a minimum fee from 99 to 6 6 7 Yes. \$500. Those are very complicated permits 7 MR. MARCELLO: that we do for \$99. 8 8 -- correct? So I -- we wanted to let you know 9 9 MS. ANDREWS: 10 that. And if -- if you want some more 10 Yes. It's -- it's across our entire 11 information, I'll be glad to share it with 11 12 department. But the entire department is 12 you. not ten percent. There are -- there are 13 MR. HILL: 13 some adjustments that may be a little bit 14 14 Okay. And you'll be emailing us once different. 15 15 MR. MARCELLO: 16 MS. ANDREWS: 16 17 How many --Yes. Yes, we'll -- we'll be emailing 17 MS. ANDREWS: 18 you our -- our legislative update packages 18 I don't know if we have a solid --19 that -- that we're working on. 19 MR. MARCELLO: 20 20 MR. HILL: 21 How many fees offhand are there? Okay. Thank you. 21 MS. ANDREWS: 22 Does anybody else have anymore 22 Oh, I can't even tell you. We -- I 23 questions? 23 mean, I -- I've got so many fees. 24 (No response.) 24 MR. MARCELLO: MR. HILL: 25



Well, I guess at this time, we will 1 2 adjourn this meeting. And thanks to 3 everybody for attending. MS. ANDREWS: 4 5 Before -- before we adjourn, I know Secretary Brown wanted to send his apologies 6 for not being here to meet you guys for this 7 first meeting. He had to go to New Orleans to speak. So we'll make sure that -- that we have him scheduled well in advance next 10 time that we meet. And if we're going 11 through session and we run into each other, 12 we'll make sure that -- that we have you 13 meet him, if you haven't already done so. 14 MR. HILL: 15 Thank you. Look forward to meeting 16 17 him. Well, at this time, we're going to 18 close this meeting. And all things good 19 seemingly came out of it and thank everybody 20 21 for attending. 22 THE MEETING ADJOURNED AT 2:44 P.M. 23 24

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I, Lori B. Overland, Certified Court Reporter in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that the above referenced individual to whom oath was administered, after having been duly sworn by me upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing pages, that this testimony was reported by me in the stenomask 10 reporting method, was prepared and transcribed by me 11 or under my personal direction and supervision, and 12 is a true and correct transcript to the best of my 13 ability and understanding; that the transcript has 14 been prepared in compliance with transcript format 15 guidelines required by statute or by rules of the 16 board, that I have acted in compliance with the 17 prohibition on contractual relationships, as defined by Louisiana Code of Civil Procedure Article 1434 and in rules and advisory opinions of the board; 20 that I am not related to counsel or to the parties 21 herein, nor am I otherwise interested in the outcome 22 of this matter 23

CERTIFICATION

24

25

REPORTER'S PAGE 1 I, Lori B. Overland, Certified Court 3 Reporter, in and for the State of Louisiana, the 4 officer, as defined in Rule 28 of the Federal 5 Rules of Civil Procedure and/or Article 1434(b) 6 of the Louisiana code of Civil Procedure, before 7 whom this sworn testimony was taken, do hereby 8 state on the Record That due to the interaction in the 10 spontaneous discourse of this proceeding, dashes 11 (--) have been used to indicate pauses, changes 12 in thought, and/or talk overs; that same is the 13 proper method for a Court Reporters's 14 transcription of proceeding, and that the dashes (--) do not indicated that words or phrases have 16 been left out of this transcript; That any words and/or names which could not 18 be verified through reference material have been denoted with the phrase "(inaudible)." 19 20 Lori Overland, C.C.R. 21 # 97083 22 23 24

Lori Overland C.C.R.

97083

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