

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 1:18 p.m., on November 13, 2014.

**BEFORE:**

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

A P P E A R A N C E S

Grady Gaubert  
Chairman

Durwood Franklin  
Jeff Baker  
Gary Fulton  
Steve Burnham  
John Milazzo  
Cy Morin  
Fran Falke  
Shawn Ivey  
Jill Carter

Melissa Vizinat  
Kodi Brignac  
Jason Efferson  
Deidra Johnson  
Sam Broussard  
Natalie Isaacks  
Ian Kelly  
Vince Sagnibene

\* \* \* \* \*

I N D E X

EXAMINATION:

PAGE(S):

None

EXHIBITS:

None

REPORTER'S PAGE

43

REPORTER'S CERTIFICATE

44

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MR. GAUBERT:

In the absence of Keith Baker, I got nominated to chair the meeting today, so we're going to call the meeting to order. Welcome everybody. Little bit of change in the weather today. It's nice and brisk outside. Can we get a roll call, please. Maybe start with Ms. Jill.

MS. CARTER:

Jill Carter, attorney for DEQ.

MR. FRANKLIN:

Durwood Franklin, DEQ Trust Fund.

MR. JEFF BAKER:

Jeff Baker, DEQ Trust Fund.

MR. FULTON:

Gary Fulton, USTRD.

MR. BURNHAM:

Steve Burnham with Engineering Associates.

MR. IVEY:

Shawn Ivey, PPM Consultants.

MR. GAUBERT:

Grady Gaubert, Louisiana Oil Marketers.

1 MR. MILAZZO:

2 Johnny Milazzo, Louisiana Oil  
3 Marketers.

4 MR. MORIN:

5 Cy Morin, LDEQ Audit.

6 MS. FALKE:

7 Fran Falke, LDEQ Office of Management  
8 and Finance.

9 MS. VIZINAT:

10 Melissa Vizinat, Trust Fund.

11 MR. BROUSSARD:

12 Sam Broussard, DEQ UST Division.

13 MS. ISAACKS:

14 Natalie Isaacks, Louisiana Oil  
15 Marketers.

16 MS. JOHNSON:

17 Deidra Johnson, DEQ Legal.

18 MR. EFFERSON:

19 Jason Efferson, DEQ Trust Fund.

20 MR. KELLY:

21 Ian Kelly, DEQ Trust Fund.

22 MR. BRIGNAC:

23 Kodi Brignac, DEQ Trust Fund.

24 MR. GAUBERT:

25 Okay. The first item of business is

1           consideration and adoption of the previous  
2           meeting's minutes. Can I have a motion to  
3           accept those minutes?

4           MR. BURNHAM:

5                     Motion to accept.

6           MR. GAUBERT:

7                     I need a second.

8           MR. MILAZZO:

9                     I second.

10          MR. GAUBERT:

11                    All in favor.

12                    (All indicated "aye".)

13          MR. GAUBERT:

14                    Any questions, comments?

15                    (No response.)

16          MR. GAUBERT:

17                    Okay. Cy, could you give us the audit  
18                    status report, please.

19          MR. MORIN:

20                    Yes, sir. We currently have 29 open  
21                    audit cases. Seven of the 29 have been  
22                    opened in fiscal year '15. Five fiscal year  
23                    '15 cases are currently in progress. One  
24                    fiscal year '15 case is scheduled for  
25                    December. And the seventh fiscal year '15

1 case was assessed \$8,565.57 for delinquent  
2 fees and late penalties. This amount was  
3 collected in full and the file is set to be  
4 closed.

5 Thirteen of the 29 audits were opened  
6 in fiscal year '14. Fieldwork has been  
7 completed for 11 of these 13 fiscal year '14  
8 audits, resulting in nine potentially clean  
9 audits with no assessments and two potential  
10 audit assessments, totaling approximately  
11 \$700, pending peer and/or final review.

12 Fieldwork is still in progress for the  
13 two remaining fiscal year '15 audits. Five  
14 of the 29 audits were opened in fiscal year  
15 '13. One fiscal year '13 audit has been  
16 referred to legal for collection. Legal  
17 received AG concurrence on November 3rd.  
18 The petition has been drafted. It's going  
19 through final review so it can be filed.

20 Fieldwork has been completed on three  
21 of five open fiscal year '13 audits,  
22 resulting in one potentially clean audit and  
23 no assessment and two potential assessment,  
24 totaling approximately \$4,579.47.

25 These audits are currently in the

1 review process and demand will be made on  
2 these outstanding amounts in the very near  
3 future.

4 The fifth fiscal year '13 case is set  
5 to be closed with no assessment. The four  
6 remaining active open cases were prior to  
7 fiscal year '13. They remain in legal for  
8 collection. Two have signed and recorded  
9 judgments. As I've mentioned in previous  
10 meetings, DEQ's recourse in one of these is  
11 to make a claim against a succession. As of  
12 yesterday, legal informed me that that has  
13 not been opened, per the Clerk of Court.

14 In the other case, legal mailed a  
15 petition for garnishment on 8/20/14. I  
16 think I mentioned that in the last meeting.  
17 As of 10/28/14, legal has spoken to the  
18 responsible party and is working out a  
19 payment plan. The down payment is expected  
20 in December 2014.

21 The legal statuses of the other two  
22 audits opened prior to fiscal year '13 have  
23 not changed since the last board meeting.  
24 The attorneys are determining legal course  
25 of action and working out ways around.



1 several legal obstacles.

2 One fiscal year '14 case has been  
3 finalized and closed with no assessment  
4 since the August meeting. To date, in  
5 fiscal year 2015, demand has been made for  
6 one assessment that I mentioned before, the  
7 \$8,500 in delinquent fees and late  
8 penalties. And it has been collected in  
9 full. As of today, the total confirmed  
10 outstanding delinquent fees and penalties  
11 for these open cases remains \$126,218.62.  
12 All of which is associated with the five  
13 legal case.

14 Currently, the total potential  
15 assessments pending review and confirmation  
16 as of today is just over \$6,000.

17 That's it.

18 MR. GAUBERT:

19 Okay. Any questions?

20 MR. MILAZZO:

21 I do. How many -- how many audits do  
22 ya'll do a year?

23 MR. MORIN:

24 Currently, we have planned to do 18  
25 this year.

1 MR. MILAZZO:

2 Okay.

3 MR. MORIN:

4 That number has been raised over the  
5 last couple of years. Last year, we planned  
6 16. Prior to that, we were doing 12 or  
7 fewer. So we're -- we're trying to increase  
8 the number and, you know, the coverage.  
9 And, you know, our -- our auditor that's  
10 dedicated to motor fuels does monthly  
11 research. He does have to go through kind  
12 of a process right now to do this research,  
13 but he -- he keeps several lists of people  
14 who are currently delinquent. He keeps a  
15 list of people who have been previously  
16 audited, have not been audited ever, who are  
17 currently being audited. Various different  
18 lists. I'm hoping that in the -- in the  
19 future that we'll have a tool that will help  
20 us to do this research more efficiently and  
21 then we will be able to, you know, pinpoint  
22 people for -- you know, more accurately,  
23 maybe for a specific reason.

24 Like you mentioned last meeting, being  
25 able to have tools that will raise flags and

1           stuff. So that's something we're going to  
2           work -- we're working toward.

3           MR. MILAZZO:

4                     Okay. And, you know, it's -- it's  
5           important to -- for all of us, obviously,  
6           for the trust fund, everybody that's trying  
7           to do the right thing, you know, we -- we  
8           find ourselves with new folks in the  
9           business all the time. And I just think  
10          it's -- it's important that there's a lot of  
11          integrity in that collection process, for  
12          the sake of the trust fund and for everybody  
13          that's -- that's, you know, in the business.  
14          And, you know, as we go forward, I may share  
15          some thoughts in the future maybe that we  
16          can build some sort of, you know, critical  
17          metrics and you can get back to us and say,  
18          "Okay, you know, out of 18 sampling, you  
19          know, what were the results of that"?

20          MR. MORIN:

21                     Right.

22          MR. MILAZZO:

23                     Looking back historically and -- it  
24          kind of paints a picture of what that might  
25          look like going forward. So -- and maybe,

1           you know, this isn't the best time to talk  
2           about it, but --

3           MR. MORIN:

4                     Right. But, yes, I -- I did want to  
5           kind of talk to you about that possibly,  
6           because I didn't know if the way I'm  
7           presenting the material now is -- is --  
8           means anything to you, you know, if --

9           MR. MILAZZO:

10                    Well, it's good to hear it, but -- but  
11           it's all -- it's better to see it and --

12           MR. MORIN:

13                    Right.

14           MR. MILAZZO:

15                    -- and, you know, how well it's --

16           MR. MORIN:

17                    Yes. I -- I agree.

18           MR. MILAZZO:

19                    -- you know, what are the audits  
20           really telling us at the end of the day  
21           about those that are in the business that --  
22           that have a responsibility to it? So again,  
23           you know, maybe that's a work in session.  
24           I'm not sure how the department would like  
25           to go forward thinking about that. But, you

1 know, I -- I do think it's probably  
2 something we can improve upon.

3 That's all I have.

4 But thank you, Cy.

5 MR. MORIN:

6 Okay.

7 MR. GAUBERT:

8 Okay. Any other questions?

9 (No response.)

10 MR. GAUBERT:

11 Okay. Thank you. Ms. Fran, can you  
12 give us the financial services report,  
13 please.

14 MS. FALKE:

15 Yes. At the beginning of the year, we  
16 transferred \$75,630,981.67 into the trust  
17 fund.

18 MR. GAUBERT:

19 Do you have a copy of that for  
20 everybody that's going to --

21 MS. FALKE:

22 Oh, I'm sorry.

23 MR. GAUBERT:

24 Is it in -- is it in our packet?

25 MS. FALKE:

1           Tab -- I think she said tab three on  
2           here, but I believe it's tab four.

3           MR. MILAZZO:

4           That's what I'm looking at is tab  
5           four.

6           MS. FALKE:

7           As of September 30, 2014, we have  
8           deposited \$5,179,342.66 and paid out  
9           reimbursements of \$1,773,370.82. The  
10          current liabilities on the sites is  
11          \$66,635,550. This is leaving a balance  
12          after obligations of \$12,401,420.51.

13          If you'll turn the page. This is an  
14          information report on the interest revenue  
15          from the trust fund. The interest revenue  
16          collected inception to date is  
17          \$6,623,834.58. Expenditures to date total  
18          \$1,229,930.06. Details of the expenditures  
19          to date are included on this report. And  
20          the expenditures in 2015 are zero.

21          If you'll turn to the next page. This  
22          report details of how we calculate the  
23          amount transferred from the motor fuel trust  
24          fund to the environmental trust fund.  
25          Details of revenues and expenditures are

1 provided. On this page, the fiscal year  
2 2015 reimbursement to environmental trust  
3 fund will be \$4,651,591.97. This is an  
4 increase from fiscal year 2014, which was  
5 \$4,321,158.09.

6 MR. MILAZZO:

7 Could you hold up there, because I --  
8 either I'm too slow or something here, but --  
9 -

10 MS. FALKE:

11 Oh, I'm sorry.

12 MR. MILAZZO:

13 You know, maybe we should go to some  
14 page numbers here, because, you know, we've  
15 got a responsibility here and sometimes I'm  
16 not sure I'm doing my part, but -- tell me  
17 what page am I suppose to be looking at,  
18 because I'm not seeing those numbers. I'm  
19 looking at tab four. We -- that's -- this  
20 should be the right --

21 (An off-the-record discussion followed.)

22 MS. FALKE:

23 Tab --

24 MR. MORIN:

25 Start -- it actually started the page

1 after tab four.

2 MS. FALKE:

3 The page after on tab four. Sorry.

4 MR. MILAZZO:

5 So I'm going -- this is page two we're  
6 talking about, right?

7 If you don't mind, I -- if you'd start  
8 over, please.

9 MS. FALKE:

10 Sure. I'm sorry. This is my first  
11 time to --

12 MR. MILAZZO:

13 Fran, I'm not picking on you. I'm  
14 just --

15 MS. FALKE:

16 That's okay.

17 MR. MILAZZO:

18 You know, we --

19 MS. FALKE:

20 This is my first time to do this so  
21 I'm not --

22 MR. MILAZZO:

23 We're going to sign off on this and I  
24 just --

25 MS. FALKE:



1 Right.

2 MR. MILAZZO:

3 The -- the numbers aren't the numbers  
4 I'm looking at, so --

5 MS. FALKE:

6 All right.

7 MR. MILAZZO:

8 -- my apologies.

9 MS. FALKE:

10 So we're going to start over.

11 MR. MILAZZO:

12 Okay.

13 MS. FALKE:

14 Okay. At the beginning of the year,  
15 we transferred \$75,630,981.67 into the trust  
16 fund. As of September 30, 2014, we have  
17 deposited \$5,179,342.66 and paid out  
18 reimbursements of \$1,773,370.82.

19 Current liabilities on the sites is  
20 \$66,635,550. Leaving a balance after  
21 obligations of \$12,401,403.51.

22 MR. GAUBERT:

23 That'd be 65 --

24 MR. MILAZZO:

25 So -- so that's where you lost me the

1 first time.

2 MS. FALKE:

3 Okay.

4 MR. MILAZZO:

5 So you've got to help me here.

6 MR. MORIN:

7 You need to go two pages from there  
8 and that's where the 66 million is. I'm  
9 sorry.

10 MR. MILAZZO:

11 I still don't see it.

12 MR. GAUBERT:

13 The obligations I think is what we're  
14 looking for?

15 MR. MILAZZO:

16 Well, I see the obligations but  
17 they're different than what --

18 MR. GAUBERT:

19 The 66 million dollar obligation?

20 (An off-the-record discussion followed.)

21 MR. GAUBERT:

22 What -- what this report is showing --  
23 I think it's the same report we all have.  
24 The liability on current sites, I think you  
25 mentioned 66 million.

1 MR. MORIN:

2 Right. It says 71.

3 MR. GAUBERT:

4 This report is showing 71 million.

5 MS. FALKE:

6 Right.

7 MR. JEFF BAKER:

8 Yes. Fran, that number --

9 MR. MILAZZO:

10 So I don't know if you just don't have  
11 the current -- if you're reporting -- you  
12 know, the five million dollars, if -- if you  
13 -- something may be adding that should be  
14 subtracted. I'm not sure. But that's where  
15 we're struggling with the report. But --

16 MR. JEFF BAKER:

17 That number was revised at one point  
18 in the last week or so. I'm wondering if  
19 you have an older version of some of the  
20 notes. And it -- and the 66 may have been  
21 from a previous version. Right now, the  
22 last calculation was 71 million. That might  
23 be where the confusion is coming from.

24 MR. GAUBERT:

25 We were -- we were matching dollar for

1           dollar until we got to that.

2           MR. JEFF BAKER:

3                     Right.

4           MS. FALKE:

5                     Yes.

6           MR. GAUBERT:

7                     So this report has the 71 million and  
8           you mentioned 66 was the liability on  
9           current sites, so --

10          MS. FALKE:

11                    Right.

12          MR. GAUBERT:

13                    Our -- our report here has 71, so  
14          maybe if you change your report to --

15          MS. FALKE:

16                    Yes. To the 71.

17          MR. GAUBERT:

18                    -- reflect the 71 million, I think we  
19          could move -- we move forward.

20          MR. MILAZZO:

21                    I mean, this looks right that I'm  
22          looking at.

23          MR. GAUBERT:

24                    Yes.

25          MR. MILAZZO:

1 I mean, does it to you, as reported  
2 here?

3 MR. GAUBERT:

4 Well, I don't have a calculator.

5 MR. MILAZZO:

6 Just rough numbers, but --

7 MR. GAUBERT:

8 Yes.

9 MR. MILAZZO:

10 66 doesn't -- I -- I don't know how it  
11 would fit in this number.

12 MS. FALKE:

13 Right. So it should be the currently  
14 liabilities on the sites is \$71,261,864.

15 MR. GAUBERT:

16 And that would be the sum of the --  
17 the three different ways to come up with the  
18 total liabilities for the fund, the  
19 corrective action, the potential corrective  
20 action and the projected cost of the trust  
21 fund to the environmental trust transfer for  
22 the next five years of \$16,000,000. That  
23 totaled up to 71 million. So given that the  
24 math is correct, that's the number that we  
25 need to use instead of the 66 million

1 dollars?

2 MS. FALKE:

3 Right. So that would make -- make --  
4 leave a balance after obligations of  
5 \$7,775,089.51.

6 MR. MILAZZO:

7 That makes sense to me.

8 MR. GAUBERT:

9 Right. Yes. Okay.

10 MS. FALKE:

11 Okay. On the next page, this is an  
12 information report for the interest revenue  
13 from the trust fund. Interest revenue  
14 collected inception to date is  
15 \$6,623,834.58. Expenditures to date total  
16 \$1,229,930.06. Details of the expenditures  
17 to date are included on this report. And  
18 the expenditures in 2015 are zero.

19 This report details of how we  
20 calculate the amount transferred from the  
21 motor fuel trust fund to the environmental  
22 trust fund. Details of the revenues and  
23 expenditures are provided. On this page,  
24 the 2015 reimbursements to environmental  
25 trust fund will be \$4,651,591.97. This is

1 an increase from fiscal year '14, which was  
2 \$4,321,158.09.

3 MR. GAUBERT:

4 Does that complete your report?

5 MS. FALKE:

6 That's -- I done, yes. It's complete.

7 MR. GAUBERT:

8 Any other questions or comments?

9 (No response.)

10 MR. GAUBERT:

11 Okay. Thank you, Ms. Fran.

12 MR. MILAZZO:

13 Thank you, Fran.

14 MS. FALKE:

15 Okay.

16 MR. GAUBERT:

17 Mr. Jeff, could you give us the trust  
18 fund status report, please.

19 MR. JEFF BAKER:

20 Yes, sir. Good afternoon. Please  
21 refer to tab number five in your packets.  
22 These are the figures for the first quarter  
23 of fiscal year 2015. During the first  
24 quarter of the fiscal year, the trust fund  
25 received 280 applications, totaling

1           \$3,987,718. 183 applications were processed  
2           for payment during the fiscal quarter,  
3           totaling \$2,324,720. And 29 applications  
4           were returned with deficiencies.

5           For sites in the corrective action  
6           phase, the outstanding liability of the  
7           corrective action plan budget and estimated  
8           cost to reach closure at the end of  
9           September 2014 was \$32,054,706. The  
10          additional obligation recognized for the  
11          non-capped sites, plus the projected motor  
12          fuel trust fund to environmental trust fund  
13          transfers is \$38,333,521. At the end of  
14          September 2014, the trust fund had 155  
15          pending applications to process, which had  
16          requested amounts, totaling \$2,020,672. Of  
17          this amount, the estimated requested  
18          obligations related to cap budgets and  
19          closure cost was \$1,147,035.

20          If you'll note the legal-sized last  
21          page of your packet. The number of trust  
22          fund sites that received no further action  
23          status thus far for the fiscal year was  
24          five. The number of -- and this is not on  
25          this sheet. But the number of potential



1 trust fund sites that were reviewed and made  
2 eligible during the current fiscal year was  
3 ten. And that represents ten active  
4 incidences.

5 Additional points of interest. The  
6 trust fund staff is continuing to review our  
7 calculation methods for determining the --  
8 the expenditure obligations against the  
9 fund. We are currently working with our IT  
10 group to help us develop new reports and  
11 tools to assist in our monthly  
12 determinations. It was our hope that these  
13 tools -- new tools would be in place for  
14 this board meeting and we would be able to  
15 present revised obligation numbers, starting  
16 with the first quarter of this year.  
17 However, as with any endeavor involving  
18 historical records, data anomalies often are  
19 found and need to be addressed.

20 We have been working to resolve these  
21 issues and are now striving to develop new  
22 protocols for our monthly determinations.

23 You'll notice a decrease in the total  
24 number of active sites from last quarter's  
25 report and an increase in the listed non-cap

1           obligation numbers. The reduction in the  
2           active site count is a result of our review  
3           of these sites, as part of these date  
4           anomalies and their current status. Thirty  
5           plus previously active sites were found to  
6           be closed by the remediation staff more than  
7           a year ago, but were still active in our  
8           system. The trust fund staff closed these  
9           in our data system, which resulted in an  
10          increase in the average site closure cost.  
11          This adjustment represented a portion of the  
12          increase of the non-cap obligation amounts.

13                 The remaining non-capped increase was  
14          due to the modification of the trust fund to  
15          ETF transfer estimates. The trust fund to  
16          ETF transfer amounts were reviewed -- are  
17          reviewed annually and are based upon the  
18          last two years of transfers. This annual  
19          estimate was increased from 2.8 million to  
20          3.2 million dollars a year, resulting in a  
21          total increase on a five year average -- or  
22          five year estimate from 14 million to 16  
23          million, which you saw under Fran's report.

24                 Revised statute 2195.a.5 and 2195.10.d  
25          state that the advisory board shall review

1           the financial responsibility requirements  
2           for sites in and out of compliance on an  
3           annual basis and may recommend to the  
4           secretary adjusting these requirements. At  
5           this time, the trust fund does not have any  
6           recommendation to the board relating to any  
7           modifications to the current financial  
8           responsibility dollar amounts.

9                     That concludes my report. Do ya'll  
10            have any questions?

11           MR. GAUBERT:

12                     I have one question.

13           MR. JEFF BAKER:

14                     Yes, sir.

15           MR. GAUBERT:

16                     As you go through this data change and  
17            have better data and more accurate data and  
18            a tool to analyze what's going on, it seems  
19            to be working so far in helping clean up  
20            some -- some of the books, you know,  
21            already. Do you anticipate, when you  
22            incorporate this data, any other adjustments  
23            besides the 32 sites that you -- that were  
24            closed that were not updated? Is there any  
25            financial obligation that -- that we should

1           be aware of, potential financial obligation  
2           that we should be aware of, based on the --  
3           any other financial obligation, besides what  
4           you've already mentioned by use -- by the  
5           use of this data?

6           MR. JEFF BAKER:

7                     The new method that we're looking at -  
8           - the reason we're going this direction is  
9           because there were a number of sites that  
10          were not being incorporated into the  
11          obligation process, a number of sites.  
12          These sites included sites that we had  
13          determined to be eligible but had not, as of  
14          this point, requested reimbursement from the  
15          fund. Until they requested reimbursement,  
16          they were not included in that obligation.  
17          However, we had deemed them to be eligible,  
18          and they were eligible for additional funds  
19          to be applied to them. So these were not  
20          being included in the obligation  
21          calculations. They will now be included in  
22          those obligation calculations, when we get -  
23          - when we move forward with this new  
24          process, the new protocol.

25                     Do you have another question?

1 MR. MILAZZO:

2 Well, that -- that would just -- you  
3 would encumber some liability if those now  
4 have some consideration in the future that -  
5 - that could be called upon, right?

6 MR. JEFF BAKER:

7 Yes, sir.

8 MR. MILAZZO:

9 You don't know that it will, but --

10 MR. JEFF BAKER:

11 Yes, sir.

12 MR. MILAZZO:

13 -- it could.

14 MR. JEFF BAKER:

15 We don't know, but --

16 MR. MILAZZO:

17 And so the records are going to now  
18 reflect that.

19 MR. JEFF BAKER:

20 Yes, sir. Yes. There are some sites  
21 that are not currently being considered as  
22 potential obligations that truly do have an  
23 obligation against them. And we're trying  
24 to incorporate them into our calculations.

25 MR. MILAZZO:

1                   So the numbers that we see today don't  
2                   necessarily reflect that?

3                   MR. JEFF BAKER:

4                   They do not --

5                   MR. MILAZZO:

6                   Okay.

7                   MR. JEFF BAKER:

8                   -- reflect those additional sites.

9                   MR. MILAZZO:

10                  So they -- so there could be a jump in  
11                  liability, right?

12                  MR. JEFF BAKER:

13                  There will be an increase. Hopefully,  
14                  like I said, next -- the next board --

15                  MR. MILAZZO:

16                  Yes.

17                  MR. JEFF BAKER:

18                  -- meeting, we will be able to give  
19                  you those numbers. And there --

20                  MR. MILAZZO:

21                  So that -- I think that was your  
22                  question.

23                  MR. GAUBERT:

24                  Yes.

25                  MR. IVEY:

1                   Would you eventually take them off the  
2                   list if they don't submit a package within a  
3                   certain time frame?

4                   MR. JEFF BAKER:

5                   What we're looking at is, is probably  
6                   a two year window. If they have requested  
7                   eligibility within two years and have not  
8                   requested reimbursement yet, we will  
9                   incorporate them into that calculation.  
10                  Anything older than that, we will assume  
11                  there's not going to be any additional cost.

12                  MR. GAUBERT:

13                  Any other questions?

14                  (No response.)

15                  MR. GAUBERT:

16                  Okay. Thank you.

17                  MR. JEFF BAKER:

18                  Does the board have -- the last point  
19                  related to the board's making any  
20                  recommendations as to the financial  
21                  responsibilities. Does the board have any?

22                  MR. GAUBERT:

23                  You mentioned one criteria that you --  
24                  I don't know where the criteria came from  
25                  when -- when the question was just asked

1           about when would the -- it -- it'd go -- it  
2           not be considered as part of a financial --  
3           a future financial obligation, at what time  
4           point. And you mentioned two years.

5           MR. JEFF BAKER:

6                     Yes, sir.

7           MR. GAUBERT:

8                     And where did the -- and how did you  
9           come up with the two year --

10          MR. JEFF BAKER:

11                     The two years is based upon the  
12          statute requirement that anything older than  
13          two years, the trust fund is not required to  
14          pay.

15          MR. GAUBERT:

16                     Is that the statute that --

17          MR. JEFF BAKER:

18                     The statute -- if -- if the work is  
19          done prior to two years from the time they  
20          submit the application, the trust fund is  
21          not required to pay it. So that's where we  
22          came up with that number.

23          MR. IVEY:

24                     And you just use -- I mean, they can  
25          still submit one, even three years later.



1 MR. JEFF BAKER:  
2 Yes, they could.  
3 MR. IVEY:  
4 And --  
5 MR. GAUBERT:  
6 It would be reincorporated back --  
7 MR. IVEY:  
8 Right.  
9 MR. GAUBERT:  
10 -- into --  
11 MR. JEFF BAKER:  
12 Right. Yes.  
13 MR. IVEY:  
14 Right.  
15 MR. GAUBERT:  
16 That was my question. Any other  
17 questions?  
18 (No response.)  
19 MR. GAUBERT:  
20 I don't see any other issues, Jeff, at  
21 this point.  
22 So you don't look like Perry Theriot.  
23 MS. CARTER:  
24 No, I'm not.  
25 MR. GAUBERT:

1           But if you don't mind, Ms. Jill, to  
2           give us the third party claims.

3           MS. CARTER:

4           There's no change in the current  
5           status of our current third party claims.  
6           But we do have a new claim. And there are  
7           two claimants. And I'm just going to spell  
8           their names. The first claimant has three  
9           names. F-E-N-G. Second name, J-I-N. Third  
10          name, T-E-N-G. And the second person that's  
11          plaintiff is A-I-J-I-N. And the second name  
12          is C-H-E-N. And the suit is versus DEQ and  
13          John Wilbourne and Beverly Wilbourne. And  
14          that's a pending claim. We're waiting on AG  
15          compliance right now.

16          MR. GAUBERT:

17                 These -- that entity with the  
18                 particular names that you just read off,  
19                 they have sued DEQ?

20          MS. CARTER:

21                 Yes. And John Wilbourne and Beverly  
22                 Wilbourne. It's a third party claim.

23          MR. GAUBERT:

24                 Okay. Is that three -- that's three  
25                 different new suits?

1 MS. CARTER:

2 No, no, no. I just spelled it out  
3 because I can't pronounce these names. It's  
4 two different persons that are the  
5 plaintiffs that have sued --

6 MR. GAUBERT:

7 One suit, two persons as the  
8 plaintiff.

9 MS. CARTER:

10 Right.

11 MR. GAUBERT:

12 So maybe an owner and a tank owner or  
13 something of that sort?

14 MS. CARTER:

15 Say that again.

16 MR. GAUBERT:

17 An owner -- a store owner and an  
18 underground tank owner and possibly a  
19 tenant?

20 MS. CARTER:

21 I can't remember if --

22 MR. MILAZZO:

23 Or is this an adjacent property owner?

24 MS. CARTER:

25 I think the plaintiff is an adjacent

1 property owner and the defendant is a store  
2 owner maybe. I can't remember right off the  
3 top of my head. But I think the plaintiff  
4 is the adjacent property owner.

5 MR. GAUBERT:

6 Adjacent property owner. That --  
7 that's why it would be third party --

8 MS. CARTER:

9 Yes. A third party claim.

10 MR. GAUBERT:

11 -- a third party claim.

12 MS. CARTER:

13 Right.

14 MR. GAUBERT:

15 Do you have an idea of what type of  
16 numbers that suit --

17 MS. CARTER:

18 We are right in -- they just filed  
19 suit and we're waiting on AG concurrence  
20 before we can even answer the petition. So  
21 we're just in the very beginning stages of  
22 it. No discovery has been conducted. We  
23 can't move forward until we get concurrence  
24 from the AG.

25 MR. GAUBERT:

1                   Okay. Any questions for Ms. Jill?

2                   (No response.)

3                   MR. GAUBERT:

4                   Thank you.

5                   Other business. Any other business to  
6 be brought before the board?

7                   MS. ISAACKS:

8                   What are the dates of the meetings for  
9 2015?

10                  MR. JEFF BAKER:

11                  We have them pulled together but we  
12 have not got -- we can send them out to  
13 ya'll.

14                  MS. ISAACKS:

15                  Okay. Thank you.

16                  MR. JEFF BAKER:

17                  I don't have them off the top of my  
18 head, but we will send them to you.

19                  MS. ISAACKS:

20                  Okay. Because we have to make, you  
21 know, changes and all.

22                  MR. JEFF BAKER:

23                  Absolutely.

24                  MS. ISAACKS:

25                  Thank you.

1 MR. GAUBERT:

2 The pending lawsuit, is there any  
3 update that -- on the pending lawsuits, the  
4 --

5 MR. MILAZZO:

6 Companies that have -- that kind of  
7 double-dipped.

8 MS. CARTER:

9 I think we need to make a move to go  
10 into executive session --

11 MR. FULTON:

12 Yes. We that -- we have to --

13 MS. CARTER:

14 -- to discuss that.

15 MR. FULTON:

16 Yes, to discuss that. Yes.

17 MR. GAUBERT:

18 Okay.

19 MR. MILAZZO:

20 So moved.

21 MR. GAUBERT:

22 So we're going to go into executive  
23 session. We're going to have to ask all of  
24 the audience that are not members of the  
25 board to give us a few minutes.

1 (A brief recess followed while the board  
2 went into executive session.)

3 MR. GAUBERT:

4 So just to continue where we left off,  
5 we were on other business. The -- the only  
6 other item that I know of on the -- on other  
7 business is that we'll have a -- Louisiana  
8 Oil Marketers is going to assign two  
9 additional board members for the -- for next  
10 -- for the next two year term. And that'll  
11 be -- we don't have those names just yet,  
12 but those will be announced at the next  
13 meeting.

14 MR. MILAZZO:

15 So you and Keith will return for one  
16 last meeting, or is this officially --

17 MR. GAUBERT:

18 This is -- this is -- as far as I  
19 know, this is it. This is -- this is our  
20 last meeting, Keith and myself. It -- there  
21 was -- we've each served two -- you can  
22 serve two terms and then you have to --

23 MS. ISAACKS:

24 Two consecutive.

25 MR. GAUBERT:

1           Yes, to consequent terms. You have to  
2           get off for at least one term and then you  
3           can come back on if you -- after that. So -  
4           - but we'll have to -- we'll see if we can  
5           get Wes out of the weeds and get him back  
6           again.

7           MR. IVEY:

8           Do we need to elect a new chair?

9           MR. GAUBERT:

10           Yes. The January -- at the January  
11           meeting.

12           MR. IVEY:

13           Okay.

14           MR. GAUBERT:

15           Or, first quarter meeting, we would  
16           have to elect a new chair.

17           MR. MILAZZO:

18           Well, let me offer special thanks to  
19           you, Grady, and to Keith who's not here  
20           today. And -- you have very generously  
21           given your time, not just here but, you  
22           know, on a lot of fronts. And on behalf of  
23           our association and -- and really the  
24           industry as a whole. So I personally want  
25           to thank you and really appreciate all



1           you've done.

2           MR. GAUBERT:

3                     Thank you, John. And I've enjoyed my  
4           -- my time here, four years. You know,  
5           we've had a lot of fun. I think we got a  
6           lot accomplished with -- with Sam. I see  
7           Sam sitting in the audience today. He -- he  
8           hasn't been at every meeting, but --

9           MR. FULTON:

10                    I finally got him back.

11           MR. GAUBERT:

12                    You got -- you got him back. But we  
13           did -- we did an awful lot of work on the  
14           implementation of the -- the --

15           MR. BROUSSARD:

16                    Energy Act.

17           MR. GAUBERT:

18                    The Energy Act, yes. The -- the three  
19           -- the three things I think that's working  
20           pretty good. We -- during my four years, we  
21           formed a Louisiana Compliance Service and --  
22           and we're doing the training, Class A, B and  
23           C operators. DEQ's doing the red tags and  
24           the --

25           MR. BROUSSARD:

1                   And the secondary --

2           MR. GAUBERT:

3                   -- and the secondary containment. We  
4           updated the guidance document. So we've  
5           done a lot over the last few years and I  
6           want to thank all of you guys for your --  
7           for your commitment and your involvement in  
8           the trust fund. We certainly appreciate it.  
9           I do think we have one of the best trust  
10          funds in the nation. And I hope I was able  
11          to continue on and hand off that legacy to  
12          the next -- the next guys. So thank ya'll.

13          MR. FULTON:

14                   Thank you.

15          MR. MILAZZO:

16                   I'd like to offer a motion to adjourn.

17          MR. IVEY:

18                   Second.

19          MR. GAUBERT:

20                   All in favor.

21                   (All indicated "aye".)

22          MR. MILAZZO:

23                   Let's go home.

24                   **THE MEETING ADJOURNED AT 1:59 P.M.**

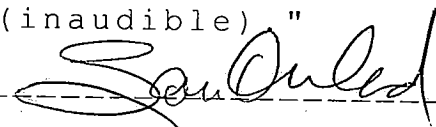
25                   \* \* \* \* \*

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3 Reporter, in and for the State of Louisiana, the  
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5 Rules of Civil Procedure and/or Article 1434(b)  
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7 whom this sworn testimony was taken, do hereby  
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9 That due to the interaction in the  
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# 97083

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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  
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  
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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.

23 

24 Lori Overland C.C.R.

25 # 97083

**In The Matter Of:**

*DEPARTMENT OF ENVIRONMENTAL QUALITY  
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST*

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*MEETING*

*November 13, 2014*

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	<b>U</b>			

**In The Matter Of:**

*DEPARTMENT OF ENVIRONMENTAL QUALITY  
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST*

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*MEETING*

*November 13, 2014*

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*Associated Reporters, Incorporated*

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Page 1

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2  
3 STATE OF LOUISIANA  
4 DEPARTMENT OF ENVIRONMENTAL QUALITY  
5 MOTOR FUELS UNDERGROUND STORAGE TANK TRUST  
6 FUND ADVISORY BOARD  
7  
8  
9  
10  
11  
12 The above-entitled meeting was held at the  
13 LDEQ, Galvez Building, Conference Center, 602  
14 North 5th Street, Baton Rouge, Louisiana,  
beginning at 1:18 p.m., on November 13, 2014.  
15  
16  
17  
18  
19 BEFORE:  
20 Lori B. Overland  
21 Certified Court Reporter  
22 In and For the State of  
23 Louisiana  
24  
25

Page 2

1 A P P E A R A N C E S  
2  
3 Grady Gaubert  
Chairman  
4 Durwood Franklin  
5 Jeff Baker  
6 Gary Fulton  
7 Steve Burnham  
8 John Milazzo  
9 Cy Morin  
10 Fran Falke  
11 Shawn Ivey  
12 Jill Carter  
13  
14 Melissa Vizinat  
15 Kodi Brignac  
16 Jason Efferson  
17 Deidra Johnson  
18 Sam Broussard  
19 Natalie Isaacks  
20 Ian Kelly  
21 Vince Sagnibene  
22 \* \* \* \* \*  
23  
24  
25

Page 3

1 I N D E X  
2  
3 EXAMINATION: PAGE (S) :  
4 None  
5 EXHIBITS:  
6 None  
7  
8 REPORTER'S PAGE 43  
9 REPORTER'S CERTIFICATE 44  
10  
11 \* \* \* \* \*  
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Page 4

1 \* \* \* \* \*  
2 MR. GAUBERT:  
3 In the absence of Keith Baker, I got  
4 nominated to chair the meeting today, so  
5 we're going to call the meeting to order.  
6 Welcome everybody. Little bit of change in  
7 the weather today. It's nice and brisk  
8 outside. Can we get a roll call, please.  
9 Maybe start with Ms. Jill.  
10 MS. CARTER:  
11 Jill Carter, attorney for DEQ.  
12 MR. FRANKLIN:  
13 Durwood Franklin, DEQ Trust Fund.  
14 MR. JEFF BAKER:  
15 Jeff Baker, DEQ Trust Fund.  
16 MR. FULTON:  
17 Gary Fulton, USTRD.  
18 MR. BURNHAM:  
19 Steve Burnham with Engineering  
20 Associates.  
21 MR. IVEY:  
22 Shawn Ivey, PPM Consultants.  
23 MR. GAUBERT:  
24 Grady Gaubert, Louisiana Oil  
25 Marketers.

Page 5

1 MR. MILAZZO:  
2 Johnny Milazzo, Louisiana Oil  
3 Marketers.  
4 MR. MORIN:  
5 Cy Morin, LDEQ Audit.  
6 MS. FALKE:  
7 Fran Falke, LDEQ Office of Management  
8 and Finance.  
9 MS. VIZINAT:  
10 Melissa Vizinat, Trust Fund.  
11 MR. BROUSSARD:  
12 Sam Broussard, DEQ UST Division.  
13 MS. ISAACKS:  
14 Natalie Isaacks, Louisiana Oil  
15 Marketers.  
16 MS. JOHNSON:  
17 Deidra Johnson, DEQ Legal.  
18 MR. EFFERSON:  
19 Jason Efferson, DEQ Trust Fund.  
20 MR. KELLY:  
21 Ian Kelly, DEQ Trust Fund.  
22 MR. BRIGNAC:  
23 Kodi Brignac, DEQ Trust Fund.  
24 MR. GAUBERT:  
25 Okay. The first item of business is

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1 consideration and adoption of the previous  
2 meeting's minutes. Can I have a motion to  
3 accept those minutes?  
4 MR. BURNHAM:  
5 Motion to accept.  
6 MR. GAUBERT:  
7 I need a second.  
8 MR. MILAZZO:  
9 I second.  
10 MR. GAUBERT:  
11 All in favor.  
12 (All indicated "aye".)  
13 MR. GAUBERT:  
14 Any questions, comments?  
15 (No response.)  
16 MR. GAUBERT:  
17 Okay. Cy, could you give us the audit  
18 status report, please.  
19 MR. MORIN:  
20 Yes, sir. We currently have 29 open  
21 audit cases. Seven of the 29 have been  
22 opened in fiscal year '15. Five fiscal year  
23 '15 cases are currently in progress. One  
24 fiscal year '15 case is scheduled for  
25 December. And the seventh fiscal year '15

Page 7

1 case was assessed \$8,565.57 for delinquent  
2 fees and late penalties. This amount was  
3 collected in full and the file is set to be  
4 closed.  
5 Thirteen of the 29 audits were opened  
6 in fiscal year '14. Fieldwork has been  
7 completed for 11 of these 13 fiscal year '14  
8 audits, resulting in nine potentially clean  
9 audits with no assessments and two potential  
10 audit assessments, totaling approximately  
11 \$700, pending peer and/or final review.  
12 Fieldwork is still in progress for the  
13 two remaining fiscal year '15 audits. Five  
14 of the 29 audits were opened in fiscal year  
15 '13. One fiscal year '13 audit has been  
16 referred to legal for collection. Legal  
17 received AG concurrence on November 3rd.  
18 The petition has been drafted. It's going  
19 through final review so it can be filed.  
20 Fieldwork has been completed on three  
21 of five open fiscal year '13 audits,  
22 resulting in one potentially clean audit and  
23 no assessment and two potential assessment,  
24 totaling approximately \$4,579.47.  
25 These audits are currently in the

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1 review process and demand will be made on  
2 these outstanding amounts in the very near  
3 future.  
4 The fifth fiscal year '13 case is set  
5 to be closed with no assessment. The four  
6 remaining active open cases were prior to  
7 fiscal year '13. They remain in legal for  
8 collection. Two have signed and recorded  
9 judgments. As I've mentioned in previous  
10 meetings, DEQ's recourse in one of these is  
11 to make a claim against a succession. As of  
12 yesterday, legal informed me that that has  
13 not been opened, per the Clerk of Court.  
14 In the other case, legal mailed a  
15 petition for garnishment on 8/20/14. I  
16 think I mentioned that in the last meeting.  
17 As of 10/28/14, legal has spoken to the  
18 responsible party and is working out a  
19 payment plan. The down payment is expected  
20 in December 2014.  
21 The legal statuses of the other two  
22 audits opened prior to fiscal year '13 have  
23 not changed since the last board meeting.  
24 The attorneys are determining legal course  
25 of action and working out ways around



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1 several legal obstacles.  
2 One fiscal year '14 case has been  
3 finalized and closed with no assessment  
4 since the August meeting. To date, in  
5 fiscal year 2015, demand has been made for  
6 one assessment that I mentioned before, the  
7 \$8,500 in delinquent fees and late  
8 penalties. And it has been collected in  
9 full. As of today, the total confirmed  
10 outstanding delinquent fees and penalties  
11 for these open cases remains \$126,218.62.  
12 All of which is associated with the five  
13 legal case.  
14 Currently, the total potential  
15 assessments pending review and confirmation  
16 as of today is just over \$6,000.  
17 That's it.  
18 MR. GAUBERT:  
19 Okay. Any questions?  
20 MR. MILAZZO:  
21 I do. How many -- how many audits do  
22 ya'll do a year?  
23 MR. MORIN:  
24 Currently, we have planned to do 18  
25 this year.

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1 MR. MILAZZO:  
2 Okay.  
3 MR. MORIN:  
4 That number has been raised over the  
5 last couple of years. Last year, we planned  
6 16. Prior to that, we were doing 12 or  
7 fewer. So we're -- we're trying to increase  
8 the number and, you know, the coverage.  
9 And, you know, our -- our auditor that's  
10 dedicated to motor fuels does monthly  
11 research. He does have to go through kind  
12 of a process right now to do this research,  
13 but he -- he keeps several lists of people  
14 who are currently delinquent. He keeps a  
15 list of people who have been previously  
16 audited, have not been audited ever, who are  
17 currently being audited. Various different  
18 lists. I'm hoping that in the -- in the  
19 future that we'll have a tool that will help  
20 us to do this research more efficiently and  
21 then we will be able to, you know, pinpoint  
22 people for -- you know, more accurately,  
23 maybe for a specific reason.  
24 Like you mentioned last meeting, being  
25 able to have tools that will raise flags and

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1 stuff. So that's something we're going to  
2 work -- we're working toward.  
3 MR. MILAZZO:  
4 Okay. And, you know, it's -- it's  
5 important to -- for all of us, obviously,  
6 for the trust fund, everybody that's trying  
7 to do the right thing, you know, we -- we  
8 find ourselves with new folks in the  
9 business all the time. And I just think  
10 it's -- it's important that there's a lot of  
11 integrity in that collection process, for  
12 the sake of the trust fund and for everybody  
13 that's -- that's, you know, in the business.  
14 And, you know, as we go forward, I may share  
15 some thoughts in the future maybe that we  
16 can build some sort of, you know, critical  
17 metrics and you can get back to us and say,  
18 "Okay, you know, out of 18 sampling, you  
19 know, what were the results of that?"  
20 MR. MORIN:  
21 Right.  
22 MR. MILAZZO:  
23 Looking back historically and -- it  
24 kind of paints a picture of what that might  
25 look like going forward. So -- and maybe,

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1 you know, this isn't the best time to talk  
2 about it, but --  
3 MR. MORIN:  
4 Right. But, yes, I -- I did want to  
5 kind of talk to you about that possibly,  
6 because I didn't know if the way I'm  
7 presenting the material now is -- is --  
8 means anything to you, you know, if --  
9 MR. MILAZZO:  
10 Well, it's good to hear it, but -- but  
11 it's all -- it's better to see it and --  
12 MR. MORIN:  
13 Right.  
14 MR. MILAZZO:  
15 -- and, you know, how well it's --  
16 MR. MORIN:  
17 Yes. I -- I agree.  
18 MR. MILAZZO:  
19 -- you know, what are the audits  
20 really telling us at the end of the day  
21 about those that are in the business that --  
22 that have a responsibility to it? So again,  
23 you know, maybe that's a work in session.  
24 I'm not sure how the department would like  
25 to go forward thinking about that. But, you

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1 know, I -- I do think it's probably  
2 something we can improve upon.  
3 That's all I have.  
4 But thank you, Cy.  
5 MR. MORIN:  
6 Okay.  
7 MR. GAUBERT:  
8 Okay. Any other questions?  
9 (No response.)  
10 MR. GAUBERT:  
11 Okay. Thank you. Ms. Fran, can you  
12 give us the financial services report,  
13 please.  
14 MS. FALKE:  
15 Yes. At the beginning of the year, we  
16 transferred \$75,630,981.67 into the trust  
17 fund.  
18 MR. GAUBERT:  
19 Do you have a copy of that for  
20 everybody that's going to --  
21 MS. FALKE:  
22 Oh, I'm sorry.  
23 MR. GAUBERT:  
24 Is it in -- is it in our packet?  
25 MS. FALKE:

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1 Tab -- I think she said tab three on  
2 here, but I believe it's tab four.  
3 MR. MILAZZO:  
4 That's what I'm looking at is tab  
5 four.  
6 MS. FALKE:  
7 As of September 30, 2014, we have  
8 deposited \$5,179,342.66 and paid out  
9 reimbursements of \$1,773,370.82. The  
10 current liabilities on the sites is  
11 \$66,635,550. This is leaving a balance  
12 after obligations of \$12,401,420.51.  
13 If you'll turn the page. This is an  
14 information report on the interest revenue  
15 from the trust fund. The interest revenue  
16 collected inception to date is  
17 \$6,623,834.58. Expenditures to date total  
18 \$1,229,930.06. Details of the expenditures  
19 to date are included on this report. And  
20 the expenditures in 2015 are zero.  
21 If you'll turn to the next page. This  
22 report details of how we calculate the  
23 amount transferred from the motor fuel trust  
24 fund to the environmental trust fund.  
25 Details of revenues and expenditures are

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1 provided. On this page, the fiscal year  
2 2015 reimbursement to environmental trust  
3 fund will be \$4,651,591.97. This is an  
4 increase from fiscal year 2014, which was  
5 \$4,321,158.09.  
6 MR. MILAZZO:  
7 Could you hold up there, because I --  
8 either I'm too slow or something here, but -  
9 -  
10 MS. FALKE:  
11 Oh, I'm sorry.  
12 MR. MILAZZO:  
13 You know, maybe we should go to some  
14 page numbers here, because, you know, we've  
15 got a responsibility here and sometimes I'm  
16 not sure I'm doing my part, but -- tell me  
17 what page am I suppose to be looking at,  
18 because I'm not seeing those numbers. I'm  
19 looking at tab four. We -- that's -- this  
20 should be the right --  
21 (An off-the-record discussion followed.)  
22 MS. FALKE:  
23 Tab --  
24 MR. MORIN:  
25 Start -- it actually started the page

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1 after tab four.  
2 MS. FALKE:  
3 The page after on tab four. Sorry.  
4 MR. MILAZZO:  
5 So I'm going -- this is page two we're  
6 talking about, right?  
7 If you don't mind, I -- if you'd start  
8 over, please.  
9 MS. FALKE:  
10 Sure. I'm sorry. This is my first  
11 time to --  
12 MR. MILAZZO:  
13 Fran, I'm not picking on you. I'm  
14 just --  
15 MS. FALKE:  
16 That's okay.  
17 MR. MILAZZO:  
18 You know, we --  
19 MS. FALKE:  
20 This is my first time to do this so  
21 I'm not --  
22 MR. MILAZZO:  
23 We're going to sign off on this and I  
24 just --  
25 MS. FALKE:

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1 Right.  
2 MR. MILAZZO:  
3 The -- the numbers aren't the numbers  
4 I'm looking at, so --  
5 MS. FALKE:  
6 All right.  
7 MR. MILAZZO:  
8 -- my apologies.  
9 MS. FALKE:  
10 So we're going to start over.  
11 MR. MILAZZO:  
12 Okay.  
13 MS. FALKE:  
14 Okay. At the beginning of the year,  
15 we transferred \$75,630,981.67 into the trust  
16 fund. As of September 30, 2014, we have  
17 deposited \$5,179,342.66 and paid out  
18 reimbursements of \$1,773,370.82.  
19 Current liabilities on the sites is  
20 \$66,635,550. Leaving a balance after  
21 obligations of \$12,401,403.51.  
22 MR. GAUBERT:  
23 That'd be 65 --  
24 MR. MILAZZO:  
25 So -- so that's where you lost me the

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1 first time.  
2 MS. FALKE:  
3 Okay.  
4 MR. MILAZZO:  
5 So you've got to help me here.  
6 MR. MORIN:  
7 You need to go two pages from there  
8 and that's where the 66 million is. I'm  
9 sorry.  
10 MR. MILAZZO:  
11 I still don't see it.  
12 MR. GAUBERT:  
13 The obligations I think is what we're  
14 looking for?  
15 MR. MILAZZO:  
16 Well, I see the obligations but  
17 they're different than what --  
18 MR. GAUBERT:  
19 The 66 million dollar obligation?  
20 (An off-the-record discussion followed.)  
21 MR. GAUBERT:  
22 What -- what this report is showing --  
23 I think it's the same report we all have.  
24 The liability on current sites, I think you  
25 mentioned 66 million.

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1 MR. MORIN:  
2 Right. It says 71.  
3 MR. GAUBERT:  
4 This report is showing 71 million.  
5 MS. FALKE:  
6 Right.  
7 MR. JEFF BAKER:  
8 Yes. Fran, that number --  
9 MR. MILAZZO:  
10 So I don't know if you just don't have  
11 the current -- if you're reporting -- you  
12 know, the five million dollars, if -- if you  
13 -- something may be adding that should be  
14 subtracted. I'm not sure. But that's where  
15 we're struggling with the report. But --  
16 MR. JEFF BAKER:  
17 That number was revised at one point  
18 in the last week or so. I'm wondering if  
19 you have an older version of some of the  
20 notes. And it -- and the 66 may have been  
21 from a previous version. Right now, the  
22 last calculation was 71 million. That might  
23 be where the confusion is coming from.  
24 MR. GAUBERT:  
25 We were -- we were matching dollar for

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1 dollar until we got to that.  
2 MR. JEFF BAKER:  
3 Right.  
4 MS. FALKE:  
5 Yes.  
6 MR. GAUBERT:  
7 So this report has the 71 million and  
8 you mentioned 66 was the liability on  
9 current sites, so --  
10 MS. FALKE:  
11 Right.  
12 MR. GAUBERT:  
13 Our -- our report here has 71, so  
14 maybe if you change your report to --  
15 MS. FALKE:  
16 Yes. To the 71.  
17 MR. GAUBERT:  
18 -- reflect the 71 million, I think we  
19 could move -- we move forward.  
20 MR. MILAZZO:  
21 I mean, this looks right that I'm  
22 looking at.  
23 MR. GAUBERT:  
24 Yes.  
25 MR. MILAZZO:

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1 I mean, does it to you, as reported  
2 here?  
3 MR. GAUBERT:  
4 Well, I don't have a calculator.  
5 MR. MILAZZO:  
6 Just rough numbers, but --  
7 MR. GAUBERT:  
8 Yes.  
9 MR. MILAZZO:  
10 66 doesn't -- I -- I don't know how it  
11 would fit in this number.  
12 MS. FALKE:  
13 Right. So it should be the currently  
14 liabilities on the sites is \$71,261,864.  
15 MR. GAUBERT:  
16 And that would be the sum of the --  
17 the three different ways to come up with the  
18 total liabilities for the fund, the  
19 corrective action, the potential corrective  
20 action and the projected cost of the trust  
21 fund to the environmental trust transfer for  
22 the next five years of \$16,000,000. That  
23 totaled up to 71 million. So given that the  
24 math is correct, that's the number that we  
25 need to use instead of the 66 million

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1 dollars?  
2 MS. FALKE:  
3 Right. So that would make -- make --  
4 leave a balance after obligations of  
5 \$7,775,089.51.  
6 MR. MILAZZO:  
7 That makes sense to me.  
8 MR. GAUBERT:  
9 Right. Yes. Okay.  
10 MS. FALKE:  
11 Okay. On the next page, this is an  
12 information report for the interest revenue  
13 from the trust fund. Interest revenue  
14 collected inception to date is  
15 \$6,623,834.58. Expenditures to date total  
16 \$1,229,930.06. Details of the expenditures  
17 to date are included on this report. And  
18 the expenditures in 2015 are zero.  
19 This report details of how we  
20 calculate the amount transferred from the  
21 motor fuel trust fund to the environmental  
22 trust fund. Details of the revenues and  
23 expenditures are provided. On this page,  
24 the 2015 reimbursements to environmental  
25 trust fund will be \$4,651,591.97. This is

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1 an increase from fiscal year '14, which was  
2 \$4,321,158.09.  
3 MR. GAUBERT:  
4 Does that complete your report?  
5 MS. FALKE:  
6 That's -- I done, yes. It's complete.  
7 MR. GAUBERT:  
8 Any other questions or comments?  
9 (No response.)  
10 MR. GAUBERT:  
11 Okay. Thank you, Ms. Fran.  
12 MR. MILAZZO:  
13 Thank you, Fran.  
14 MS. FALKE:  
15 Okay.  
16 MR. GAUBERT:  
17 Mr. Jeff, could you give us the trust  
18 fund status report, please.  
19 MR. JEFF BAKER:  
20 Yes, sir. Good afternoon. Please  
21 refer to tab number five in your packets.  
22 These are the figures for the first quarter  
23 of fiscal year 2015. During the first  
24 quarter of the fiscal year, the trust fund  
25 received 280 applications, totaling

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1 \$3,987,718. 183 applications were processed  
2 for payment during the fiscal quarter,  
3 totaling \$2,324,720. And 29 applications  
4 were returned with deficiencies.  
5 For sites in the corrective action  
6 phase, the outstanding liability of the  
7 corrective action plan budget and estimated  
8 cost to reach closure at the end of  
9 September 2014 was \$32,054,706. The  
10 additional obligation recognized for the  
11 non-capped sites, plus the projected motor  
12 fuel trust fund to environmental trust fund  
13 transfers is \$38,333,521. At the end of  
14 September 2014, the trust fund had 155  
15 pending applications to process, which had  
16 requested amounts, totaling \$2,020,672. Of  
17 this amount, the estimated requested  
18 obligations related to cap budgets and  
19 closure cost was \$1,147,035.  
20 If you'll note the legal-sized last  
21 page of your packet. The number of trust  
22 fund sites that received no further action  
23 status thus far for the fiscal year was  
24 five. The number of -- and this is not on  
25 this sheet. But the number of potential

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1 trust fund sites that were reviewed and made  
2 eligible during the current fiscal year was  
3 ten. And that represents ten active  
4 incidences.  
5 Additional points of interest. The  
6 trust fund staff is continuing to review our  
7 calculation methods for determining the --  
8 the expenditure obligations against the  
9 fund. We are currently working with our IT  
10 group to help us develop new reports and  
11 tools to assist in our monthly  
12 determinations. It was our hope that these  
13 tools -- new tools would be in place for  
14 this board meeting and we would be able to  
15 present revised obligation numbers, starting  
16 with the first quarter of this year.  
17 However, as with any endeavor involving  
18 historical records, data anomalies often are  
19 found and need to be addressed.  
20 We have been working to resolve these  
21 issues and are now striving to develop new  
22 protocols for our monthly determinations.  
23 You'll notice a decrease in the total  
24 number of active sites from last quarter's  
25 report and an increase in the listed non-cap

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1 obligation numbers. The reduction in the  
2 active site count is a result of our review  
3 of these sites, as part of these date  
4 anomalies and their current status. Thirty  
5 plus previously active sites were found to  
6 be closed by the remediation staff more than  
7 a year ago, but were still active in our  
8 system. The trust fund staff closed these  
9 in our data system, which resulted in an  
10 increase in the average site closure cost.  
11 This adjustment represented a portion of the  
12 increase of the non-cap obligation amounts.  
13 The remaining non-capped increase was  
14 due to the modification of the trust fund to  
15 ETF transfer estimates. The trust fund to  
16 ETF transfer amounts were reviewed -- are  
17 reviewed annually and are based upon the  
18 last two years of transfers. This annual  
19 estimate was increased from 2.8 million to  
20 3.2 million dollars a year, resulting in a  
21 total increase on a five year average -- or  
22 five year estimate from 14 million to 16  
23 million, which you saw under Fran's report.  
24 Revised statute 2195.a.5 and 2195.10.d  
25 state that the advisory board shall review

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1 the financial responsibility requirements  
2 for sites in and out of compliance on an  
3 annual basis and may recommend to the  
4 secretary adjusting these requirements. At  
5 this time, the trust fund does not have any  
6 recommendation to the board relating to any  
7 modifications to the current financial  
8 responsibility dollar amounts.  
9 That concludes my report. Do ya'll  
10 have any questions?  
11 MR. GAUBERT:  
12 I have one question.  
13 MR. JEFF BAKER:  
14 Yes, sir.  
15 MR. GAUBERT:  
16 As you go through this data change and  
17 have better data and more accurate data and  
18 a tool to analyze what's going on, it seems  
19 to be working so far in helping clean up  
20 some -- some of the books, you know,  
21 already. Do you anticipate, when you  
22 incorporate this data, any other adjustments  
23 besides the 32 sites that you -- that were  
24 closed that were not updated? Is there any  
25 financial obligation that -- that we should

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1 be aware of, potential financial obligation  
2 that we should be aware of, based on the --  
3 any other financial obligation, besides what  
4 you've already mentioned by use -- by the  
5 use of this data?  
6 MR. JEFF BAKER:  
7 The new method that we're looking at -  
8 - the reason we're going this direction is  
9 because there were a number of sites that  
10 were not being incorporated into the  
11 obligation process, a number of sites.  
12 These sites included sites that we had  
13 determined to be eligible but had not, as of  
14 this point, requested reimbursement from the  
15 fund. Until they requested reimbursement,  
16 they were not included in that obligation.  
17 However, we had deemed them to be eligible,  
18 and they were eligible for additional funds  
19 to be applied to them. So these were not  
20 being included in the obligation  
21 calculations. They will now be included in  
22 those obligation calculations, when we get -  
23 - when we move forward with this new  
24 process, the new protocol.  
25 Do you have another question?

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1 MR. MILAZZO:  
2 Well, that -- that would just -- you  
3 would encumber some liability if those now  
4 have some consideration in the future that -  
5 - that could be called upon, right?  
6 MR. JEFF BAKER:  
7 Yes, sir.  
8 MR. MILAZZO:  
9 You don't know that it will, but --  
10 MR. JEFF BAKER:  
11 Yes, sir.  
12 MR. MILAZZO:  
13 -- it could.  
14 MR. JEFF BAKER:  
15 We don't know, but --  
16 MR. MILAZZO:  
17 And so the records are going to now  
18 reflect that.  
19 MR. JEFF BAKER:  
20 Yes, sir. Yes. There are some sites  
21 that are not currently being considered as  
22 potential obligations that truly do have an  
23 obligation against them. And we're trying  
24 to incorporate them into our calculations.  
25 MR. MILAZZO:

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1 So the numbers that we see today don't  
2 necessarily reflect that?  
3 MR. JEFF BAKER:  
4 They do not --  
5 MR. MILAZZO:  
6 Okay.  
7 MR. JEFF BAKER:  
8 -- reflect those additional sites.  
9 MR. MILAZZO:  
10 So they -- so there could be a jump in  
11 liability, right?  
12 MR. JEFF BAKER:  
13 There will be an increase. Hopefully,  
14 like I said, next -- the next board --  
15 MR. MILAZZO:  
16 Yes.  
17 MR. JEFF BAKER:  
18 -- meeting, we will be able to give  
19 you those numbers. And there --  
20 MR. MILAZZO:  
21 So that -- I think that was your  
22 question.  
23 MR. GAUBERT:  
24 Yes.  
25 MR. IVEY:

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1 Would you eventually take them off the  
2 list if they don't submit a package within a  
3 certain time frame?  
4 MR. JEFF BAKER:  
5 What we're looking at is, is probably  
6 a two year window. If they have requested  
7 eligibility within two years and have not  
8 requested reimbursement yet, we will  
9 incorporate them into that calculation.  
10 Anything older than that, we will assume  
11 there's not going to be any additional cost.  
12 MR. GAUBERT:  
13 Any other questions?  
14 (No response.)  
15 MR. GAUBERT:  
16 Okay. Thank you.  
17 MR. JEFF BAKER:  
18 Does the board have -- the last point  
19 related to the board's making any  
20 recommendations as to the financial  
21 responsibilities. Does the board have any?  
22 MR. GAUBERT:  
23 You mentioned one criteria that you --  
24 I don't know where the criteria came from  
25 when -- when the question was just asked

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1 about when would the -- it -- it'd go -- it  
2 not be considered as part of a financial --  
3 a future financial obligation, at what time  
4 point. And you mentioned two years.  
5 MR. JEFF BAKER:  
6 Yes, sir.  
7 MR. GAUBERT:  
8 And where did the -- and how did you  
9 come up with the two year --  
10 MR. JEFF BAKER:  
11 The two years is based upon the  
12 statute requirement that anything older than  
13 two years, the trust fund is not required to  
14 pay.  
15 MR. GAUBERT:  
16 Is that the statute that --  
17 MR. JEFF BAKER:  
18 The statute -- if -- if the work is  
19 done prior to two years from the time they  
20 submit the application, the trust fund is  
21 not required to pay it. So that's where we  
22 came up with that number.  
23 MR. IVEY:  
24 And you just use -- I mean, they can  
25 still submit one, even three years later.

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1 MR. JEFF BAKER:  
2 Yes, they could.  
3 MR. IVEY:  
4 And --  
5 MR. GAUBERT:  
6 It would be reincorporated back --  
7 MR. IVEY:  
8 Right.  
9 MR. GAUBERT:  
10 -- into --  
11 MR. JEFF BAKER:  
12 Right. Yes.  
13 MR. IVEY:  
14 Right.  
15 MR. GAUBERT:  
16 That was my question. Any other  
17 questions?  
18 (No response.)  
19 MR. GAUBERT:  
20 I don't see any other issues, Jeff, at  
21 this point.  
22 So you don't look like Perry Theriot.  
23 MS. CARTER:  
24 No, I'm not.  
25 MR. GAUBERT:

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1 But if you don't mind, Ms. Jill, to  
2 give us the third party claims.  
3 MS. CARTER:  
4 There's no change in the current  
5 status of our current third party claims.  
6 But we do have a new claim. And there are  
7 two claimants. And I'm just going to spell  
8 their names. The first claimant has three  
9 names. F-E-N-G. Second name, J-I-N. Third  
10 name, T-E-N-G. And the second person that's  
11 plaintiff is A-I-J-I-N. And the second name  
12 is C-H-E-N. And the suit is versus DEQ and  
13 John Wilbourne and Beverly Wilbourne. And  
14 that's a pending claim. We're waiting on AG  
15 compliance right now.  
16 MR. GAUBERT:  
17 These -- that entity with the  
18 particular names that you just read off,  
19 they have sued DEQ?  
20 MS. CARTER:  
21 Yes. And John Wilbourne and Beverly  
22 Wilbourne. It's a third party claim.  
23 MR. GAUBERT:  
24 Okay. Is that three -- that's three  
25 different new suits?

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1 MS. CARTER:  
2 No, no, no. I just spelled it out  
3 because I can't pronounce these names. It's  
4 two different persons that are the  
5 plaintiffs that have sued --  
6 MR. GAUBERT:  
7 One suit, two persons as the  
8 plaintiff.  
9 MS. CARTER:  
10 Right.  
11 MR. GAUBERT:  
12 So maybe an owner and a tank owner or  
13 something of that sort?  
14 MS. CARTER:  
15 Say that again.  
16 MR. GAUBERT:  
17 An owner -- a store owner and an  
18 underground tank owner and possibly a  
19 tenant?  
20 MS. CARTER:  
21 I can't remember if --  
22 MR. MILAZZO:  
23 Or is this an adjacent property owner?  
24 MS. CARTER:  
25 I think the plaintiff is an adjacent

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1 property owner and the defendant is a store  
2 owner maybe. I can't remember right off the  
3 top of my head. But I think the plaintiff  
4 is the adjacent property owner.  
5 MR. GAUBERT:  
6 Adjacent property owner. That --  
7 that's why it would be third party --  
8 MS. CARTER:  
9 Yes. A third party claim.  
10 MR. GAUBERT:  
11 -- a third party claim.  
12 MS. CARTER:  
13 Right.  
14 MR. GAUBERT:  
15 Do you have an idea of what type of  
16 numbers that suit --  
17 MS. CARTER:  
18 We are right in -- they just filed  
19 suit and we're waiting on AG concurrence  
20 before we can even answer the petition. So  
21 we're just in the very beginning stages of  
22 it. No discovery has been conducted. We  
23 can't move forward until we get concurrence  
24 from the AG.  
25 MR. GAUBERT:

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1 Okay. Any questions for Ms. Jill?  
2 (No response.)  
3 MR. GAUBERT:  
4 Thank you.  
5 Other business. Any other business to  
6 be brought before the board?  
7 MS. ISAACKS:  
8 What are the dates of the meetings for  
9 2015?  
10 MR. JEFF BAKER:  
11 We have them pulled together but we  
12 have not got -- we can send them out to  
13 ya'll.  
14 MS. ISAACKS:  
15 Okay. Thank you.  
16 MR. JEFF BAKER:  
17 I don't have them off the top of my  
18 head, but we will send them to you.  
19 MS. ISAACKS:  
20 Okay. Because we have to make, you  
21 know, changes and all.  
22 MR. JEFF BAKER:  
23 Absolutely.  
24 MS. ISAACKS:  
25 Thank you.

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1 MR. GAUBERT:  
2 The pending lawsuit, is there any  
3 update that -- on the pending lawsuits, the  
4 --  
5 MR. MILAZZO:  
6 Companies that have -- that kind of  
7 double-dipped.  
8 MS. CARTER:  
9 I think we need to make a move to go  
10 into executive session --  
11 MR. FULTON:  
12 Yes. We that -- we have to --  
13 MS. CARTER:  
14 -- to discuss that.  
15 MR. FULTON:  
16 Yes, to discuss that. Yes.  
17 MR. GAUBERT:  
18 Okay.  
19 MR. MILAZZO:  
20 So moved.  
21 MR. GAUBERT:  
22 So we're going to go into executive  
23 session. We're going to have to ask all of  
24 the audience that are not members of the  
25 board to give us a few minutes.

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1 (A brief recess followed while the board  
2 went into executive session.)  
3 MR. GAUBERT:  
4 So just to continue where we left off,  
5 we were on other business. The -- the only  
6 other item that I know of on the -- on other  
7 business is that we'll have a -- Louisiana  
8 Oil Marketers is going to assign two  
9 additional board members for the -- for next  
10 -- for the next two year term. And that'll  
11 be -- we don't have those names just yet,  
12 but those will be announced at the next  
13 meeting.  
14 MR. MILAZZO:  
15 So you and Keith will return for one  
16 last meeting, or is this officially --  
17 MR. GAUBERT:  
18 This is -- this is -- as far as I  
19 know, this is it. This is -- this is our  
20 last meeting, Keith and myself. It -- there  
21 was -- we've each served two -- you can  
22 serve two terms and then you have to --  
23 MS. ISAACKS:  
24 Two consecutive.  
25 MR. GAUBERT:

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1 Yes, to consequent terms. You have to  
2 get off for at least one term and then you  
3 can come back on if you -- after that. So -  
4 - but we'll have to -- we'll see if we can  
5 get Wes out of the weeds and get him back  
6 again.  
7 MR. IVEY:  
8 Do we need to elect a new chair?  
9 MR. GAUBERT:  
10 Yes. The January -- at the January  
11 meeting.  
12 MR. IVEY:  
13 Okay.  
14 MR. GAUBERT:  
15 Or, first quarter meeting, we would  
16 have to elect a new chair.  
17 MR. MILAZZO:  
18 Well, let me offer special thanks to  
19 you, Grady, and to Keith who's not here  
20 today. And -- you have very generously  
21 given your time, not just here but, you  
22 know, on a lot of fronts. And on behalf of  
23 our association and -- and really the  
24 industry as a whole. So I personally want  
25 to thank you and really appreciate all



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1 you've done.  
 2 MR. GAUBERT:  
 3 Thank you, John. And I've enjoyed my  
 4 -- my time here, four years. You know,  
 5 we've had a lot of fun. I think we got a  
 6 lot accomplished with -- with Sam. I see  
 7 Sam sitting in the audience today. He -- he  
 8 hasn't been at every meeting, but --  
 9 MR. FULTON:  
 10 I finally got him back.  
 11 MR. GAUBERT:  
 12 You got -- you got him back. But we  
 13 did -- we did an awful lot of work on the  
 14 implementation of the -- the --  
 15 MR. BROUSSARD:  
 16 Energy Act.  
 17 MR. GAUBERT:  
 18 The Energy Act, yes. The -- the three  
 19 -- the three things I think that's working  
 20 pretty good. We -- during my four years, we  
 21 formed a Louisiana Compliance Service and --  
 22 and we're doing the training, Class A, B and  
 23 C operators. DEQ's doing the red tags and  
 24 the --  
 25 MR. BROUSSARD:

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1 And the secondary --  
 2 MR. GAUBERT:  
 3 -- and the secondary containment. We  
 4 updated the guidance document. So we've  
 5 done a lot over the last few years and I  
 6 want to thank all of you guys for your --  
 7 for your commitment and your involvement in  
 8 the trust fund. We certainly appreciate it.  
 9 I do think we have one of the best trust  
 10 funds in the nation. And I hope I was able  
 11 to continue on and hand off that legacy to  
 12 the next -- the next guys. So thank ya'll.  
 13 MR. FULTON:  
 14 Thank you.  
 15 MR. MILAZZO:  
 16 I'd like to offer a motion to adjourn.  
 17 MR. IVEY:  
 18 Second.  
 19 MR. GAUBERT:  
 20 All in favor.  
 21 (All indicated "aye".)  
 22 MR. MILAZZO:  
 23 Let's go home.  
 24 THE MEETING ADJOURNED AT 1:59 P.M.  
 25 \* \* \* \* \*

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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  
 7 whom this sworn testimony was taken, do hereby  
 8 state on the Record  
 9 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  
 15 (--) do not indicated that words or phrases have  
 16 been left out of this transcript;  
 17 That any words and/or names which could not  
 18 be verified through reference material have been  
 19 denoted with the phrase "(inaudible)."  
 20  
 21 \_\_\_\_\_  
 22 Lori Overland, C.C.R.  
 23 # 97083  
 24  
 25

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1 C E R T I F I C A T I O N  
 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  
 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.  
 23  
 24 \_\_\_\_\_  
 25 Lori Overland C.C.R.  
 # 97083

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**In The Matter Of:**

*DEPARTMENT OF ENVIRONMENTAL QUALITY  
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST*

---

*MEETING*

*November 13, 2014*

---

*Associated Reporters, Incorporated*

*225-216-2036*

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2  
3 STATE OF LOUISIANA  
4 DEPARTMENT OF ENVIRONMENTAL QUALITY  
5 MOTOR FUELS UNDERGROUND STORAGE TANK TRUST  
6 FUND ADVISORY BOARD  
7  
8  
9  
10  
11  
12 The above-entitled meeting was held at the  
13 LDEQ, Galvez Building, Conference Center, 602  
14 North 5th Street, Baton Rouge, Louisiana,  
beginning at 1:18 p.m., on November 13, 2014.  
15  
16  
17  
18  
19 BEFORE:  
20 Lori B. Overland  
21 Certified Court Reporter  
22 In and For the State of  
23 Louisiana  
24  
25

Page 3

1 I N D E X  
2  
3 EXAMINATION: PAGE (S) :  
4 None  
5 EXHIBITS:  
6 None  
7  
8 REPORTER'S PAGE 43  
9 REPORTER'S CERTIFICATE 44  
10  
11 \* \* \* \* \*  
12  
13  
14  
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Page 2

1 A P P E A R A N C E S  
2  
3 Grady Gaubert  
Chairman  
4 Durwood Franklin  
5 Jeff Baker  
6 Gary Fulton  
7 Steve Burnham  
8 John Milazzo  
9 Cy Morin  
10 Fran Falke  
11 Shawn Ivey  
12 Jill Carter  
13  
14 Melissa Vizinat  
15 Kodi Brignac  
16 Jason Efferson  
17 Deidra Johnson  
18 Sam Broussard  
19 Natalie Isaacks  
20 Ian Kelly  
21 Vince Sagnibene  
22  
23 \* \* \* \* \*  
24  
25

Page 4

1 \* \* \* \* \*  
2 MR. GAUBERT:  
3 In the absence of Keith Baker, I got  
4 nominated to chair the meeting today, so  
5 we're going to call the meeting to order.  
6 Welcome everybody. Little bit of change in  
7 the weather today. It's nice and brisk  
8 outside. Can we get a roll call, please.  
9 Maybe start with Ms. Jill.  
10 MS. CARTER:  
11 Jill Carter, attorney for DEQ.  
12 MR. FRANKLIN:  
13 Durwood Franklin, DEQ Trust Fund.  
14 MR. JEFF BAKER:  
15 Jeff Baker, DEQ Trust Fund.  
16 MR. FULTON:  
17 Gary Fulton, USTRD.  
18 MR. BURNHAM:  
19 Steve Burnham with Engineering  
20 Associates.  
21 MR. IVEY:  
22 Shawn Ivey, PPM Consultants.  
23 MR. GAUBERT:  
24 Grady Gaubert, Louisiana Oil  
25 Marketers.

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1 MR. MILAZZO:  
2 Johnny Milazzo, Louisiana Oil  
3 Marketers.  
4 MR. MORIN:  
5 Cy Morin, LDEQ Audit.  
6 MS. FALKE:  
7 Fran Falke, LDEQ Office of Management  
8 and Finance.  
9 MS. VIZINAT:  
10 Melissa Vizinat, Trust Fund.  
11 MR. BROUSSARD:  
12 Sam Broussard, DEQ UST Division.  
13 MS. ISAACKS:  
14 Natalie Isaacks, Louisiana Oil  
15 Marketers.  
16 MS. JOHNSON:  
17 Deidra Johnson, DEQ Legal.  
18 MR. EFFERSON:  
19 Jason Efferson, DEQ Trust Fund.  
20 MR. KELLY:  
21 Ian Kelly, DEQ Trust Fund.  
22 MR. BRIGNAC:  
23 Kodi Brignac, DEQ Trust Fund.  
24 MR. GAUBERT:  
25 Okay. The first item of business is

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1 case was assessed \$8,565.57 for delinquent  
2 fees and late penalties. This amount was  
3 collected in full and the file is set to be  
4 closed.  
5 Thirteen of the 29 audits were opened  
6 in fiscal year '14. Fieldwork has been  
7 completed for 11 of these 13 fiscal year '14  
8 audits, resulting in nine potentially clean  
9 audits with no assessments and two potential  
10 audit assessments, totaling approximately  
11 \$700, pending peer and/or final review.  
12 Fieldwork is still in progress for the  
13 two remaining fiscal year '15 audits. Five  
14 of the 29 audits were opened in fiscal year  
15 '13. One fiscal year '13 audit has been  
16 referred to legal for collection. Legal  
17 received AG concurrence on November 3rd.  
18 The petition has been drafted. It's going  
19 through final review so it can be filed.  
20 Fieldwork has been completed on three  
21 of five open fiscal year '13 audits,  
22 resulting in one potentially clean audit and  
23 no assessment and two potential assessment,  
24 totaling approximately \$4,579.47.  
25 These audits are currently in the

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1 consideration and adoption of the previous  
2 meeting's minutes. Can I have a motion to  
3 accept those minutes?  
4 MR. BURNHAM:  
5 Motion to accept.  
6 MR. GAUBERT:  
7 I need a second.  
8 MR. MILAZZO:  
9 I second.  
10 MR. GAUBERT:  
11 All in favor.  
12 (All indicated "aye".)  
13 MR. GAUBERT:  
14 Any questions, comments?  
15 (No response.)  
16 MR. GAUBERT:  
17 Okay. Cy, could you give us the audit  
18 status report, please.  
19 MR. MORIN:  
20 Yes, sir. We currently have 29 open  
21 audit cases. Seven of the 29 have been  
22 opened in fiscal year '15. Five fiscal year  
23 '15 cases are currently in progress. One  
24 fiscal year '15 case is scheduled for  
25 December. And the seventh fiscal year '15

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1 review process and demand will be made on  
2 these outstanding amounts in the very near  
3 future.  
4 The fifth fiscal year '13 case is set  
5 to be closed with no assessment. The four  
6 remaining active open cases were prior to  
7 fiscal year '13. They remain in legal for  
8 collection. Two have signed and recorded  
9 judgments. As I've mentioned in previous  
10 meetings, DEQ's recourse in one of these is  
11 to make a claim against a succession. As of  
12 yesterday, legal informed me that that has  
13 not been opened, per the Clerk of Court.  
14 In the other case, legal mailed a  
15 petition for garnishment on 8/20/14. I  
16 think I mentioned that in the last meeting.  
17 As of 10/28/14, legal has spoken to the  
18 responsible party and is working out a  
19 payment plan. The down payment is expected  
20 in December 2014.  
21 The legal statuses of the other two  
22 audits opened prior to fiscal year '13 have  
23 not changed since the last board meeting.  
24 The attorneys are determining legal course  
25 of action and working out ways around

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1 several legal obstacles.  
2 One fiscal year '14 case has been  
3 finalized and closed with no assessment  
4 since the August meeting. To date, in  
5 fiscal year 2015, demand has been made for  
6 one assessment that I mentioned before, the  
7 \$8,500 in delinquent fees and late  
8 penalties. And it has been collected in  
9 full. As of today, the total confirmed  
10 outstanding delinquent fees and penalties  
11 for these open cases remains \$126,218.62.  
12 All of which is associated with the five  
13 legal case.  
14 Currently, the total potential  
15 assessments pending review and confirmation  
16 as of today is just over \$6,000.  
17 That's it.  
18 MR. GAUBERT:  
19 Okay. Any questions?  
20 MR. MILAZZO:  
21 I do. How many -- how many audits do  
22 ya'll do a year?  
23 MR. MORIN:  
24 Currently, we have planned to do 18  
25 this year.

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1 MR. MILAZZO:  
2 Okay.  
3 MR. MORIN:  
4 That number has been raised over the  
5 last couple of years. Last year, we planned  
6 16. Prior to that, we were doing 12 or  
7 fewer. So we're -- we're trying to increase  
8 the number and, you know, the coverage.  
9 And, you know, our -- our auditor that's  
10 dedicated to motor fuels does monthly  
11 research. He does have to go through kind  
12 of a process right now to do this research,  
13 but he -- he keeps several lists of people  
14 who are currently delinquent. He keeps a  
15 list of people who have been previously  
16 audited, have not been audited ever, who are  
17 currently being audited. Various different  
18 lists. I'm hoping that in the -- in the  
19 future that we'll have a tool that will help  
20 us to do this research more efficiently and  
21 then we will be able to, you know, pinpoint  
22 people for -- you know, more accurately,  
23 maybe for a specific reason.  
24 Like you mentioned last meeting, being  
25 able to have tools that will raise flags and

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1 stuff. So that's something we're going to  
2 work -- we're working toward.  
3 MR. MILAZZO:  
4 Okay. And, you know, it's -- it's  
5 important to -- for all of us, obviously,  
6 for the trust fund, everybody that's trying  
7 to do the right thing, you know, we -- we  
8 find ourselves with new folks in the  
9 business all the time. And I just think  
10 it's -- it's important that there's a lot of  
11 integrity in that collection process, for  
12 the sake of the trust fund and for everybody  
13 that's -- that's, you know, in the business.  
14 And, you know, as we go forward, I may share  
15 some thoughts in the future maybe that we  
16 can build some sort of, you know, critical  
17 metrics and you can get back to us and say,  
18 "Okay, you know, out of 18 sampling, you  
19 know, what were the results of that?"  
20 MR. MORIN:  
21 Right.  
22 MR. MILAZZO:  
23 Looking back historically and -- it  
24 kind of paints a picture of what that might  
25 look like going forward. So -- and maybe,

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1 you know, this isn't the best time to talk  
2 about it, but --  
3 MR. MORIN:  
4 Right. But, yes, I -- I did want to  
5 kind of talk to you about that possibly,  
6 because I didn't know if the way I'm  
7 presenting the material now is -- is --  
8 means anything to you, you know, if --  
9 MR. MILAZZO:  
10 Well, it's good to hear it, but -- but  
11 it's all -- it's better to see it and --  
12 MR. MORIN:  
13 Right.  
14 MR. MILAZZO:  
15 -- and, you know, how well it's --  
16 MR. MORIN:  
17 Yes. I -- I agree.  
18 MR. MILAZZO:  
19 -- you know, what are the audits  
20 really telling us at the end of the day  
21 about those that are in the business that --  
22 that have a responsibility to it? So again,  
23 you know, maybe that's a work in session.  
24 I'm not sure how the department would like  
25 to go forward thinking about that. But, you

Page 13

1 know, I -- I do think it's probably  
2 something we can improve upon.  
3 That's all I have.  
4 But thank you, Cy.  
5 MR. MORIN:  
6 Okay.  
7 MR. GAUBERT:  
8 Okay. Any other questions?  
9 (No response.)  
10 MR. GAUBERT:  
11 Okay. Thank you. Ms. Fran, can you  
12 give us the financial services report,  
13 please.  
14 MS. FALKE:  
15 Yes. At the beginning of the year, we  
16 transferred \$75,630,981.67 into the trust  
17 fund.  
18 MR. GAUBERT:  
19 Do you have a copy of that for  
20 everybody that's going to --  
21 MS. FALKE:  
22 Oh, I'm sorry.  
23 MR. GAUBERT:  
24 Is it in -- is it in our packet?  
25 MS. FALKE:

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1 Tab -- I think she said tab three on  
2 here, but I believe it's tab four.  
3 MR. MILAZZO:  
4 That's what I'm looking at is tab  
5 four.  
6 MS. FALKE:  
7 As of September 30, 2014, we have  
8 deposited \$5,179,342.66 and paid out  
9 reimbursements of \$1,773,370.82. The  
10 current liabilities on the sites is  
11 \$66,635,550. This is leaving a balance  
12 after obligations of \$12,401,420.51.  
13 If you'll turn the page. This is an  
14 information report on the interest revenue  
15 from the trust fund. The interest revenue  
16 collected inception to date is  
17 \$6,623,834.58. Expenditures to date total  
18 \$1,229,930.06. Details of the expenditures  
19 to date are included on this report. And  
20 the expenditures in 2015 are zero.  
21 If you'll turn to the next page. This  
22 report details of how we calculate the  
23 amount transferred from the motor fuel trust  
24 fund to the environmental trust fund.  
25 Details of revenues and expenditures are

Page 15

1 provided. On this page, the fiscal year  
2 2015 reimbursement to environmental trust  
3 fund will be \$4,651,591.97. This is an  
4 increase from fiscal year 2014, which was  
5 \$4,321,158.09.  
6 MR. MILAZZO:  
7 Could you hold up there, because I --  
8 either I'm too slow or something here, but -  
9 -  
10 MS. FALKE:  
11 Oh, I'm sorry.  
12 MR. MILAZZO:  
13 You know, maybe we should go to some  
14 page numbers here, because, you know, we've  
15 got a responsibility here and sometimes I'm  
16 not sure I'm doing my part, but -- tell me  
17 what page am I suppose to be looking at,  
18 because I'm not seeing those numbers. I'm  
19 looking at tab four. We -- that's -- this  
20 should be the right --  
21 (An off-the-record discussion followed.)  
22 MS. FALKE:  
23 Tab --  
24 MR. MORIN:  
25 Start -- it actually started the page

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1 after tab four.  
2 MS. FALKE:  
3 The page after on tab four. Sorry.  
4 MR. MILAZZO:  
5 So I'm going -- this is page two we're  
6 talking about, right?  
7 If you don't mind, I -- if you'd start  
8 over, please.  
9 MS. FALKE:  
10 Sure. I'm sorry. This is my first  
11 time to --  
12 MR. MILAZZO:  
13 Fran, I'm not picking on you. I'm  
14 just --  
15 MS. FALKE:  
16 That's okay.  
17 MR. MILAZZO:  
18 You know, we --  
19 MS. FALKE:  
20 This is my first time to do this so  
21 I'm not --  
22 MR. MILAZZO:  
23 We're going to sign off on this and I  
24 just --  
25 MS. FALKE:

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1 Right.  
2 MR. MILAZZO:  
3 The -- the numbers aren't the numbers  
4 I'm looking at, so --  
5 MS. FALKE:  
6 All right.  
7 MR. MILAZZO:  
8 -- my apologies.  
9 MS. FALKE:  
10 So we're going to start over.  
11 MR. MILAZZO:  
12 Okay.  
13 MS. FALKE:  
14 Okay. At the beginning of the year,  
15 we transferred \$75,630,981.67 into the trust  
16 fund. As of September 30, 2014, we have  
17 deposited \$5,179,342.66 and paid out  
18 reimbursements of \$1,773,370.82.  
19 Current liabilities on the sites is  
20 \$66,635,550. Leaving a balance after  
21 obligations of \$12,401,403.51.  
22 MR. GAUBERT:  
23 That'd be 65 --  
24 MR. MILAZZO:  
25 So -- so that's where you lost me the

Page 18

1 first time.  
2 MS. FALKE:  
3 Okay.  
4 MR. MILAZZO:  
5 So you've got to help me here.  
6 MR. MORIN:  
7 You need to go two pages from there  
8 and that's where the 66 million is. I'm  
9 sorry.  
10 MR. MILAZZO:  
11 I still don't see it.  
12 MR. GAUBERT:  
13 The obligations I think is what we're  
14 looking for?  
15 MR. MILAZZO:  
16 Well, I see the obligations but  
17 they're different than what --  
18 MR. GAUBERT:  
19 The 66 million dollar obligation?  
20 (An off-the-record discussion followed.)  
21 MR. GAUBERT:  
22 What -- what this report is showing --  
23 I think it's the same report we all have.  
24 The liability on current sites, I think you  
25 mentioned 66 million.

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1 MR. MORIN:  
2 Right. It says 71.  
3 MR. GAUBERT:  
4 This report is showing 71 million.  
5 MS. FALKE:  
6 Right.  
7 MR. JEFF BAKER:  
8 Yes. Fran, that number --  
9 MR. MILAZZO:  
10 So I don't know if you just don't have  
11 the current -- if you're reporting -- you  
12 know, the five million dollars, if -- if you  
13 -- something may be adding that should be  
14 subtracted. I'm not sure. But that's where  
15 we're struggling with the report. But --  
16 MR. JEFF BAKER:  
17 That number was revised at one point  
18 in the last week or so. I'm wondering if  
19 you have an older version of some of the  
20 notes. And it -- and the 66 may have been  
21 from a previous version. Right now, the  
22 last calculation was 71 million. That might  
23 be where the confusion is coming from.  
24 MR. GAUBERT:  
25 We were -- we were matching dollar for

Page 20

1 dollar until we got to that.  
2 MR. JEFF BAKER:  
3 Right.  
4 MS. FALKE:  
5 Yes.  
6 MR. GAUBERT:  
7 So this report has the 71 million and  
8 you mentioned 66 was the liability on  
9 current sites, so --  
10 MS. FALKE:  
11 Right.  
12 MR. GAUBERT:  
13 Our -- our report here has 71, so  
14 maybe if you change your report to --  
15 MS. FALKE:  
16 Yes. To the 71.  
17 MR. GAUBERT:  
18 -- reflect the 71 million, I think we  
19 could move -- we move forward.  
20 MR. MILAZZO:  
21 I mean, this looks right that I'm  
22 looking at.  
23 MR. GAUBERT:  
24 Yes.  
25 MR. MILAZZO:

1 I mean, does it to you, as reported  
2 here?  
3 MR. GAUBERT:  
4 Well, I don't have a calculator.  
5 MR. MILAZZO:  
6 Just rough numbers, but --  
7 MR. GAUBERT:  
8 Yes.  
9 MR. MILAZZO:  
10 66 doesn't -- I -- I don't know how it  
11 would fit in this number.  
12 MS. FALKE:  
13 Right. So it should be the currently  
14 liabilities on the sites is \$71,261,864.  
15 MR. GAUBERT:  
16 And that would be the sum of the --  
17 the three different ways to come up with the  
18 total liabilities for the fund, the  
19 corrective action, the potential corrective  
20 action and the projected cost of the trust  
21 fund to the environmental trust transfer for  
22 the next five years of \$16,000,000. That  
23 totaled up to 71 million. So given that the  
24 math is correct, that's the number that we  
25 need to use instead of the 66 million

1 an increase from fiscal year '14, which was  
2 \$4,321,158.09.  
3 MR. GAUBERT:  
4 Does that complete your report?  
5 MS. FALKE:  
6 That's -- I done, yes. It's complete.  
7 MR. GAUBERT:  
8 Any other questions or comments?  
9 (No response.)  
10 MR. GAUBERT:  
11 Okay. Thank you, Ms. Fran.  
12 MR. MILAZZO:  
13 Thank you, Fran.  
14 MS. FALKE:  
15 Okay.  
16 MR. GAUBERT:  
17 Mr. Jeff, could you give us the trust  
18 fund status report, please.  
19 MR. JEFF BAKER:  
20 Yes, sir. Good afternoon. Please  
21 refer to tab number five in your packets.  
22 These are the figures for the first quarter  
23 of fiscal year 2015. During the first  
24 quarter of the fiscal year, the trust fund  
25 received 280 applications, totaling

1 dollars?  
2 MS. FALKE:  
3 Right. So that would make -- make --  
4 leave a balance after obligations of  
5 \$7,775,089.51.  
6 MR. MILAZZO:  
7 That makes sense to me.  
8 MR. GAUBERT:  
9 Right. Yes. Okay.  
10 MS. FALKE:  
11 Okay. On the next page, this is an  
12 information report for the interest revenue  
13 from the trust fund. Interest revenue  
14 collected inception to date is  
15 \$6,623,834.58. Expenditures to date total  
16 \$1,229,930.06. Details of the expenditures  
17 to date are included on this report. And  
18 the expenditures in 2015 are zero.  
19 This report details of how we  
20 calculate the amount transferred from the  
21 motor fuel trust fund to the environmental  
22 trust fund. Details of the revenues and  
23 expenditures are provided. On this page,  
24 the 2015 reimbursements to environmental  
25 trust fund will be \$4,651,591.97. This is

1 \$3,987,718. 183 applications were processed  
2 for payment during the fiscal quarter,  
3 totaling \$2,324,720. And 29 applications  
4 were returned with deficiencies.  
5 For sites in the corrective action  
6 phase, the outstanding liability of the  
7 corrective action plan budget and estimated  
8 cost to reach closure at the end of  
9 September 2014 was \$32,054,706. The  
10 additional obligation recognized for the  
11 non-capped sites, plus the projected motor  
12 fuel trust fund to environmental trust fund  
13 transfers is \$38,333,521. At the end of  
14 September 2014, the trust fund had 155  
15 pending applications to process, which had  
16 requested amounts, totaling \$2,020,672. Of  
17 this amount, the estimated requested  
18 obligations related to cap budgets and  
19 closure cost was \$1,147,035.  
20 If you'll note the legal-sized last  
21 page of your packet. The number of trust  
22 fund sites that received no further action  
23 status thus far for the fiscal year was  
24 five. The number of -- and this is not on  
25 this sheet. But the number of potential



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1 trust fund sites that were reviewed and made  
2 eligible during the current fiscal year was  
3 ten. And that represents ten active  
4 incidences.  
5 Additional points of interest. The  
6 trust fund staff is continuing to review our  
7 calculation methods for determining the --  
8 the expenditure obligations against the  
9 fund. We are currently working with our IT  
10 group to help us develop new reports and  
11 tools to assist in our monthly  
12 determinations. It was our hope that these  
13 tools -- new tools would be in place for  
14 this board meeting and we would be able to  
15 present revised obligation numbers, starting  
16 with the first quarter of this year.  
17 However, as with any endeavor involving  
18 historical records, data anomalies often are  
19 found and need to be addressed.  
20 We have been working to resolve these  
21 issues and are now striving to develop new  
22 protocols for our monthly determinations.  
23 You'll notice a decrease in the total  
24 number of active sites from last quarter's  
25 report and an increase in the listed non-cap

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1 obligation numbers. The reduction in the  
2 active site count is a result of our review  
3 of these sites, as part of these date  
4 anomalies and their current status. Thirty  
5 plus previously active sites were found to  
6 be closed by the remediation staff more than  
7 a year ago, but were still active in our  
8 system. The trust fund staff closed these  
9 in our data system, which resulted in an  
10 increase in the average site closure cost.  
11 This adjustment represented a portion of the  
12 increase of the non-cap obligation amounts.  
13 The remaining non-capped increase was  
14 due to the modification of the trust fund to  
15 ETF transfer estimates. The trust fund to  
16 ETF transfer amounts were reviewed -- are  
17 reviewed annually and are based upon the  
18 last two years of transfers. This annual  
19 estimate was increased from 2.8 million to  
20 3.2 million dollars a year, resulting in a  
21 total increase on a five year average -- or  
22 five year estimate from 14 million to 16  
23 million, which you saw under Fran's report.  
24 Revised statute 2195.a.5 and 2195.10.d  
25 state that the advisory board shall review

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1 the financial responsibility requirements  
2 for sites in and out of compliance on an  
3 annual basis and may recommend to the  
4 secretary adjusting these requirements. At  
5 this time, the trust fund does not have any  
6 recommendation to the board relating to any  
7 modifications to the current financial  
8 responsibility dollar amounts.  
9 That concludes my report. Do ya'll  
10 have any questions?  
11 MR. GAUBERT:  
12 I have one question.  
13 MR. JEFF BAKER:  
14 Yes, sir.  
15 MR. GAUBERT:  
16 As you go through this data change and  
17 have better data and more accurate data and  
18 a tool to analyze what's going on, it seems  
19 to be working so far in helping clean up  
20 some -- some of the books, you know,  
21 already. Do you anticipate, when you  
22 incorporate this data, any other adjustments  
23 besides the 32 sites that you -- that were  
24 closed that were not updated? Is there any  
25 financial obligation that -- that we should

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1 be aware of, potential financial obligation  
2 that we should be aware of, based on the --  
3 any other financial obligation, besides what  
4 you've already mentioned by use -- by the  
5 use of this data?  
6 MR. JEFF BAKER:  
7 The new method that we're looking at -  
8 - the reason we're going this direction is  
9 because there were a number of sites that  
10 were not being incorporated into the  
11 obligation process, a number of sites.  
12 These sites included sites that we had  
13 determined to be eligible but had not, as of  
14 this point, requested reimbursement from the  
15 fund. Until they requested reimbursement,  
16 they were not included in that obligation.  
17 However, we had deemed them to be eligible,  
18 and they were eligible for additional funds  
19 to be applied to them. So these were not  
20 being included in the obligation  
21 calculations. They will now be included in  
22 those obligation calculations, when we get -  
23 - when we move forward with this new  
24 process, the new protocol.  
25 Do you have another question?

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1 MR. MILAZZO:  
2 Well, that -- that would just -- you  
3 would encumber some liability if those now  
4 have some consideration in the future that -  
5 - that could be called upon, right?  
6 MR. JEFF BAKER:  
7 Yes, sir.  
8 MR. MILAZZO:  
9 You don't know that it will, but --  
10 MR. JEFF BAKER:  
11 Yes, sir.  
12 MR. MILAZZO:  
13 -- it could.  
14 MR. JEFF BAKER:  
15 We don't know, but --  
16 MR. MILAZZO:  
17 And so the records are going to now  
18 reflect that.  
19 MR. JEFF BAKER:  
20 Yes, sir. Yes. There are some sites  
21 that are not currently being considered as  
22 potential obligations that truly do have an  
23 obligation against them. And we're trying  
24 to incorporate them into our calculations.  
25 MR. MILAZZO:

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1 So the numbers that we see today don't  
2 necessarily reflect that?  
3 MR. JEFF BAKER:  
4 They do not --  
5 MR. MILAZZO:  
6 Okay.  
7 MR. JEFF BAKER:  
8 -- reflect those additional sites.  
9 MR. MILAZZO:  
10 So they -- so there could be a jump in  
11 liability, right?  
12 MR. JEFF BAKER:  
13 There will be an increase. Hopefully,  
14 like I said, next -- the next board --  
15 MR. MILAZZO:  
16 Yes.  
17 MR. JEFF BAKER:  
18 -- meeting, we will be able to give  
19 you those numbers. And there --  
20 MR. MILAZZO:  
21 So that -- I think that was your  
22 question.  
23 MR. GAUBERT:  
24 Yes.  
25 MR. IVEY:

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1 Would you eventually take them off the  
2 list if they don't submit a package within a  
3 certain time frame?  
4 MR. JEFF BAKER:  
5 What we're looking at is, is probably  
6 a two year window. If they have requested  
7 eligibility within two years and have not  
8 requested reimbursement yet, we will  
9 incorporate them into that calculation.  
10 Anything older than that, we will assume  
11 there's not going to be any additional cost.  
12 MR. GAUBERT:  
13 Any other questions?  
14 (No response.)  
15 MR. GAUBERT:  
16 Okay. Thank you.  
17 MR. JEFF BAKER:  
18 Does the board have -- the last point  
19 related to the board's making any  
20 recommendations as to the financial  
21 responsibilities. Does the board have any?  
22 MR. GAUBERT:  
23 You mentioned one criteria that you --  
24 I don't know where the criteria came from  
25 when -- when the question was just asked

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1 about when would the -- it -- it'd go -- it  
2 not be considered as part of a financial --  
3 a future financial obligation, at what time  
4 point. And you mentioned two years.  
5 MR. JEFF BAKER:  
6 Yes, sir.  
7 MR. GAUBERT:  
8 And where did the -- and how did you  
9 come up with the two year --  
10 MR. JEFF BAKER:  
11 The two years is based upon the  
12 statute requirement that anything older than  
13 two years, the trust fund is not required to  
14 pay.  
15 MR. GAUBERT:  
16 Is that the statute that --  
17 MR. JEFF BAKER:  
18 The statute -- if -- if the work is  
19 done prior to two years from the time they  
20 submit the application, the trust fund is  
21 not required to pay it. So that's where we  
22 came up with that number.  
23 MR. IVEY:  
24 And you just use -- I mean, they can  
25 still submit one, even three years later.

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1 MR. JEFF BAKER:  
2 Yes, they could.  
3 MR. IVEY:  
4 And --  
5 MR. GAUBERT:  
6 It would be reincorporated back --  
7 MR. IVEY:  
8 Right.  
9 MR. GAUBERT:  
10 -- into --  
11 MR. JEFF BAKER:  
12 Right. Yes.  
13 MR. IVEY:  
14 Right.  
15 MR. GAUBERT:  
16 That was my question. Any other  
17 questions?  
18 (No response.)  
19 MR. GAUBERT:  
20 I don't see any other issues, Jeff, at  
21 this point.  
22 So you don't look like Perry Theriot.  
23 MS. CARTER:  
24 No, I'm not.  
25 MR. GAUBERT:

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1 But if you don't mind, Ms. Jill, to  
2 give us the third party claims.  
3 MS. CARTER:  
4 There's no change in the current  
5 status of our current third party claims.  
6 But we do have a new claim. And there are  
7 two claimants. And I'm just going to spell  
8 their names. The first claimant has three  
9 names. F-E-N-G. Second name, J-I-N. Third  
10 name, T-E-N-G. And the second person that's  
11 plaintiff is A-I-J-I-N. And the second name  
12 is C-H-E-N. And the suit is versus DEQ and  
13 John Wilbourne and Beverly Wilbourne. And  
14 that's a pending claim. We're waiting on AG  
15 compliance right now.  
16 MR. GAUBERT:  
17 These -- that entity with the  
18 particular names that you just read off,  
19 they have sued DEQ?  
20 MS. CARTER:  
21 Yes. And John Wilbourne and Beverly  
22 Wilbourne. It's a third party claim.  
23 MR. GAUBERT:  
24 Okay. Is that three -- that's three  
25 different new suits?

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1 MS. CARTER:  
2 No, no, no. I just spelled it out  
3 because I can't pronounce these names. It's  
4 two different persons that are the  
5 plaintiffs that have sued --  
6 MR. GAUBERT:  
7 One suit, two persons as the  
8 plaintiff.  
9 MS. CARTER:  
10 Right.  
11 MR. GAUBERT:  
12 So maybe an owner and a tank owner or  
13 something of that sort?  
14 MS. CARTER:  
15 Say that again.  
16 MR. GAUBERT:  
17 An owner -- a store owner and an  
18 underground tank owner and possibly a  
19 tenant?  
20 MS. CARTER:  
21 I can't remember if --  
22 MR. MILAZZO:  
23 Or is this an adjacent property owner?  
24 MS. CARTER:  
25 I think the plaintiff is an adjacent

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1 property owner and the defendant is a store  
2 owner maybe. I can't remember right off the  
3 top of my head. But I think the plaintiff  
4 is the adjacent property owner.  
5 MR. GAUBERT:  
6 Adjacent property owner. That --  
7 that's why it would be third party --  
8 MS. CARTER:  
9 Yes. A third party claim.  
10 MR. GAUBERT:  
11 -- a third party claim.  
12 MS. CARTER:  
13 Right.  
14 MR. GAUBERT:  
15 Do you have an idea of what type of  
16 numbers that suit --  
17 MS. CARTER:  
18 We are right in -- they just filed  
19 suit and we're waiting on AG concurrence  
20 before we can even answer the petition. So  
21 we're just in the very beginning stages of  
22 it. No discovery has been conducted. We  
23 can't move forward until we get concurrence  
24 from the AG.  
25 MR. GAUBERT:

1 Okay. Any questions for Ms. Jill?  
2 (No response.)  
3 MR. GAUBERT:  
4 Thank you.  
5 Other business. Any other business to  
6 be brought before the board?  
7 MS. ISAACKS:  
8 What are the dates of the meetings for  
9 2015?  
10 MR. JEFF BAKER:  
11 We have them pulled together but we  
12 have not got -- we can send them out to  
13 ya'll.  
14 MS. ISAACKS:  
15 Okay. Thank you.  
16 MR. JEFF BAKER:  
17 I don't have them off the top of my  
18 head, but we will send them to you.  
19 MS. ISAACKS:  
20 Okay. Because we have to make, you  
21 know, changes and all.  
22 MR. JEFF BAKER:  
23 Absolutely.  
24 MS. ISAACKS:  
25 Thank you.

1 (A brief recess followed while the board  
2 went into executive session.)  
3 MR. GAUBERT:  
4 So just to continue where we left off,  
5 we were on other business. The -- the only  
6 other item that I know of on the -- on other  
7 business is that we'll have a -- Louisiana  
8 Oil Marketers is going to assign two  
9 additional board members for the -- for next  
10 -- for the next two year term. And that'll  
11 be -- we don't have those names just yet,  
12 but those will be announced at the next  
13 meeting.  
14 MR. MILAZZO:  
15 So you and Keith will return for one  
16 last meeting, or is this officially --  
17 MR. GAUBERT:  
18 This is -- this is -- as far as I  
19 know, this is it. This is -- this is our  
20 last meeting, Keith and myself. It -- there  
21 was -- we've each served two -- you can  
22 serve two terms and then you have to --  
23 MS. ISAACKS:  
24 Two consecutive.  
25 MR. GAUBERT:

1 MR. GAUBERT:  
2 The pending lawsuit, is there any  
3 update that -- on the pending lawsuits, the  
4 --  
5 MR. MILAZZO:  
6 Companies that have -- that kind of  
7 double-dipped.  
8 MS. CARTER:  
9 I think we need to make a move to go  
10 into executive session --  
11 MR. FULTON:  
12 Yes. We that -- we have to --  
13 MS. CARTER:  
14 -- to discuss that.  
15 MR. FULTON:  
16 Yes, to discuss that. Yes.  
17 MR. GAUBERT:  
18 Okay.  
19 MR. MILAZZO:  
20 So moved.  
21 MR. GAUBERT:  
22 So we're going to go into executive  
23 session. We're going to have to ask all of  
24 the audience that are not members of the  
25 board to give us a few minutes.

1 Yes, to consequent terms. You have to  
2 get off for at least one term and then you  
3 can come back on if you -- after that. So -  
4 - but we'll have to -- we'll see if we can  
5 get Wes out of the weeds and get him back  
6 again.  
7 MR. IVEY:  
8 Do we need to elect a new chair?  
9 MR. GAUBERT:  
10 Yes. The January -- at the January  
11 meeting.  
12 MR. IVEY:  
13 Okay.  
14 MR. GAUBERT:  
15 Or, first quarter meeting, we would  
16 have to elect a new chair.  
17 MR. MILAZZO:  
18 Well, let me offer special thanks to  
19 you, Grady, and to Keith who's not here  
20 today. And -- you have very generously  
21 given your time, not just here but, you  
22 know, on a lot of fronts. And on behalf of  
23 our association and -- and really the  
24 industry as a whole. So I personally want  
25 to thank you and really appreciate all

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1 you've done.  
 2 MR. GAUBERT:  
 3 Thank you, John. And I've enjoyed my  
 4 -- my time here, four years. You know,  
 5 we've had a lot of fun. I think we got a  
 6 lot accomplished with -- with Sam. I see  
 7 Sam sitting in the audience today. He -- he  
 8 hasn't been at every meeting, but --  
 9 MR. FULTON:  
 10 I finally got him back.  
 11 MR. GAUBERT:  
 12 You got -- you got him back. But we  
 13 did -- we did an awful lot of work on the  
 14 implementation of the -- the --  
 15 MR. BROUSSARD:  
 16 Energy Act.  
 17 MR. GAUBERT:  
 18 The Energy Act, yes. The -- the three  
 19 -- the three things I think that's working  
 20 pretty good. We -- during my four years, we  
 21 formed a Louisiana Compliance Service and --  
 22 and we're doing the training, Class A, B and  
 23 C operators. DEQ's doing the red tags and  
 24 the --  
 25 MR. BROUSSARD:

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1 And the secondary --  
 2 MR. GAUBERT:  
 3 -- and the secondary containment. We  
 4 updated the guidance document. So we've  
 5 done a lot over the last few years and I  
 6 want to thank all of you guys for your --  
 7 for your commitment and your involvement in  
 8 the trust fund. We certainly appreciate it.  
 9 I do think we have one of the best trust  
 10 funds in the nation. And I hope I was able  
 11 to continue on and hand off that legacy to  
 12 the next -- the next guys. So thank ya'll.  
 13 MR. FULTON:  
 14 Thank you.  
 15 MR. MILAZZO:  
 16 I'd like to offer a motion to adjourn.  
 17 MR. IVEY:  
 18 Second.  
 19 MR. GAUBERT:  
 20 All in favor.  
 21 (All indicated "aye".)  
 22 MR. MILAZZO:  
 23 Let's go home.  
 24 THE MEETING ADJOURNED AT 1:59 P.M.  
 25 \* \* \* \* \*

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1 REPORTER'S PAGE  
 2 I, Lori B. Overland, Certified Court  
 3 Reporter, in and for the State of Louisiana, the  
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 22 # 97083  
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 3 and for the State of Louisiana, as the officer  
 4 before whom this testimony was taken, do hereby  
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 8 hereinbefore set forth in the foregoing pages, that  
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 14 been prepared in compliance with transcript format  
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 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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