## In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST FUND

MEETING November 17, 2016

Associated Reporters, Incorporated 225-216-2036

Original File Trust1.txt
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MC	TOR FUELS UNDERGROUND STORAGE TANK TR	USI	FUND November 17, 2010
	Page 1	T	Page 3
1 2 3		1	INDEX
3	STATE OF LOUISIANA	2	EXAMINATION: PAGE(S):
4	DEPARTMENT OF ENVIRONMENTAL QUALITY	3	None
5	MOTOR FUELS UNDERGROUND STORAGE TANK TRUST	4	
6	FUND ADVISORY BOARD	5 6	EXHIBITS:
7		7	None
8		8	REPORTER'S PAGE 9
9		و ا	REPORTER'S CERTIFICATE 10
10		10	
. 11		11	* * * * *
12	The above-entitled meeting was held at the	12	
14	LDEO, Galvez Building, Conference Center, 602 North 5th Street, Baton Rouge, Louisiana,	13	
15	beginning at 1:08 p.m., on November 17, 2016.	14	
16		15	·
17		16	
18		17	
19	BEFORE:	18	
20	Lori B. Overland Certified Court Reporter	19	•
21	In and For the State of Louisiana	20	
22		21	
23		23	
24		24	
25		25	
1	Page 2		Page 4
1	APPEARANCES	1	* * * *
2	Kerry Hill	2	MR. HILL:
3 4	Chairman	3	Good morning, Ladies and Gentlemen.
5	Durwood Franklin Jeff Baker Gary Fulton	4	Thank everybody for making the meeting
6	Cy Morin Johnny Milazzo	5	today. I think bear with me. This is
7	Perry Theriot Nick St. Romain	6	the first I've seen of this. I left town before my packet came in. I think what the
8	Steve Burnham Roger Bright	7 8	order roll of order, the first thing
وا	Theresa Chatelain	9	we're going to do is call our first quarter
10	Melissa Vizinat Sam Broussard	10	fiscal year 2017 meeting to order. At this
11	Jason Efferson Shawn_King	11	time, I'd like to have a roll call and
12	Trey Kemp Randi Stump	12	consideration and adoption of the May 19,
13	Natalie Isaacks Todd Perry	13	2016 board minutes. And then we can have a
14	* * * *	14	discussion about that. Before we do that
15		15	I think we're going to do that by the way.
16		16	MR. THERIOT:
17	•	17	Perry Theriot, Louisiana Department of
18	+	18	Environmental Quality Legal Staff. MR. FRANKLIN:
19	<u>'</u>	19 20	Durwood Franklin, DEQ Trust Fund.
20	į	21	MR. BAKER:
21	,	22	Jeff Baker, DEQ Trust Fund.
22		23	MR. FULTON:
123		24	Gary Fulton, DEQ Underground Storage
24			
24 25		25	Tank Remediation Division.

		I OK I O	_رند	S CHARGOODIAD STOKAGE TANK TKOST R	TAIO
		Page 5		. Pi	age 7
1	MR. BURNHAM:		1	quarter fiscal year 2017 meeting to order.	
2	Steve Burnham, Engineering Associates.		2	MR. THERIOT:	
3	MR. BRIGHT:		3	Before we move to there, just to bring	
4	Roger Bright, Jones Environmental.		4	the board up to date. As a result of the	
5	MR. HILL:		5	flooding, of course, we were not able to	
6	Kerry Hill with Louisiana Oil		6	have one of the meetings.	
7	Marketers.		7	MR. HILL:	
8	MR. MILAZZO:		8	Right.	
9	Johnny Milazzo, Louisiana Oil		9	MR. THERIOT:	
10	Marketers.	1	LO	The statute does require the four	
11	MR. MARCELLO:		.1	meetings for the fiscal year. So it was	
12	Frank Marcello, Louisiana Oil		2	decided to have a quick meeting to comply	
13	Marketers.	1.	.3	with the statute and any discussions that we	
14	MR. ST. ROMAIN:		.4	might have and then move to the next	
15	Nick St. Romain, Louisiana Oil		.5	required meeting. So you need to adjourn	
16	Marketers.		.6	the prior meeting before you move to the	
17	MS. CHATELAIN:		.7	second meeting.	
18	Theresa Chatelain, DEQ Financial		.8	MR. HILL:	
19	Services.	I	.9	I see that. I skipped item four. I	
20	MR. MORIN:		0	apologize.	
21	Cy Morin, DEQ Audit.		1	May I hear a motion to adjourn the	
22	MS. VIZINAT:	ľ	2	first meeting that was missed because of the	
23	Melissa Vizinat, DEQ Trust Fund.		.3	flood?	
24	MS. ISAACKS:	I '	4	MR. BURNHAM:	
25	Natalie Isaacks, Louisiana Oil	- 1	5	Motion to adjourn.	
	<b>,,</b>	-	_	Motion to adjourn.	
	F	Page 6		Pa	ge 8
- - <u>1</u> -	Marketers.		1	MR. HILL:	<b>3-</b> -
2	MR. PERRY:		2	Do I hear a second?	
3	Todd Perry, PPM Consultants.	1	3	MR. MORIN:	
4	MR. BROUSSARD:		4	Second.	
5	Samuel Broussard, Louisiana UST	ľ	- <u>-</u> -	MR. HILL:	
6	Division.		6	Okay. Thank you.	
7	MR. KING:	ı ı	7	THE MEETING ADJOURNED AT 1:12 P.M.	
8	Shawn King, Jones Environmental.			*****	
9	MR. EFFERSON:		8		
10	Jason Efferson, DEQ Trust Fund.		9		
11	MR. KEMP:	10			
12	Trey Kemp, DEQ Trust Fund.	11:			
13	MS. STUMP:	11			
14	Randi Stump, DEQ Trust Fund.	1:			
15	MR. HILL:	14			· [
16	Okay. Thank you for the roll call.	1!			- }
	At this time, I'd like a motion to adopt the	110			Ì
117	and annot be a moriou to adobt me	11			
17 18	minutes	18	ರ		- 1
18	minutes. MR MARCELLO	i i	_		I
18 19	MR. MARCELLO:	119			
18 19 20	MR. MARCELLO: Mr. Chairman, so moved.	1! 20	0		
18 19 20 21	MR. MARCELLO: Mr. Chairman, so moved. MR. MILAZZO:	19 20 21	0 1		
18 19 20 21 22	MR. MARCELLO: Mr. Chairman, so moved. MR. MILAZZO: Second.	19 20 21 22	0 1 2		
18 19 20 21 22 23	MR. MARCELLO: Mr. Chairman, so moved. MR. MILAZZO: Second. MR. HILL:	19 20 21 22 23	0 1 2 3		
18 19 20 21 22	MR. MARCELLO: Mr. Chairman, so moved. MR. MILAZZO: Second.	19 20 21 22	0 1 2 3		

Page 9 REPORTER'S PAGE 1 I, Lori B. Overland, Certified Court 2 3 Reporter, in and for the State of Louisiana, the 4 officer, as defined in Rule 28 of the Federal 5 Rules of Civil Procedure and/or Article 1434(b) 6 of the Louisiana code of Civil Procedure, before 7 whom this sworn testimony was taken, do hereby 8 state on the Record That due to the interaction in the 10 spontaneous discourse of this proceeding, dashes 11 (--) have been used to indicate pauses, changes 12 in thought, and/or talk overs; that same is the 13 proper method for a Court Reporters's 14 transcription of proceeding, and that the dashes 15 (--) do not indicated that words or phrases have 16 been left out of this transcript; That any words and/or names which could not 17 be verified through reference material have been 18 19 denoted with the phrase "(inaudible)." 20 Lori Overland, C.C.R. 21 #97083 22 23 24 25 Page 10 1 CERTIFICATION 2 I, Lori B. Overland, Certified Court Reporter in 3 and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that the above referenced individual to whom oath was administered, after having been duly sworn by me upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing pages, that 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 Lori Overland C.C.R. 25 # 97083



MOTOK FOELS OND	DERGROUND STORAGE	TAIK IKOSI FUND		November 17, 201
	comply (1)	4:10;7:1,11		
A	7:12	five (1)	K	N
	consideration (1)	6:25		
able (1)	4:12	flood (1)	KEMP (2)	names (1)
7:5	Consultants (1)	7:23	6:11,12	9:17
adjourn (3)	6:3	flooding (1)	Kerry (1)	Natalie (1)
7:15,21,25	course (1)	7:5	5:6	5:25
	7:5	four (2)	KING (2)	need (1)
ADJOURNED (1)	Court (2)	7:10,19		7:15
8:7	9:2,13	Frank (1)	6:7,8	•
adopt (1)		5:12		next (1)
6:17	Cy (1) 5:21	FRANKLIN (2)	L _	7:14
adoption (1)	3:21			Nick (1)
4:12	D	4:19,20	Ladies (1)	5:15
and/or (3)	D	FULTON (2)	4:3	number (1)
9:5,12,17		4:23,24	left (2)	6:25
apologize (1)	dashes (2)	Fund (6)	4:6;9:16	
7:20	9:10,14	4:20,22;5:23;6:10,	Legal (1)	0
Article (1)	date (1)	12,14	4:18	<del></del>
9:5	7:4		Lori (2)	officer (1)
	decided (1)	l G	9:2,21	9:4
Associates (1)	7:12		Louisiana (9)	Oil (5)
5:2	defined (1)	Gary (1)		5:6,9,12,15,25
Audit (1)	9:4	4:24	4:17;5:6,9,12,15,25;	
5:21	denoted (1)	Gentlemen (1)	6:5;9:3,6	one (1)
		4:3	3.5	7:6
В	9:19		M	order (4)
	Department (1)	Good (1)		4:8,8,10;7:1
BAKER (2)	4:17	4:3	making (1)	out (1)
4:21,22	DEQ (9)		4:4	9:16
bear (1)	4:20,22,24;5:18,21,	H	MARCELLO (3)	Overland (2)
4:5	23;6:10,12,14		5:11,12;6:19	9:2,21
board (2)	discourse (1)	hear (2)	Marketers (5)	overs (1)
4:13;7:4	9:10	7:21;8:2	5:7,10,13,16;6:1	9:12
BRIGHT (2)	discussion (1)	hereby (1)	material (1)	
	4:14	9:7	9:18	P
5:3,4	discussions (1)	HILL (9)	1	
bring (1)	7:13	4:2;5:5,6;6:15,23;	May (2)	manifest (1)
7:3	Division (2)	7:7,18;8:1,5	4:12;7:21	packet (1)
BROUSSARD (2)	4:25;6:6	7.7,10,0.1,5	meeting (9)	4:7
6:4,5		I	4:4,10;7:1,12,15,16,	pauses (1)
BURNHAM (3)	due (1)	<b>X</b>	17,22;8:7	9:11
5:1,2;7:24	9:9		meetings (2)	Perry (3)
	Durwood (1)	inaudible (1)	7:6,11	4:17;6:2,3
C	4:20	9:19	Melissa (1)	phrase (1)
	_	indicate (1)	5:23	9:19
call (4)	E	9:11	method (1)	phrases (1)
4:9,11;6:16,25		indicated (1)	9:13	9:15
	EFFERSON (2)	9:15	might (1)	PM (1)
came (1)	6:9,10	interaction (1)	7:14	8:7
4:7	Engineering (1)	9:9		7
ean (1)	5:2	ISAACKS (2)	MILAZZO (3)	PPM (1)
4:13	•		5:8,9;6:21	6:3
CCR (1)	Environmental (3)	5:24,25	minutes (2)	prior (1)
9:21	4:18;5:4;6:8	Item (2)	4:13;6:18	7:16
Certified (1)	everybody (1)	6:25;7:19	missed (1)	Procedure (2)
9:2	4:4	_	7:22	9:5,6
Chairman (1)		$\dashv$ J	MORIN (3)	proceeding (2)
6:20	F		5:20,21;8:3	9:10,14
changes (1)		Jason (1)	morning (1)	proper (1)
2 , ,	Federal (1)	6:10	4:3	9:13
0.11	9:4	Jeff (1)	motion (3)	7.13
9:11		4:22	6:17;7:21,25	Q
CHATELAIN (2)	Financial (1)		1 0.17.1.71 73	
CHATELAIN (2) 5:17,18	Financial (1)	l l		
CHATELAIN (2) 5:17,18 Civil (2)	5:18	Johnny (1)	move (3)	
CHATELAIN (2)	5:18 first (4)	Johnny (1) 5:9	move (3) 7:3,14,16	Quality (1)
CHATELAIN (2) 5:17,18 Civil (2)	5:18	Johnny (1)	move (3)	

November 17, 2016	<del>-                                    </del>	MOTOR FUL	103 0141	DERGICO C.	ND STOKA	GE TANK	TKUST	עאטצ
4:9;7:1 quick (1) 7:12	Storage (1) 4:24 STUMP (2)	Y		·				
R	6:13,14 sworn (1) 9:7	ya'll (1) 6:24 year (3)						
Randi (1) 6:14	T	4:10;7:1,11						
Record (1)	1							
9:8	talk (1)	1						
reference (1) 9:18	9:12	1:12 (1)						
Remediation (1)	Tank (1) 4:25	8:7						
4:25	testimony (1)	1434b (1) 9:5	•					
Reporter (1) 9:3	9:7	19 (1)				1		
Reporters's (1)	Theresa (1) 5:18	4:12				ł		
9:13	THERIOT (4)	2				1		
require (1) 7:10	4:16,17;7:2,9	<del></del>						
required (1)	thought (1) 9:12	2016 (1)						
7:15	today (1)	4:13 2017 (2)	İ					
result (1) 7:4	4:5 Todd (1)	4:10;7:1				-		
Right (1)	6:3	28 (1) 9:4						
7:8	town (1)	9.4						
Roger (1) 5:4	4:6 transcript (1)	9						
roll (3)	9:16	07002 (1)				1		
4:8,11;6:16	transcription (1)	97083 (1) 9:22				[		
ROMAIN (2) 5:14,15	9:14 Trey (1)							
Rule (1)	6:12		•					•
9:4 Rules (1)	-Trust-(6)	_				-l		
9:5	4:20,22;5:23;6:10, 12,14							
S	Ü		·	·····-				· · · · · · · · · · · · · · · · · · ·
same (1) 9:12	Underground (1) 4:24	ы						
Samuel (1) 6:5	up (1) 7:4							
Second (5)	used (1)					ļ		
6:22,25;7:17;8:2,4 Services (1)	9:11 UST (1)							
5:19	6:5		l					
Shawn (1) 6:8	V	7				1		
skipped (1) 7:19			·					
spontaneous (1)	verified (1) 9:18					ĺ		
9:10	VIZINAT (2)		ļ				•	
ST (2) 5:14,15	5:22,23							
Staff (1)	W							
4:18 State (2)	way (1)	7						
9:3,8	4:15							
statute (2)	words (2)		].					
7-10 12								
7:10,13 Steve (1)	9:15,17							

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 1:08 p.m., on November 17, 2016.

BEFORE:

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

ASSOCIATED REPORTERS, INC.

(225) 216-2036

#### APPEARANCES

Kerry Hill Chairman

Durwood Franklin
Jeff Baker
Gary Fulton
Cy Morin
Johnny Milazzo
Perry Theriot
Nick St. Romain
Steve Burnham
Roger Bright
Theresa Chatelain

Melissa Vizinat Sam Broussard Jason Efferson Shawn King Trey Kemp Randi Stump Natalie Isaacks Todd Perry

## I N D E X

EXAMINATION:	PAGE(S)

None

EXHIBITS:

None

REPORTER'S PAGE 9
REPORTER'S CERTIFICATE 10

\* \* \* \* \*

1 ,	* * * *
2	MR. HILL:
3	Good morning, Ladies and Gentlemen.
4	Thank everybody for making the meeting
5	today. I think bear with me. This is
6	the first I've seen of this. I left town
7	before my packet came in. I think what the
8	order roll of order, the first thing
9	we're going to do is call our first quarter
10	fiscal year 2017 meeting to order. At this
11	time, I'd like to have a roll call and
12	consideration and adoption of the May 19,
13	2016 board minutes. And then we can have a
14	discussion about that. Before we do that
_15	I think we're going—to do that by the way.
16	MR. THERIOT:
17	Perry Theriot, Louisiana Department of
18	Environmental Quality Legal Staff.
19	MR. FRANKLIN:
20	Durwood Franklin, DEQ Trust Fund.
21	MR. BAKER:
22	Jeff Baker, DEQ Trust Fund.
23	MR. FULTON:
24	Gary Fulton, DEQ Underground Storage
25	Tank Remediation Division.

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1
          MR. BURNHAM:
 2
                 Steve Burnham, Engineering Associates.
 3
          MR. BRIGHT:
 4
                Roger Bright, Jones Environmental.
 5
          MR. HILL:
 6
                Kerry Hill with Louisiana Oil
 7
          Marketers.
          MR. MILAZZO:
 8
 9
                Johnny Milazzo, Louisiana Oil
10
          Marketers.
11
          MR. MARCELLO:
12
                Frank Marcello, Louisiana Oil
13
          Marketers.
14
          MR. ST. ROMAIN:
                Nick St. Romain, Louisiana Oil
15
16
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17
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18
          Services.
19
          MR. MORIN:
20
21
                Cy Morin, DEQ Audit.
22
          MS. VIZINAT:
                Melissa Vizinat, DEQ Trust Fund.
23
          MS. ISAACKS:
24
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Natalie Isaacks, Louisiana Oil

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1
          Marketers.
 2
          MR. PERRY:
                 Todd Perry, PPM Consultants.
          MR. BROUSSARD:
                 Samuel Broussard, Louisiana UST
 6
          Division.
 7
          MR. KING:
 8
                 Shawn King, Jones Environmental.
 9
          MR. EFFERSON:
10
                 Jason Efferson, DEQ Trust Fund.
11
          MR. KEMP:
12
                 Trey Kemp, DEQ Trust Fund.
13
          MS. STUMP:
14
                 Randi Stump, DEQ Trust Fund.
          M-R . H-T-I-I-
16
                Okay. Thank you for the roll call.
          At this time, I'd like a motion to adopt the
17
18
          minutes.
19
          MR. MARCELLO:
20
               Mr. Chairman, so moved.
21
          MR. MILAZZO:
22
                Second.
23
          MR. HILL:
24
                Okay. Thank ya'll.
25.
                Item number five, call for the second
```

```
quarter fiscal year 2017 meeting to order.
 1
 2
          MR. THERIOT:
                Before we move to there, just to bring
 3
          the board up to date. As a result of the
 4
          flooding, of course, we were not able to
 5
          have one of the meetings.
 6
 7
          MR. HILL:
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                Right.
          MR. THERIOT:
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                The statute does require the four
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11
          meetings for the fiscal year. So it was
12
          decided to have a quick meeting to comply
13
          with the statute and any discussions that we
14
          might have and then move to the next
          required meeting. So you need to adjourn
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          the prior meeting before you move to the
16
          second meeting.
17
          MR. HILL:
18
19
                I see that. I skipped item four.
                                                    I
          apologize.
20
21
                May I hear a motion to adjourn the
22
          first meeting that was missed because of the
          flood?
23
24
          MR. BURNHAM:
```

Motion to adjourn.

1	MR. HILL:
2	Do I hear a second?
3	MR. MORIN:
4	Second.
5	MR. HILL:
6	Okay. Thank you.
7	THE MEETING ADJOURNED AT 1:12 P.M
8	* * * *

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	Coul had
21	Lori Overland, C.C.R.
22	# 97083

1	CERTIFICATION
2	I. Lori B. Overland, Certified Court Reporter in
3	and for the State of Louisiana, as the officer
4	before whom this testimony was taken, do hereby
5	certify that the above referenced individual to whom
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	Sou Chand
24	Lori Overland C.C.R.
25	# 97083

# In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST FUND

*MEETING*November 17, 2016

Associated Reporters, Incorporated 225-216-2036

Original File Trust1.txt
Min-U-Script® with Word Index

	ERGROUNDSTORAGE	THE TRUBE TO THE	<del></del>	November 17, 2
· <u> </u>	comply (1)	4:10;7:1,11		
A	7:12	five (1)	17	7.7
A	consideration (1)	6:25	K	N
	4:12	L		
able (1)		flood (1)	KEMP (2)	names (1)
7:5	Consultants (1)	7:23	6:11,12	9:17`
adjourn (3)	6:3	flooding (1)	Kerry (1)	Natalie (1)
7:15,21,25	course (1)	7:5	5:6	5:25
ADJOURNED (1)	7:5	four (2)		
8:7	Court (2)	7:10,19	KING (2)	need (1)
	9:2,13	Frank (1)	6:7,8	7:15
dopt (1)				next (1)
6:17	Cy (1)	5:12	L	7:14
doption (1)	5:21	FRANKLIN (2)		Nick (1)
4:12		4:19,20	Ladies (1)	5:15
nd/or (3)	D	FULTON (2)	4:3	number (1)
9:5,12,17	<del></del>	4:23,24	,	
pologize (1)	dashes (2)	Fund (6)	left (2)	6:25
	9:10,14		4:6;9:16	
7:20		4:20,22;5:23;6:10,	Legal (1)	0
Article (1)	date (1)	12,14	4:18	
9:5	7:4		Lori (2)	officer (1)
ssociates (1)	decided (1)	G	9:2,21	9:4
5:2	7:12		<b>—</b>	
\udit (1)	defined (1)	Gary (1)	Louisiana (9)	Oil (5)
	9:4		4:17;5:6,9,12,15,25;	5:6,9,12,15,25
5:21		4:24	6:5;9:3,6	one (1)
	denoted (1)	Gentlemen (1)		<del>-</del>   7:6
В	9:19	4:3	M	order (4)
	— Department (1)	Good (1)		4:8,8,10;7:1
BAKER (2)	4:17	4:3		
4:21,22	DEQ (9)		making (1)	out (1)
•		H	4:4	9:16
ear (1)	4:20,22,24;5:18,21,	[ <b></b>	MARCELLO (3)	Overland (2)
4:5	23;6:10,12,14		5:11,12;6:19	9:2,21
oard (2)	discourse (1)	hear (2)	Marketers (5)	overs (1)
4:13;7:4	9:10	7:21;8:2	5:7,10,13,16;6:1	9:12
BRIGHT (2)	discussion (1)	hereby (1)		9.12
_5:3,4	4:14	9:7	material (1)	
	discussions (1)	HILL (9)	9:18	· P
oring (1)			May (2)	
7:3	7:13	4:2;5:5,6;6:15,23;	4:12;7:21	packet (1)
ROUSSARD (2)	Division (2)	7:7,18;8:1,5	meeting (9)	4:7
6:4,5	4:25;6:6		4:4,10;7:1,12,15,16,	pauses (1)
URNHAM (3)	due (1)	I	17,22;8:7	9:11
5:1,2;7:24	9:9			
J.1,2,7.24	— Durwood (1)	inaudible (1)	meetings (2)	Perry (3)
C	4:20	9:19	7:6,11	4:17;6:2,3
C	4.20		Melissa (1)	phrase (1)
	_	indicate (1)	5:23	9:19
all (4)	E	9:11	method (1)	phrases (1)
4:9,11;6:16,25		indicated (1)	9:13	9:15
ame (1)	EFFERSON (2)	9:15	1	
4:7	6:9,10	interaction (1)	might (1)	PM (1)
	Engineering (1)	9:9	7:14	8:7
nn (1)			MILAZZO (3)	PPM (1)
4:13	5:2	ISAACKS (2)	5:8,9;6:21	6:3
CR (1)	Environmental (3)	-  5:24,25	minutes (2)	prior (1)
9:21	4:18;5:4;6:8	Item (2)	4:13;6:18	7:16
ertified (1)	everybody (1)	6:25;7:19	missed (1)	•
9:2	4:4	<del>- '</del>		Procedure (2)
		J	7:22	9:5,6
hairman (1)	· F		MORIN (3)	proceeding (2)
6:20	<u> </u>	」 <b>.</b>	5:20,21;8:3	9:10,14
ianges (1)		☐ Jason (1)	morning (1)	proper (1)
9:11	Federal (1)	6:10	4:3	9:13
HATELAIN (2)	9:4	Jeff (1)	- I	7.1.7
5:17,18	Financial (1)	4:22	motion (3)	
	5:18	•	6:17;7:21,25	Q
ivil (2)		Johnny (1)	move (3)	
9:5,6	first (4)	5:9	7:3,14,16	Quality (1)
ode (1)	4:6,8,9;7:22	Jones (2)	moved (1)	4:18
				1 7.10
9:6	fiscal (3)	5:4;6:8	6:20	quarter (2)

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 1:13 p.m., on November 17, 2016.

#### BEFORE:

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

## ASSOCIATED REPORTERS, INC.

(225) 216-2036

#### APPEARANCES

Kerry Hill Chairman

Durwood Franklin
Jeff Baker
Gary Fulton
Cy Morin
Johnny Milazzo
Perry Theriot
Nick St. Romain
Steve Burnham
Roger Bright
Theresa Chatelain

Melissa Vizinat Sam Broussard Jason Efferson Shawn King Trey Kemp Randi Stump Natalie Isaacks Todd Perry

### INDEX

EXAMINATIO	N :	PAGE(S):
None	·	
EXHIBITS:		
None		
REPORTER'S	PAGE	78
REPORTER'S	CERTIFICATE	7 9

\* \* \* \* \*

```
1
 2
          MR. HILL:
                Now, let's have a call for the second
 3
          quarter fiscal year 2017 board meeting. I
 4
          assume we need a roll call.
 5.
 6
          MR. THERIOT:
 7
                We'll need a roll call.
 8
          MR. HILL:
                Could we have a roll call for today's
 9
10
          meeting?
          MR. THERIOT:
11
12
                Perry Theriot, LDEQ Legal Staff.
13
          MR. FRANKLIN:
14
                Durwood Franklin, DEQ Trust Fund.
          MR. BAKER:
15
                Jeff Baker, DEQ Trust Fund.
16
17
          MR. FULTON:
18
                Gary Fulton, DEQ.
          MR. BURNHAM:
19
                Steve Burnham, Engineering Associates.
20
          MR. BRIGHT:
21
22
                Roger Bright, Jones Environmental.
23
          MR. HILL:
                Kerry Hill, Louisiana Oil
24
25
          Marketers.
```

```
1
          MR. MILAZZO:
 2
                Johnny Milazzo, Louisiana Oil
 3
          Marketers.
 4
          MR. MARCELLO:
                Frank Marcello, Louisiana Oil
 5
 6
          Marketers.
 7
          MR. ST. ROMAIN:
                Nick St. Romain, Louisiana Oil
 8
          Marketers.
10
          MS. CHATELAIN:
11
                Theresa Chatelain, DEQ Financial
12
          Services.
13
          MR. MORIN:
14
                Cy Morin, DEQ Audit.
15
          MS. VIZINAT:
                Melissa Vizinat, DEQ Trust Fund.
16
17
          MS. ISAACKS:
                Natalie Isaacks, Louisiana Oil
18
19
          Marketers.
20
          MR. PERRY:
21
                Todd Perry, PPM Consultants.
22
          MR. BROUSSARD:
23
                Samuel Broussard, Louisiana DEQ UST
24
          Division.
25
          MR. KING:
```

```
1
                Shawn King, Jones Environmental.
 2
          MR. EFFERSON:
 3
                Jason Efferson, DEQ Trust Fund.
          MR. KEMP:
 4
 5
                Trey Kemp, DEQ Trust Fund.
 6
          MS. STUMP:
                Randi Stump, DEQ Trust Fund.
 7
 8
          MR. HILL:
 9
                Okay. Thank ya'll.
                At this time, we'll ask Cy Morin to
10
11
          bring us up to date on the audit status
12
          report.
13
          MR. MORIN:
                Yes, sir. Good afternoon. If you'll
14
15
          turn to tab six. The first two pages of
16
          this report detail 32 open motor fuel audit
17
          cases.
18
                One case has been paid in full and is
          being prepared for closure. We collected
19
20
          $47.61 on this case.
                Twenty-four cases are awaiting review.
21
22
          In our review, we have one potential
          credit of $579.61 and two potential
23
24
          assessments, totaling $634.74. And 21
          potential clean audits with no assessments.
25
```

1	Five cases are still in progress with
2	results to be determined. And two cases are
3	in the report writing phase. One has a
4	potential credit of approximately \$3,200 and
5	one is potentially clean with no assessment.
6	One fiscal year '17 case on the second
7	page, it was postponed around the time of
8	the flood due to an illness. It will be
9	rescheduled after the first of the year.

Since the last meeting, seven new cases have been added to this list and six cases have been closed and removed from the list.

Of those removed, one was clean and five were assessed a total of \$13,749.69, all of which was paid in full.

And if you don't mind, turn to page three of the report.

The department continues to pursue four of these cases legally. The fifth case on this list has recently been paid in full.

The first case -- for the first case, the status conference has been set for November 28th and this will be used to set a trial date and discovery deadlines.

1.5

The business in the second case

continues to send in monthly payments. The

last payment was received on November 9th in

the amount of \$250.00. Legal is prepared

to send this -- send a 60 day notice to

initiate referral to ODR if payments stop.

The status remains the same for the third case. It's been with ODR collections since October 14, 2015. We have not received any payments from ODR as of November 8th.

The fourth case is a case that has been paid in full. It was paid in full November 9th and is being prepared for closure.

There's been no change in the fifth case. The file is ready for referral to ODR. This one was held up -- I'm told by legal, it was held up by a conversion that ODR was going through and the flood. So this should be taken care of in the very near future.

And as you can see on this page, the five -- the four remaining legal cases represent a total outstanding amount of

```
1
          $119,723.30.
 2
                That concludes the audit report.
          MR. MILAZZO:
 3
 4
                Cy, I may have asked this question
 5
          before, but are any of these companies still
 6
          in business?
 7
          MR. MORIN:
 8
                     You did ask that, I believe, in
 9
          the last meeting.
          MR. MILAZZO:
10
11
                Yes.
12
          MR. MORIN:
13
                The company that -- to my knowledge
14
          that is still open is the one that has paid
15
          in full.
16
          MR. MILAZZO:
17
                Okav.
18
          MR. MORIN:
19
                The other four companies are not
20
          operating as motor fuel distributors, to my
21
          knowledge. There's still litigation with
22
          the corporations and stuff ongoing. So I
23
         can't really speak to the status of the
24
          corporations, but they are no longer
25
          operating as motor fuel distributors in the
```

```
1
          state.
 2
          MR. MILAZZO:
 3
                Okay.
 4
          MR. HILL:
 5
                Thank you, Cy. Does anybody else have
 6
          anymore questions or discussions related to
 7
          the audit?
 8
          (No response.)
 9
          MR. HILL:
10
                If not, we'll go to item number seven,
11
          the financial services report. And we'd
12
          like to ask Theresa to deliver that.
          MS. CHATELAIN:
13
                All right. If ya'll turn to tab
14
15
          seven, which corresponds to our agenda item,
16
          I have the fiscal year 2016 ending
          information in the lefthand box and then the
17
18
          end of the first quarter of fiscal year 2017
          financial information in the box on the
19
20
          right-hand side of the page.
21
                Final receipts as of -- for fiscal
22
          year 2016 were just under 26 million, with
          total disbursements of 13.7 million. So the
23
24
          cash balance was 93 million at the end of
          the year. When you deduct out the liability
25
```

1 on the current sites, that left us with an 2 unobligated balance of 14 million. 3 And then fast forward to the end of 4 the first quarter of 2017, which was 5 September 30th. We have total receipts 6 to date of 5.8 million. Total disbursements 7 of 2.9 million. And we're looking at a cash 8 balance of 91 million when you net out the 9 liability of the current sites of about 82 10 million, that leaves you with 9 million 11 unobligated. 12 If you'll turn to the second page, 13 this has the projected numbers for 2017 and 14 2018, giving you what the program balance 15 will be and that'll be the transfer to the 16 environmental trust fund. It's the 17 difference between the revenue available for 18 the program and the program expenditures. 19 So we're projecting right around five 20 million for both 2017 and 2018 in the 21 transfer to the environmental trust fund. 22 And if ya'll have any questions? 23 MR. MARCELLO: 24 I do.

MS. CHATELAIN:

```
1
                Okav.
 2
          MR. MARCELLO:
                We have a cash balance fund of 93
 3
          million and you have liability or
 4
 5
          obligations totaling 79 million. And that
 6
          is how many sites?
 7
          MS. CHATELAIN:
                Jeff?
          MR. BAKER:
 9
                It ranges anywhere from 270 to 300,
10
          depending upon the -- it has kinda
11
12
          fluctuated that -- from those numbers in the
13
          last year or so.
          MR. MARCELLO:
14
15
                Do you have an average?
16
          MR. BAKER:
17
                Not off the top of my head.
18
          MR. MARCELLO:
19
                Okav.
          MR. BAKER:
20
21
                I would guess --
22
          MS. CHATELAIN:
23
                285.
24
          MR. BAKER:
                -- 280, somewhere in -- 280 to 290,
25
```

```
1
          somewhere in there.
 2
          MR. MARCELLO:
 3
                280,000 average, per site?
 4
          MR. BAKER:
 5
                Oh, no. No. You're talking about
 6
          cost?
 7
          MR. MARCELLO:
 8
                Yes. I'm talking about -- I'll do the
          math, but 93 million -- I'm sorry. 79
10
          million in obligations on 280 sites as an
11
          example.
12
          MR. BAKER:
13
                Okay. I thought you were talking
14
          about average number of sites. No. I mean,
15
          our average closure costs on those sites
16
          ranges -- at the end of the fiscal year, it
17
          was --
18
          MR. MARCELLO:
19
                It -- it -- I'm coming up with about
20
          332,000 per site --
21
          MR. BAKER:
22
                On --
23
          MR. MARCELLO:
24
                -- average.
25
          MR. THERIOT:
```

### DEPARTMENT OF ENVIRONMENTAL QUALITY

```
There are additional costs besides the
 1
 2
          cost per site. Okay. Those are the
 3
          directly reimbursed cost.
 4
          MR. MARCELLO:
 5
                Right.
 6
          MR. THERIOT:
 7
                There are other costs the department
          maintains that are also figured into the
 8
          obligated balance, I would imagine. But I
 9
          would defer to the Theresa.
10
11
          MR. BAKER:
                Well, our average closure costs ranges
12
          around $300,000. You know, and that -- but
13
          that includes all sites --
14
15
          MR. MARCELLO:
16
                Right.
          MR. BAKER:
.17
                -- the high dollar sites and low
18
          dollar sites. But the obligation
19
          calculation, if you'd go back through and
20
          look -- we -- we'll get to that in my
21
22
          section --
23
          MR. MARCELLO:
24
                Yes, sir.
          MR. BAKER:
25
```

```
1
                -- you'll see that that actually
 2
          encompasses a number of categories including
 3
          what Perry is talking about, transfers and
 4
          other things.
 5
          MR. MARCELLO:
 6
                Okay.
 7
          MR. MILAZZO:
                You know, that is a good question.
 8
          Jeff, when you look at 280 sites and
 9
10
          forecast and predicting some value for
11
          cleanup, is that because of knowledge of
12
          each site or is this just some average, a
13
          historical number, that you march forward
          with? Are those 280, call them, active
14
15
          sites, is that based on information coming
16
          from what the environmental companies, your
17
          team -- is there something fairly precise
          about that number?
18
19
          MR. BAKER:
20
                Well, the answer to that question is
21
          yes. It's site specific, but it's also
22
          kinda of an average.
23
          MR. MILAZZO:
24
                Okay.
```

MR. BAKER:

1	The sites that we've done corrective
2	action plans on, the RACs have come in to us
3	and told us, this is what we expect these to
4	cost.
5	MR. MILAZZO:
6	And that's that number?
7	MR. BAKER:
8	And that's part of that calculation.
9	MR. MILAZZO:
10	Okay.
11	MR. BAKER:
12	The rest of them that we're still
13	kinda in the investigation phase, we don't
14	have anything telling us what site specific
15	that number would be. So what we do is, we
16	come up with an average closure cost and we
17	apply that average closure cost to those
18	sites because we just don't know.
19	MR. MILAZZO:
20	Okay. So in that case, your number
21	would be appropriate, but so 280, is that
22	the total number of sites some you have
23	are already in remediation, some you might
24	just be looking at but 280, does that
25	really represent all the sites that you know

```
1
          about?
 2
          MR. BAKER:
 3
                That represents the sites that are
 4
          currently receiving reimbursements --
 5
          MR. MILAZZO:
 6
                Okav.
 7
          MR. BAKER:
 8
                -- from the trust fund.
 9
          MR. MILAZZO:
10
                Okay. So there's been some work that
11
          you guys have agreed it's eligible and
12
          there's some reimbursement in the process.
13
          So there's a whole other group that you
14
          haven't even got to that number yet.
15
          MR. BAKER:
                Yes, sir.
16
17
          MR. MILAZZO:
18
                Any idea what that number may be like?
19
          MR. BAKER:
20
                It varies. You also have a category -
21
          - we include this in the obligation -- of
22
          ones that have requested eligibility from us
23
          but yet they haven't requested
24
          reimbursement. And I think the last
25
          quarter, when I looked at the numbers, those
```

```
were about 20 sites. And you have a chunk
 1
 2
          of sites that have we have incidents for
          that have never requested eligibility. And
 3
 4
          there out there too. I'd say that's -- how
          many active incidents do we have right now?
 5
 6
          MR. FULTON:
                About 400 or so. 400 or 500.
 7
          MR. MILAZZO:
 8
 9
                Wow.
10
          MR. HILL:
                Why would you think they hadn't asked
11
          for everything? They don't think they're
12
          qualified or --
13
          MR. FULTON:
14
                But that's a total number of
15
          incidents. You could have a diesel spill or
16
17
          gas spill or --
          MR. HILL:
18
            Oh, okay.
19
          MR. FULTON:
20
                You could have two -- two diesel
21
          spills, two gas spills --
22
          MR. BURNHAM:
23
24
                Right.
          MR. FULTON:
25
```

```
1
                -- on one site. You know, multiple.
 2
          That's the way we track that information, so
 3
 4
          MR. BAKER:
 5
                And some cases, they'll come and
 6
          they'll -- basically, when they work a RAC,
 7
          they'll determine that the assessment is
 8
          going to be less than the current deductible
 9
          amount. And as such, they don't even
10
          request eligibility.
11
          MR. HILL:
12
                I understand.
13
          MR. FULTON:
14
                We handle quite a few of those.
15
          MR. BURNHAM:
16
                And they have two years to do so; is
17
          that correct?
18
          MR. FULTON:
19
                Yes.
20
          MS. CHATELAIN:
21
                Anything else?
22
          MR. HILL:
23
                Are we through with that?
24
          MR. MARCELLO:
25
                No.
```

MR. HILL: 1 2 Does that answer your question, 3 Johnny? 4 MR. MILAZZO: 5 Well, it does, because -- and I don't 6 want this to sound like an interrogation, 7 but there was a meeting yesterday -- and even though I'm no longer on the board, you 8 9 know, a bunch of calls come in because they know my roll here today and ongoing. And it 10 just wouldn't be fair for me not to have 11 really -- a much better and deeper 12 understanding so I can provide better 13 information going back. Because when you 14 15 look at this on the surface, I quess there's some good news here, right? If you look at 16 the high 715 active sites, today, 280 sites. 17 So there's certainly double-wall systems, a 18 lot of progress being made. I think there's 19 20 a lot of concern for escalation of cost, I think. And you look at these cleanups where 2.1 22 we were, where we are and where we may be headed, there's just a lot of questions 23 24 coming in. And I think being part of this board -- me personally speaking. I don't 25

1	speak for anybody else I probably need to
2	do a better job of understanding the total
3	role here and being able to provide greater
4	feedback, with better understanding. So I
5	think that's a big part of it, because those
6	questions are coming up, looking at cost
7	then and cost today, and understanding, one,
8	there's there's a cleanup process where I
9	think remediation standards have been
10	softened some and yet cost seems to still be
11	escalating for two reasons. One, cost in
12	the field and then whatever cost associated
13	with the DEQ administratively. So I'm
14	I'm just trying to wrap my brain around it,
15	Jeff, to better understand it. It just
16	looks like on the per site, that number just
17	just keeps ratcheting up, where we were
18	thinking with higher standards, cost would
19	be rolling back. Does that make sense?
20	I think, Nick, you brought up a great
21	point a little bit earlier. And if you look
22	at it more scientifically, I guess
23	MR. ST. ROMAIN:
24	Yes. The amount of dollars
25	transferred to the fund, say back in '08,

```
'09 versus today has escalated.
                                            So it's
 1
 2
          about double. But the number of active
          sites has gotten cut in three. So it's a --
 3
          if you look at the transfer to fund divided
 4
 5
          by the number of active sites, it's
          quadrupled, the cost per site, in the last
 6
 7
          less than ten years, eight years.
          MR. THERIOT:
 8
 9
                Theresa, you want to answer that one?
          I think that -- I think he might be
10
          talking about originally, the administrative
11
          expenses were not included in that
12
          calculation. That's the reason why it
13
14
          appears to jump but it really didn't.
          MS. CHATELAIN:
15
                It was low for years because we didn't
16
          include the --
17
          MR. THERIOT:
18
19
                Yes, it was low for years because we -
20
21
          MS. CHATELAIN:
                -- total overhead.
22
23
          MR. THERIOT:
                -- didn't include it. And now it
24
          is included in the total overall picture.
25
```

So while it appears to have gone up, it just more truly reflects what we're doing. And EPA's money has dropped. I mean, there's no question that EPA's money has dropped while expenses continue to rise. And so those are covered by the fund and always have been really, because the statute authorizes it.

MR. MILAZZO:

1

2

3

4

5

6

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17

18

19

20

21

22

23

24

25

Well, my response to that, I think the optics are this: you know, what does it look like? You know, if we were having fair comparisons, in all due respect to the department, you know, when you look at those who are generating this revenue or have the responsibility, you know, for collection and getting it in, you get a lot of folks asking questions, well, can you guys explain that, you sit on this board with a responsibility, give us answers. And without that fair comparison, there's not a good answer. That's -- so if you can help us maybe -- and not stop what you're doing. But that does help that -- because when you look at it here, you know, it's -- it's 3,000 versus 13,000 per site. So -- and we're just

1	talking about the DEQ administrative part of
2	that. But if it's not fair because in 2007,
3	or 2008 or 2005 or 2006, you guys didn't
4	report it that way, then we got the
5 .	scales not
6	MR. THERIOT:
7	Some of that was moving here. A lot
8	of people don't understand that state
9	agencies paid for these buildings. Okay.
10	Every building that you see downtown, the

Every building that you see downtown, the payments for them are credited to the agency that occupies them. It's much like a commercial arrangement. So some of that, we didn't use to account for, now we have to in the budgets. It's a little -- it's a little bit different than it use to be. The statute requires us, I think, if you -- in the statute that we truly reflect much like an insurance company would do, when a claim comes in, whether the claim is actually viable or not, when it gets here, we have to set aside funds. That's what insurance companies are required to do on their accounting sheets. And so when we get a

request for eligibility, we have to know a

1	certain amount of funds are going to be
2	available to pay if that eventual liability
3	under accounting principles. And so we
4	those things have been in those
5	accounting principles are being incorporated
6	into what we do here. And those that
7	was a recent development. Theresa you maybe
8	know more than I do when they began imposing
9	that that accounting requirement. I
10	remember when they talked about it, but
11	MS. CHATELAIN:
12	No.
13	MR. THERIOT:
14	we now use that accounting method
15	that truly accounts for cost.
16	MS. CHATELAIN:
17	Right. And
18	MR. BAKER:
19	And also
20	MS. CHATELAIN:
21	Go ahead.
22	MR. BAKER:
23	Also, you know, part of our transfer
24	of funds is, we have to incorporate our
25	revenue coming in. Our revenue coming in

```
includes EPA grants and whatnot. And those
 1
 2
          fluctuate year to year as well. And that
          can also have an effect. And it has, I
 3
 4
          think, gone down some.
 5
          MR. FULTON:
 6
                About eight percent.
 7
          MR. MILAZZO:
                So is it fair to say, if you lose that
 8
 9
          source of revenue, then that -- this is what
10
          it's coming from?
          MS. CHATELAIN:
11
12
                Yes.
          MR. THERIOT:
13
                That would be correct.
14
15
          MR. BAKER:
                Yes, sir.
16
17
          MR. MILAZZO:
                Okay. I mean, that's good to know
18
          because it's -- it's hard to explain some of
19
20
          this stuff when it just looks like
          arbitrarily, you know, it's this today and
21
          there's nothing relative about it because if
22
          you look at the sites and you say, well,
23
          sites would drive budget, it's disconnected.
24
          MR. BAKER:
25
```

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Well, and I will tell you this as
 1
 2
          well, the number of sites in the past years,
 3
          when I first started, we went through and
 4
          did a data analysis of the active sites.
 5
          And a large chunk of the sites we had in our
          system at the time had actually been NFA'd
 7
          and closed years and years before. And we
          went through and cleaned those up in our
 8
 9
          data system. However, they were still
10
          showing up on our reports.
11
          MR. MILAZZO:
12
                So you could have an exaggeration of
          sites that --
13
14
          MR. BAKER:
15
                Yes.
16
          MR. FULTON:
17
                That -- that is -- we spent the last
18
          three years --
19
          MR. MILAZZO:
20
                Okay.
21
          MR. FULTON:
22
                -- cleaning up our data systems. Yes.
23
          MR. MILAZZO:
24
                Well, I guess it's fair to say, we're
25
          building better averages today?
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MR. FULTON:
 1
 2
                Yes.
          MR. BAKER:
 3
 4
                Yes, sir.
 5
          MR. THERIOT:
                More accurately reflect what's
 7
          actually going on.
          MR. FULTON:
 8
                And we spend a lot of time doing it.
 9
          MR. BAKER:
10
11
                Absolutely.
          MR. MARCELLO:
12
                Which brings up the question that I
13
          had. I had -- I had sent an email to Karyn.
14
15
          I was requesting some information and I was
          wondering if we -- it was just for me.
16
17
          MS. CHATELAIN:
                Yes.
18
19
          MR. MARCELLO:
20
                I didn't -- I didn't want to report on
21
          anything. Okay.
22
          MR. HILL:
                Are there anymore questions or
23
          discussions around the financial report?
24
          MR. MILAZZO:
25
```

1 I'd just like to say thanks for 2 explaining it to me. Truly, I didn't want 3 it to sound like an interrogation, but I need a better understanding. 4 MR. HILL: 5 6 Okay. We will -- if no further 7 discussion on the financial report, we will 8 move to number eight, the trust fund status report. I'd like to ask Jeff to report on 9 10 that for us, please. 11 MR. BAKER: 12 If ya'll would go to tab eight in your 13 packets. We're going to kinda split my 14 report up. We're going to do this kinda of 15 a real quick and dirty on the end of fiscal 16 year 2016 and then we'll cover the first 17 quarter of 2017. 18 If you'll look at the first page 19 there, you'll notice that during the fiscal 20 year of 2016, the trust fund received 1000 21 applications, totaling \$15,724,270. At the 22 close of this fiscal year, the trust fund 23 had 138 pending applications, with 912 24 applications processed for payment, totaling

\$12,847,679. And we had 67 applications

25

If you'd go to the next page, the tables on this page kinda give you an overview of the commutative activities of

that were returned with deficiencies.

5 the trust fund over the last several years

6 and it shows you how fiscal year 2016

7 compares to the previous years.

If you go to the next page, this kinda gets to the calculation that you were talking about, Johnny, and the different categories. And if you'll look, as of the end of fiscal year 2016, the total obligation from all the categories was \$79,224,055.

If you go to the next section, next page, it's entitled, reports of activities for the first quarter of fiscal year 2017.

As of September -- the end of September of 2016, the trust fund had 143 pending applications, which have requested amounts totaling, \$1,728,185. 186 applications were processed for payment during the fiscal year, totaling \$2,632,951. And 37 applications were returned with deficiencies.

Again, if you'd flip the page, the table on -- this table gives you a comparison of the current fiscal year to the previous fiscal year. Obviously, we've only covered a portion of that year, so you'll see the differences there.

If you'll flip to the next page, this is entitled, report of cumulative activate — I'm sorry — the monthly motor fuel trust fund obligation determination with September 30th at the top. This worksheet list the various component determination of the potential obligations against the trust fund as of the end of September 2016. For sites in the corrective action phase, the outstanding liability of corrective action plan and budget estimated cost to reach closure as of the end of September 2016 was \$25,714,755. This total includes the CAP budgets remaining amounts and the RAC estimated cost to closure.

Johnny, that was the section where we were talking about, that is site specific, where we know there's a corrective action plan and what those cost are.

The next section, the fund obligation recognized for sites without ROG approved CAP budget is \$31,363,325. This is determined by using a three year average site closure cost, applying these cost to the average trust fund sites without current CAP budgets.

The fund obligation recognized for sites that are determined to be trust fund eligible, however, have not submitted reimbursement applications is \$3,186,100. This is also determined by using three year average site closure cost, applying these costs to the sites that have requested eligibility and have yet not submitted a request for reimbursement from the fund.

The five year projected fund obligation related to the motor fuel trust fund -- I'm sorry -- related to transfers from the motor fuel trust fund to the environmental trust fund is \$18,624,277. This estimate uses a three year average dollars transferred from the motor fuel trust fund to the environmental trust fund and multiplies this average by an estimated

five years.

The total component categories show a -- correlate the quarterly obligation amount of \$81,888,457.

Some points of interest. The trust fund is continuing to work on the revised guidance document. A workgroup of stakeholders met on November 1, 2016 to discuss the draft document and began the review process. During this meeting, the members had a high level review of the draft document and discussed a number of issues. Several breakout groups were formed to begin working on various projects. We hope to have a final document ready for the board's review sometime in the first half of the next calendar year.

Another point of interest. It was brought to the department's attention, during a recent audit, that the revised obligation process that we just went over, was presented and discussed by the board in a previous board meeting, but was not officially approved by the board. The department request the board consider the

1	revised method as a viable and accurate net
2	tool for determining the potential
3	obligations against the trust fund moving
4	forward.
5	Does anybody have any questions?
6	MR. HILL:
7	Thank you, Jeff. Does anybody have
8	any questions?
9	MR. ST. ROMAIN:
10	One question. What determines the
11	annual transfer from motor fuel trust fund
12	to the environmental trust fund?
13	MR. BAKER:
14	What we do is we take the last three
15	years of transfers and we take that money,
16	we average average those three transfer
17	costs on an annual basis and come up with a
18	single value and multiply that times
19	MR. ST. ROMAIN:
20	But how do you come up with those
21	annuals transfers? What what triggers
22	those? Do they fluctuate?
23	MR. BAKER:
24	They do fluctuate. Those are the
25	numbers we were talking about earlier. We

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1
          get that from the accounting group.
 2
          MS. CHATELAIN:
 3
                Yes. It's the difference between the
 4
          program revenue that is available for
 5
          department expenditures and the total
          department expenditures. So the revenue is
 7
          2.6 million but the expenditures were 7.5.
          So the additional 4.9 has to be transferred
 8
 9
          back to ETF, because ETF spent the money for
10
          the program.
11
          MR. ST. ROMAIN:
12
                Okay.
13
          MR. HILL:
14
                Any other questions?
15
          MR. FULTON:
16
                Like -- well, I just wanted to -- I
17
          guess the question regarding the revised
18
          method, I'd like to make a motion that we
19
          accept the revised method. I quess, were
20
          ya'll fine with the revised method?
21
          MR. MILAZZO:
22
                For reporting?
23
          MR. FULTON:
24
                Yes.
25
          MR. BAKER:
```

For obligation --1 2 MS. CHATELAIN: 3 For the obligation --4 MR. FULTON: For the obligations against the fund, 5 the -- the new revised method. 6 7 MR. BAKER: We discussed this about a year ago and 8 we sent out the backup documentation and --9 and it was a good discussion with the board 10 in the board meeting. However, it was never 11 voted by the board for approval. 12 MR. FULTON: 13 We never officially voted. 14 15 MR. MILAZZO: I'm comfortable with it. 16 17 MR. HILL: I'm -- I'm fine with it. We need to -18 19 MR. FULTON: 20 So I make a motion to accept. 21 22 MR. HILL: -- make a motion to accept. 23 MR. FULTON: 24 25 I do. I'm going to make a motion to

```
1
          accept.
 2
          MR. HILL:
 3
                We have a motion to accept the new
 4
          revised --
 5
          MR. MILAZZO:
 6
                Second.
 7
          MR. HILL:
                All in favor?
 8
 9
          (All indicated "aye".)
          MR. HILL:
10
11
                All right. So moved.
12
                We will move on to agenda item number
13
          nine, third party claim status. I'd like to
          ask Mr. Perry to bring us up to date.
14
15
          MR. THERIOT:
16
                We have one new case. And it was
17
          filed within the past month. And it was a
18
          second case involving AT&T, BellSouth, for a
19
          manhole that, as a result of a release from
          a nearby UST, sustained damage to the
20
21
          communications equipment. They filed suit
22
          against us. This is our second one like
23
          that. It will likely settle, as the first
24
          one did, because the -- the statute is such
25
          that they don't own the manhole cover, nor
```

1	do they own the land that the manhole cover
2	sits on. It's usually a servitude and what
3	we don't the fund doesn't mind settling
4	for what the statute refers to as un-
5	reimbursed cost of of remediation,
6	meaning events to get the manhole cover
7	fixed. We will not there's no permanent
8	damage to any property, which the statute
9	defines as real property that has been
10	permanently devalued. So if you don't own
11	it, it's not been devalued. So we
12	anticipate that one will settle for a minor
13	amount in the future. It's our second suit
14	by them, so they're going to get familiar
15	with it and we're liable to each time it
16	gets in a manhole, we're going to get a
17	lawsuit where they try to get some of their
18	cost back.
19	MR. BURNHAM:
20	Perry, AT&T filed suit against the
21	station and
22	MR. THERIOT:
23	The owner of the tank.
24	MR. BURNHAM:
25	then we defend the station.

1	MR. THERIOT:
2	Yes. The owner of the tank and the
3	secretary as administrator.
4	MR. BURNHAM:
5	Right.
6	MR. HILL:
7	Okay. If no further discussions on
8	that. Under agenda item number nine (a)
9	discussion of legislative changes for 2016
10	session.
11	MR. THERIOT:
12	That would also be me.
13	MR. HILL:
14	That would also be Perry.
15	MR. THERIOT:
16	I had originally planned to put this
17	on the screen but we're not able. So I'm
18	going to go through my notes here and I'll
19	just give an oral presentation.
20	Most everyone here knows about the
21	act, but it's just good to sum up what we
22	did come up with as the final. Let me take
23	a second and get my notes up.
24	Okay. Of course we had only we had
25	the bill that we worked on with the board

1	and and with everyone at session. And it
2	resulted in in Act 521, which we have in
3	effect today. When we got together, we
4	we had some discussions. But the problems
5	that the DEQ were wanting to fix with this
6	bill and we've been very I'm very glad
7	to see that the board has helped us in
8	securing some of these things. We have a
9	cap in this statute, of course, that caps
10	the amount of unobligated balance that will
11	trigger the cessation of the of the
12	collection of the fund and then return it
13	when you get back to a balance. And there
14	was only a \$10 million difference between
15	the two. So it would've been triggering the
16	on and off switch pretty quickly throughout
17	the year, which would've been kinda of a
18	nightmare. So one of the things that 521
19	did was to raise that cap so that we
20	wouldn't have the continual switch on.
21	We can still switch off now, but it won't
22	switch on and off as quickly as it would've
23	in the past.
24	There were a few other problems. One

of them was that the -- at one time, all the

25

major oil companies owned many of the stations and as all of you are aware of the double-dipping problem, many of -- many of the -- it is alleged that many of the major oil companies waited until the fund came into being and then filed their claims for releases after -- even though they knew they had releases prior to the adoption of the fund, or that they filed claims against their insurance companies while collecting from the fund for all their remediation.

The department along with the AG's office, of course, began the process of recovering that money.

We have recovered a significant amount of money from -- from these people and it would've immediately triggered the cessation of the collection had they been -- had this money been deposited directly into the motor fuel trust fund.

So we worked with the AG and we decided that we would put out that -- put the bill out to do a few things. We included a few what we considered to be reforms. We were having trouble in some of

the cases with the date of the release. So
we put a definition in for the date of
release that will make things a little bit
clearer to both the regulated community and
to us, which is, now, it's going to be -- if
we don't know an exact date, for instances,
your alarm goes off, we know the date, you
call it in. If we don't know the date,
which we find out a lot times from a real
estate transfer, it will be the date that
it's reported to us. And that's now clear.

We also were getting the -- the age of bio-fuels is coming. And they're going to be stored in UST's. I don't know if any of you saw the news last night, but the Navy now uses, I think, 40 percent bio-fuel for the entire United States Navy and their F-18's are flying on bio-fuel now. So the age is coming for it and we needed to be ready for it if it comes. Right now, before 521, a release from one of those, even though the contents of the tank would've been almost chemically identical, it would not be covered because they're bio-fuels. So we changed it to redefine motor fuels to

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allow the secretary along with the advisory board to declare some fuels to be motor fuels if they use -- if they otherwise meet the definition. And that will take care of it. If we ever need it, we have. And so we can get -- if you guys all of a sudden come out -- they come out with a bio-fuel that you're going to be placing in your UST's, you will be covered.

We also are experiencing an increase in abandoned and orphaned tanks within the That's not a secret. One of the state. things we did with Act 521 is, we allowed the secretary to -- we -- we have a lot of problems with people who don't have any money and then they close their stations and they can't even come up with deductibles, they can't pull their tanks. There's a lot of problems. So we're going -- the secretary can declare a tank an abandon tank for purposes of the fund. As you know, we were limited to the interests on the trust fund which has gotten okay. But we're now going to be able to draw on the funds from the cost recovery actions. So the money

that was coming back from the -- into the fund, we can use presumably to pay for some of these orphan tanks and get them out.

Because most of those orphan tanks did actually pay into the fund at one time.

Okay. We're also having problems with investigations not proceeding. That was one of the things we would've liked to have seen speed up. Sometimes we'll get a case and as Jeff said earlier, it's been two years and we don't have an investigation. So we don't even know what the liability is at the moment. We amended it and put into the act a two year time limit in these investigations. Currently, there's a letter that will be sent out to all new releases that will be telling them they have two years to get their investigation in.

There's also the possibility that any one that's -- it could be three years and been sitting in house, but the bill was effective August 1st. So now they have two years from August 1st to get that investigation in. We expect a few more investigations. The result of not doing the

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investigations is, we're not going to cover your tanks. Now, this is not a major change that some people believe it is. Under the statute, the department always had the right to declare your site to be not eligible if your delay caused the price of the cleanup to go way higher. Because the statute requires that we use the most economically efficient and timely way to cleanup the site. If you sit on the site for two, three, four years, there's no question that the plume is spreading and you're going to have to spend probably more money to clean So this was considered to be a reform that would be set that the regulated community would know, now when you have a release, you need to get your investigation done in two years.

We recently loss a motion for summary judgment in a district court -- I think I told ya'll about this in the last meeting that I was here -- where a district ruled that there were two caps on the fund, there was 1 million for remediation and 1 million for third party claims. We wanted to make

sure that that was not the case, because that would double the possible liability of the fund. So we -- when the amendment was passed, we made it clear that there's 1.5 million, because we raised the cap last year -- there's 1.5 million available for third party claims and remediation. We don't want the liability going to 3 million. So that was made clear.

We were having trouble -- they are very -- there's quite a lot of number of bulk dealers that we have that hold -- are holders of certificates. We are currently in the process of auditing these bulk dealers to find out who's still in business and who's not, because there was no -- there's nothing in the law that -- that discontinues their certificates. So we're looking at those things to find out who's still in business. And they're going to get letters that we're going to be canceling their certificates if they're not in business any longer.

Bulk dealers used to be required to have pipelines, tanks and quite a few other

things. And many bulk dealers don't have this anymore. Bulk dealers are closer to brokers than they are to the old fashioned bulk dealer that used to exist. So we redefined the bulk dealer to make sure that you didn't have to own any infrastructure. You just had to have a certificate and you had -- to be a bulk dealer, you had to meet the definition of a bulk dealer, which include brokers. So now everyone who brokers fuel is going to have to register as a bulk dealer.

We have new -- the new definition of the bulk facility, new definition of the date of release, new definition of motor fuels. We also tightened up on the fee structure. We have a lot of sites that transfer. This is a common problem up here. And we send invoices because guess what, the new owner doesn't fill out his new (inaudible) one, so we don't know that it's changed hands, but it's been changing hands all the time. And we send out a bill -- a fee bill to the guy who's listed in our records as the owner. They don't pay it

because they go, I don't own that anymore. 1 I'm not paying that. That's pretty -- not 2 3 unusual. Now, those people will be subject to what is basically the red tag. 4 don't pay your fees for the tanks, which are 5 very reasonable fees, they're not, you know, 6 it's -- it's -- what's it, \$59, or \$65, now, 7 8 I think? 9 MS. CHATELAIN: 60. 10 11 MR. THERIOT: Per tank. We're not going to let you 12 receive -- you're going to get put on the 13 red tag list and you will not get any fuel 14 until you pay those fees. Because it's not 15 fair to you guys paying the fees to have 16 guys out there not paying their fees. And 17 18 anybody who can afford the amount of tanks to drop a load of fuel into these tanks, has 19

So this is the new way of -- it's much similar to what we did back in 1998. Those of you who have been here a long time know that when they put the upgrade requirements in the tank world, if you didn't upgrade

bound to be able to afford that price.

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your tanks, you couldn't get fuel. So now, this will be, you got to pay your fees or you don't get fuel.

> We also wanted to establish a loan or grant program. We did not -- we went along, we said we don't really need the grants so we'll go with the loans. The Energy Act currently has a provision in it that allows the state to exempt -- the secretary of the DEQ can exempt any rural station out there if he believes that the station is not necessary to ensure fuel delivery to certain populations. That is in the Energy Act. That is federal law. So what we wanted -it's better to upgrade them than to close them in some cases. So we're not going to give it away, but we're going to take stations that might serve rural areas that, as everyone knows here, the economic viability of rural areas fueling stations is getting on a very close margin, if at So this will allow us to only use -not the fund but the recovered money. Only the recovered money, not the fund. In order to set up a loan program to enable these

people to upgrade their tanks, if they feel 1 2 so inclined to pay the loan and upgrade 3 their tanks. MR. HILL: 4 Perry, I assume that you'll go through 5 some motion or financial responsibility. 6 How does that work? 7 8 MR. THERIOT: We are -- we are -- the statute 9 requires us to do regulations, which you 10 guys will get to see before they're ever 11 12 sent anywhere. MR. HILL: 13 14 Okay. MR. THERIOT: 15 We're in the preliminary process. 16 That's not going to be easy to write 17 regulations for loan making. We're not a 18 loan making group. 19 We are going to try to borrow and look 20 at some of the loan regulations that are 21 22 used. Our rural water group over at DHH that loans money to small systems for 23 drinking water, we're going to look at 24 theirs and see if they can be adapted for 25

1	the use that we want to. We're not going to
2	loan out any money until we have
3	regulations.
4	Okay. And that is also restricted
5	only to the money we have recovered, not to
6	anything that's currently the fees
7	currently going into the fund.
8	MR. MILAZZO:
9	Could I ask a question
10	MR. THERIOT:
11	Sure.
12	MR. MILAZZO:
13	in the middle? So let's just use
14	an example. And, Cy, I'm going to go back
15	to your report for a second.
16	So a three tank location, \$180 a year,
17	if my math is right. But most importantly,
18	at eight tenths of a cent, we're talking
19	we're knocking on a door of about \$10,000 a
20	year, fee into that fund. So I'm not as
21	concerned about the guy that doesn't pay
22	that \$60. But that's your tracking
23	mechanism. But from an audit trail
24	standpoint, how do you know what that guy
25	that's paid his little \$180 might be doing

the balance of the year? Do you connect the 1 2 dots with him as a site -- registered site owner. You go back to folks like me who are 3 4 the collects -- the collection agent, submitting this for you. And if you were to 5 audit me, you took a -- I'm not really sure 6 7 what you do, but have. I guess you'd look at all these invoices and look at maybe some 8 9 balance sheet numbers. Do you ever go back 10 to the specific location? Because I'm 11 awfully --12

#### MR. THERIOT:

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I think I can answer and put your mind at ease, because what you're saying is a misconception in the industry. The tank owner does not owe the motor fuel trust fund fee. It has never owed it. It is owed by the bulk dealer, upon withdrawal from bulk. So no, we do not go out and audit the stations because they don't owe the fee. It's owed by the bulk dealer.

Now, we're not -- you know, we're not with our head in the sand. Of course, you're going to pass -- bulk dealers are going to pass the costs on. But legally

speaking, the only people who owe the fee are the bulk dealers.

MR. MILAZZO:

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Yes. And I -- and I get that. And I quess the point I want to make, Perry, is that, do you have a check and balance to that process? For instance, what are the total gallons, first? I guess for road purpose, you would think by and large it would be UST related. That's one number multiplied would say, are we collecting something close to this number? I just worry about -- and maybe I shouldn't be worried about anything. Right? I mean, it's -- it's what you guys are doing. just -- you know, I commend you guys. mean, you know, you're looking in all the right places, but if you just go to a guy and say, show me what you're doing. He may not be doing anything with five or six guys. MR. THERIOT:

Okay. The system is set up. And it is in the regs. There is a system that you're talking about. Sam who's here can tell you that when you pay your tank fee,

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1
          you receive a certificate that you're
          suppose to have posted at your station.
 2
          When an inspector goes out, which is about
 3
 4
          once every three years and that -- it's
          required by the Energy Act, once every three
 5
          years, that's the first thing they check, to
 6
          see if you have your certificate, okay, as a
 7
          -- as a gas. And that -- this -- the way
 8
          this was rewritten, is if you don't have
 9
          that certificate, okay, then they're going
10
          to look at not delivering fuel to your
11
          station. Okay. But that is part of the
12
13
          checks. And we also -- the regulations do
          require when a station changes hands, they
14
          have 90 days, Sam, to do the (inaudible)
15
16
          one?
               I think it's --
17
          MR. BROUSSARD:
                30.
18
          MR. THERIOT:
19
                30 days to do a new registration with
20
               And they're suppose to do it. There
21
          are many, many, many of our smaller stations
22
          that change hands regularly.
23
24
          MR. MILAZZO:
                Yes. Well, I heard you mention that.
25
```

```
1
          That's a challenge.
 2
                So -- so I can see the audit trail
 3
          there then. So if you go out to do -- and
 4
          pardon me, because I'm probably -- some
          folks are ready to go home, but this is a --
 5
 6
          if you go out and you're doing a three-year
 7
          inspection and reconciliation is a part of
          that, right? So I see you do 100,000
 Я
          gallons a month. Who's -- do you guys not
 9
10
          even look at that anymore?
11
          MR. THERIOT:
12
                No. The inspectors do not look at
13
          your --
          MR. MILAZZO:
14
15
                Okav. All right. Maybe I'll take
16
          that offline, but it's probably something --
17
          the guys that are --
18
          MR. THERIOT:
19
                I will tell you --
          MR. MILAZZO:
20
21
                -- doing a great job, that --
22
          MR. THERIOT:
23
                I will tell you that that is done in
          many states. But that is -- we're are
24
25
          unique in this state. And I think that it's
```

probably -- we're actually I think a little 1 better. But in most of the country, this 2 3 fee is collected by the Department of Revenue who collects your excise taxes too. 4 I have seen and requested a packet of the 5 forms that you have to fill out in those 6 7 states and they're about this thick. And 8 the -- only a small, one page of it, is 9 dedicated to the motor fuels underground storage tank trust fund, but you have to 10 11 fill out the whole thing. And -- and we attempted at one time to get permission from 12 the Department of Revenue here -- we 13 actually prepared a bill to allow them to 14 give us access to their excise tax figures 15 16 so that we could do a back audit. We -- we really did want to do that. Revenue has 17 18 been very protective of their information here and will not give it to us and actually 19 20 opposed us --21 MR. MILAZZO: Boy, that's a shame because that's a 22 great opportunity for you. It really is. 23 24 And it's surprising because you're one gigantic agency at the end of the day.

1	Lending, you know, hands to and I'm all
2	for for the audit. I mean, I I hope
3	you guys gather that. We want
4	accountability. We absolutely support
5	accountability. Pardon me for making a long
6	discussion out of that.
7	MR. THERIOT:
8	No. And we agree with you. And
9	that's one of the reasons for this change in
10	the bill, is to force those who are not
11	paying their fees, we're we're going to
12	take part of the action and then we don't
13	have fees, we're not sending out the
14	certificates. Okay. And if they don't have
15	a certificate, we would hope that the driver
16	goes in and checks that certificate before
17	he drops his fuel and makes sure that
18	they're a qualified user of the fuel.
19	But that's part of the system that's
20	set up to try and make sure. We're just
21	tightening up on it a little bit to make
22	sure that we're not bringing fuel to people
23	who are not willing to pay their fees.

MR. BROUSSARD:

25

And let me clarify. That's the annual

```
1
          fee.
 2
          MR. MILAZZO:
                No, I understand. Right, right.
 3
 4
          That's the thing that gives you information
 5
          about that site. That's what I'm stuck on
 6
          here is that, you have the evidence in your
 7
          hand. It's matching up -- that's only $180.
 8
          I'm chasing $10,000. That is -- that's my
 9
          point. How do we connect those two dots?
10
          More to come. Okay? We -- we'll take that
11
          offline, talk within our group. And maybe
          as you talk legislatively, bolting this
12
13
          thing together in future without putting the
14
          burden on you.
15
          MR. ST. ROMAIN:
16
                Are you can get the numbers from --
          MR. MILAZZO:
17
18
                Are you can get the numbers.
19
          MR. ST. ROMAIN:
20
                -- the Department of Revenue.
21
          MR. THERTOT:
22
                Well, that would be nice --
23
          MR. MILAZZO:
                And -- and I think that's where we go
24
          hand in hand with you to talk about
25
```

1	accountability for those who should be
2	paying and make gives you a clear path to
3	the information. That that's what we
4	want.
5	MR. THERIOT:
6	And our audit department would love to
7	see those figures from revenue to make sure
8	that they agree with the amount of gallons
9	that are being reported to us.
10	MR. MILAZZO:
11	Yes. So let let's count on some
12	more dialog and then maybe not in this
13	setting, but, you know, where we can really
14	throw some stuff to the board and see if it
15	sticks.
16	MR. THERIOT:
17	The other thing, of course, on
18	legislative developments that's probably
19	enough on the bill that we got passed, but
20	ya'll there is the resolution that
21	requires us to study AST's at the bulk
22	dealers for conclusion into the fund.
23	In that line, we've actually begun
24	preparing we have a draft. We're not

finished with it yet -- of a questionnaire,

1	because we're not even sure of the world
2	that we're dealing with. Because of
3	that's one of the things we talked about
4	earlier, about the cleaning up of the
5 .	database for the bulk dealers. We had a ton
6	of bulk dealers who don't even exist
7	anymore. We're working on a questionnaire
8	that we're going to send out for them to
9	fill out, because not everything that goes
10	into a bulk tank pays the fee. That's one
11	of the things we're going to have to know.
12	And so there's going to be a questionnaire
13	on, do you do this, do you do that, how much
14	duty free fuel do you sale through these
15	tanks? You guys are going to be asked to
16	provide us that information so that we can
17	do at least a little bit more research on
18	covering them. And then, you know, I would
19	recommend we're going to I know some
20	states do and so we're going to look to
21	see what other states are also doing on it.
22	But you've asked us to study it, and we're
23	going to study it and get back with you guys
24	at this board before we do anything else.
25	There is one other thing that I

```
1
          this is in other matters, dealing with --
 2
          well, it's not on the agenda, so I probably
 3
          should wait until we put it on the agenda.
          That'd probably be better. We can talk
 4
 5
          informally, but -- because it's not -- it's
 6
          a long range thing that I was exposed to at
 7
          a conference that I would really like to put
 8
          on the agenda and discuss at a later time.
          MR. MARCELLO:
 9
10
                Well, Perry, to -- to add to what
11
          you're talking about, I had two questions
          and -- or two concerns and one was that
12
13
          resolution. So a synopsis of what you said
14
          was, we will see --
          MR. THERIOT:
15
16
                You're going to see a questionnaire.
17
          MR. MARCELLO:
                -- a questionnaire.
18
          MR. THERIOT:
19
20
                Yes.
21
          MR. MARCELLO:
22
                Okay.
23
          MR. ST. ROMAIN:
24
                Related to those above ground storage
```

tanks.

```
1
          MR. THERIOT:
 2
                Yes.
 3
          MR. ST. ROMAIN:
 4
                I would imagine a good --
          MR. THERIOT:
 5
 6
                Related to above ground storage tanks.
 7
          MR. ST. ROMAIN:
                A good portion of those, I would bet
 8
 9
          are no longer being actively used, but could
          have --
10
11
          MR. THERIOT:
12
                That's what we would like to know.
13
          don't know that. We have no idea.
14
          MR. ST. ROMAIN:
15
                Would it cover contamination that
          happened here in the past, not just on an
16
17
          active site?
          MR. THERIOT:
18
                We don't know even how many above --
19
          because we've never regulated above ground
20
21
          storage tanks, this department doesn't have
22
          any idea how many there are. We don't even
23
          know.
24
          MR. MILAZZO:
                Only in a bulk plan operation?
25
```

```
1
          MR. ST. ROMAIN:
 2
                Right. Only in a bulk plan setting.
 3
          MR. THERIOT:
 4
                And that's -- that, as I -- I spoke to
 5
          ya'll personally, but that's one of the
 6
          challenges of doing this, is because it's
 7
          going to have to be tightly written.
 8
          the reason being is, the RACs, the major
 9
          fuel supplier, they would love to see their
10
          above ground tanks covered.
11
          MR. ST. ROMAIN:
12
                Right.
13
          MR. THERIOT:
14
                And so, we're going to have to work on
15
          this if we're going to get it done.
16
          going to have to be done very, very tightly
17.
          drawn is the way I like to put it.
18
          MR. HILL:
19
                I think it's fair to say they haven't
20
          paid -- those million gallon storage tanks
21
          haven't paid into the trust fund --
22
          MR. THERIOT:
23
                No, they don't.
24
          MR. HILL:
25
                -- in respect to what you just said.
```

1 MR. THERIOT: 2 That's right. They don't. MR. MILAZZO: 3 Perry, let me -- first of all, thank 4 you guys for any consideration in that. 5 6 But given the choice and, you know, when I hear the word, you know, loan program, 7 making funding available for some when 8 others, you know, provide their own path 9 forward, just something to think about --10 and I want to be careful because I'm not 11 sure of the position of -- of our own 12 organization. But the thought of building a 13 program that takes on environmental 14 responsibility to clean up something that's 15 different than what we have built this 16 program to do, simply because there may be 17 surplus, I think is the right environmental 18 responsibility, even with the risks of some 19 unknowns versus creating attractive funding 20 for those who might need financial support. 21 I -- I struggle with that. I don't think we 22 ever intended in meeting our financial 23

responsibility and the purpose of the UST

Trust Fund was to develop loan programs.

24

```
1
          That's just Johnny Milazzo speaking.
                                                  I want
 2
          to be careful, because I don't know if we've
 3
          got any consensus there yet, when we hear
 4
          loans. But I think of your world and your
 5
          department. I think what we're trying to do
 6
          in our responsibility to the environment.
 7
          think it's a much better tone when you start
 8
          taking on true environmental responsibility
 9
          and less financial -- making funding
10
          available to those who may destruct them.
          MR. THERIOT:
11
12
                Well, it -- it may be -- and ya'll
13
          will have to discuss this. We don't -- we
14
          don't have a consensus either. Okay.
1.5
          is --
16
          MR. MILAZZO:
17
                Yes. And thank you for including us
18
          in this kinda discussion.
19
          MR. THERIOT:
20
                But as to those tanks you're talking
21
          about, we can -- as to the loans, okay,
22
          those will not be available to closed
23
          stations which --
24
          MR. MILAZZO:
25
                Right.
```

```
1
          MR. THERIOT:
 2
                These would only -- I imagine there's
          not going to be a big world of these.
 3
 4
          -- I think the money we have recovered will
          be more than enough to cover the ones that
 5
 6
          we're thinking of. Okay. I -- I'm not sure
          of that, because it's -- who knows? But I
 7
          think that the money we've recovered is
 8
 9
          going to be a lot more than the amount it
10
          would take to do the loan program.
          MR. MILAZZO:
11
                My vote would be to think financial --
12
13
          I mean, environmental responsibility. And,
          you know, put yourself in the position of a
14
15
          millennial, a whole new world of
16
          responsibility.
17
          MR. THERIOT:
                Well, I think it's easy if you think
18
          about it. When you think about it, it is
19
          environmental because the whole basis for --
20
21
          MR. MILAZZO:
                Well, I guess it is. I don't --
22
23
          MR. THERIOT:
                -- it is, so that the fund won't have
24
25
          to spend money in the future.
```

```
1
          MR. MILAZZO:
 2
                Yes. I -- I'm just saying, those guys
 3
          have a responsibility. We all share the
 4
          same responsibly. It's a small percentage
 5
          that are asking for that. I don't know how
 6
          big it is, but --
 7
          MR. THERIOT:
 8
                It -- it --
 9
          MR. MILAZZO:
10
                You know, to be in the business,
11
          you've got to show up and -- and be
12
          prepared. That's all I'm saying.
13
          MR. THERIOT:
14
                There's two -- there's two states
15
          doing it, so if anybody wants to check into
16
          it, I always like to tell them there's two
17
          states that are already doing it. Colorado
          is doing it. And I believe it is North
18
19
          Dakota that is doing it. Two western
20
          states. Colorado also recovered the money
21
          from the major oil dealers and they're using
22
          it to upgrade rural stations.
23
          (An off-the-record discussion followed.)
24
          MR. FULTON:
25
                Well, they've got a long way to travel
```

between gas stations.

2 MR. THERIOT:

But that -- that's -- our program is not going to be a new program. We're going to take a look at Colorado's program and I think North Dakota. There are a couple of other states that are getting ready to do it as well. The idea being, it's better to upgrade them than to have them continue operating where they don't have to spend the money that everybody else is going to spend. Okay. I think that's kinda what's behind it.

MR. FULTON:

It's kinda of a prevention.

MR. THERIOT:

Yes. And -- and they -- it's not a good idea to having people driving 30 or 40 miles to go get their gas, if you can avoid it. And so nationwide, that would become quite a drain on our existing gasoline supplies that wouldn't ordinarily be there because before, they use to just go about five miles and get their gas. So that's the theory behind it.

```
1
          MR. MILAZZO:
                No. I understand.
 2
 3
          MR. THERIOT:
                We will see how it works out, but that
 5
          -- that's all open and that's all conjecture
 6
          because we're not going to -- we don't have
 7
          regulations yet. And the regulations, we're
          going to bring to you guys before they go
 8
 9
          anywhere.
10
          MR. MILAZZO:
11
                Right. And we share your concern as
12
          well. You're not -- you're not stepping on
13
          any --
          MR. HILL:
14
15
                Did you have one last question?
16
          MR. MARCELLO:
17
                Well, the second -- the second part of
18
          my question to you, Perry, was you -- you
19
          alluded to deductibles. And for the sake of
20
          conversation for the group, deductibles, as
21
          we speak right now, are?
22
          MR. THERIOT:
23
                They're five for compliant stations
24
          and ten for non-compliant.
          MR. MARCELLO:
25
```

1	Right. And are we considering or can
2	we consider changing those deductibles?
3	MR. THERIOT:
4	Ya'll will be required to make
5	recommendations. That's one of the things
6	the board has to do. And that's one of the
7	reasons my discussion that I it's not on
8	there, but that's one of the discussions we
9	need to have.
10	MR. MARCELLO:
11	In concurrence with this resolution
12	MR. THERIOT:
13	It's not on this it's not on this -
14	<del>-</del>
15	MR. MARCELLO:
16	as well? I mean, can we do this at
17	the same time, in concurrence with this
1.8	resolution that we're talking about, or it's
19	got to be a separate piece of legislation?
20	MR. THERIOT:
21	I think if we're going to discuss
22	deductibles, it needs to be on the agenda,
23	because it is one of the powers that you
24	guys that you guys do.
25	MR. MARCELLO:

```
1
                Right.
 2
          MR. THERIOT:
 3
                So I think it does need to be on the
          agenda and that's why I said, well, we --
 4
 5
          you know, we'll put it on the next agenda
 6
          for discussion.
 7
          MR. HILL:
 8
                That'd be great.
          MR. THERIOT:
 9
10
                And that way, you know --
11
          MR. MARCELLO:
12
                Great.
13
          MR. THERIOT:
14
                -- we will be able to --
15
          MR. HILL:
16
                That'd be good.
17
                It think Todd Perry has a question.
          MR. PERRY:
18
19
                Thank you, Kerry. Perry, since you
20
          were talking about Senate Resolution 02,
21
          before the department sends the
22
          questionnaire out, I would encourage the
23
          department to take a timeout, bring the oil
24
          marketers in, because they've got a lot of
25
          institutional knowledge that can be answered
```

#### DEPARTMENT OF ENVIRONMENTAL QUALITY

```
1
          and help shape the questionnaire. So I
 2
          would highly recommend posthaste that you
          quys get together and share some language
 3
 4
          that will really help you fine tune that
 5
          questionnaire.
 6
          MR. THERIOT:
                I was going to put it up on the
 7
          screen. We have a draft. Okay. And --
 8
 9
          MR. PERRY:
                I think oil marketers can help you.
10
          MR. THERIOT:
11
                But we couldn't get it to work, so we
12
          didn't get to put it up there. But we do
13
14
          have -- Jeff has prepared a questionnaire on
          a draft. We haven't had -- circulated it
15
16
          around, because not even us have circulated
          it around.
17
18
          MR. PERRY:
19
                Right.
          MR. THERIOT:
20
21
                And we would certainly send it to
          ya'll before we send it out.
22
23
          MR. PERRY:
                Right. I -- even before -- I think it
24
          can be tweaked with oil marketer's
```

```
1
          assistance to be even better as it's sent
 2
          out.
 3
          MR. THERIOT:
 4
                I don't have any -- it's a
 5
          questionnaire to gather information. If you
 6
          have information, we'd be happy to take it.
 7
          MR. PERRY:
 8
                I think they have a lot of information
 9
          they could share.
10
          MR. MILAZZO:
11
                I have one last question for --
          MR. BAKER:
12
13
                Can I ask one quick question?
14
          MR. MILAZZO:
15
                Oh, I'm sorry.
16
          MR. BAKER:
17
                Todd, who is our contact?
18
          MR. PERRY:
19
                Natalie.
20
          MS. ISAACKS:
21
                Me. I was going to ask to send it,
22
          but when you said it hadn't been circulated
          internally, I didn't want to cross --
23
24
          MR. BAKER:
```

We will be in contact with you in the

```
1
          near future.
 2
          MS. ISAACKS:
 3
                Okay.
 4
          MR. MILAZZO:
                Perry, you had mentioned the success
 5
          of the lawsuit. I'm not looking at the
 6
 7
          exact numbers, but let's assume, you know
          two and a half million dollars in the first
 8
          two years of this. That -- that's what the
10
          trust fund has paid out to the AG's office.
          First half of the year, you know,
11
12
          approaching a million dollars. I would
          think we're getting close to complete
13
          settlement with the players that are left.
14
15
          MR. THERIOT:
                     We still have one major that's --
16
17
          that we haven't gotten to it yet. At least
          one, one major. And that -- they're working
18
          on that now.
19
          MR. MILAZZO:
20
21
                So could you -- is it fair to say that
          this could be over maybe sometime in the
22
23
          summer?
          MR. THERIOT:
24
                That would be impossible to tell,
25
```

1	because they're taking them in sequence in
2	order to not you know, it would cost a
3	lot more to hire a lot more attorneys to do
4	them all at the same time. So they're
5	they're currently in a hold where they're
6	working through discovery on one. The other
7	one has come to the table and is it is at
8	the table, but it I don't know where it
9	will go from there. But there's there's
10	still more to come. And we have more than
11	recovered enough money to make it worth the
12	while. And that's not in question.
13	MR. MILAZZO:
14	Okay. That's all I have.
15	MR. HILL:
16	Okay. Does anybody have anymore
17	questions or discussions?
18	MR. BAKER:
19	Under other business, we need to
20	consider the tentative dates for next year's
21	board meetings. If you will look at your
22	agenda, you'll see we've got February 23rd,
23	May 18th, August 17th and November 16th.
24	We'd like to present those potential meeting
25	times.

```
1
          MR. HILL:
 2
                Okay. So these are already scheduled
. 3
          dates and -- or --
          MR. BAKER:
 5
                This is up to ya'll.
          MR. HILL:
 6
 7
                This is up for discussion.
 8
          MR. MARCELLO:
                And I think he's conversed with
          Louisiana Oil Marketers to make sure we're
10
11
          not in any discrepancy with our board
12
          meetings.
          MR. HILL:
13
                Yes.
14
15
          MR. MARCELLO:
                Or in any conflict, if you will.
16
          MS. ISAACKS:
17
                I'm sorry. I already reviewed --
18
          MR. MARCELLO:
19
20
                Right.
          MR. HILL:
21
                Oh, so you're fine with it, Natalie?
22
23
          MS. ISAACKS:
                Yes. I reviewed our calendar and
24
          we're good to go.
25
```

```
1
          MR. HILL:
 2
                 Okay. Well, do we need to vote on
 3
          that, or we're okay with it?
 4
          MR. BAKER:
 5
                We're probably good.
 6
          MR. HILL:
 7
                 Is there any other business that
          anybody would like to discuss at this time,
 9
          before we close? The table is open.
10
          (No response.)
          MR. HILL:
11
12
                Well, I would say, I need a motion to
13
          adjourn.
14
          MR. MARCELLO:
15
                So moved, Mr. Chairman.
16
          MR. HILL:
17
                Do I hear a second?
18
          MR. MILAZZO:
19
                Second.
          MR. HILL:
20
21
                All in favor?
22
          (All indicated "aye".)
23
          MR. HILL:
24
                Thank ya'll.
25
              THE MEETING ADJOURNED AT 2:19 P.M.
```

T	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	San Aulag
21	Lori Overland, C.C.R.
22	# 97083

#### CERTIFICATION

2	I, Lori B. Overland, Certified Court Reporter in
3	and for the State of Louisiana, as the officer
4	before whom this testimony was taken, do hereby
5	certify that the above referenced individual to whom
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
0	reporting method, was prepared and transcribed by me
1	or under my personal direction and supervision, and
2	is a true and correct transcript to the best of my
3	ability and understanding; that the transcript has
4	been prepared in compliance with transcript format
5	guidelines required by statute or by rules of the
6	board, that I have acted in compliance with the
7	prohibition on contractual relationships, as defined
8	by Louisiana Code of Civil Procedure Article 1434
9	and in rules and advisory opinions of the board;
0	that I am not related to counsel or to the parties
1	herein, nor am I otherwise interested in the outcome
2	of this matter.

Lori Overland C.C.R.

# 97083

### In The Matter Of:

# DEPARTMENT OF ENVIRONMENTAL QUALITY MOTOR FUELS UNDERGROUND STORAGE TANK TRUST FUND

MEETING
November 17, 2016

Associated Reporters, Incorporated 225-216-2036

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<del></del>	T .	I .	1 -	1 .
	63:10	43:1	27:4	37:18;38:20
\$	Absolutely (2)	afford (2)	and/or (3)	attempted (1)
<b>.</b>	28:11;57:4	48:18,20	78:5,12,17	56:12
		afternoon (1)	annual (3)	attention (1)
\$1,728,185 (1)	accept (5)			
30:21	35:19;36:21,23;37:1,	6:14	34:11,17;57:25	33:19
\$10 (1)	3	AG (1)	annuals (1)	attorneys (1)
40:14	access (1)	41:21	34:21	75:3
\$10,000 (2)	56:15	Again (1)	answered (1)	attractive (1)
51:19;58:8	account (1)	31:1	71:25	64:20
\$119,723.30 (1)	24:14	against (6)	anticipate (1)	Audit (13)
9:1	accountability (3)	31:13;34:3;36:5;	38:12	5:14;6:11,16;9:2;
\$12,847,679 (1)	57:4,5;59:1	37:22;38:20;41:9	anymore (7)	10:7;33:20;51:23;52:6,
29:25	accounting (6)	age (2)	10:6;28:23;47:2;	19;55:2;56:16;57:2;
\$13,749.69 (1)	24:24;25:3,5,9,14;	42:12,19	48:1;55:10;60:7;75:16	59:6
7:15	35:1	agencies (1)	appears (2)	auditing (1)
\$15,724,270 (1)	accounts (1)	24:9	22:14;23:1	46:14
29:21	25:15	agency (2)	applications (8)	audits (1)
\$18,624,277 (1)	accurate (1)	24:11;56:25	29:21,23,24,25;	6:25
32:21	34:1	agenda (10)	30:20,21,24;32:11	August (3)
	accurately (1)	10:15;37:12;39:8;	apply (1)	44:22,23;75:23
\$180 (3)	28:6	61:2,3,8;70:22;71:4,5;	16:17	authorizes (1)
51:16,25;58:7	act (7)	75:22	applying (2)	23:7
\$2,632,951 (1)	39:21;40:2;43:13;	agent (1)	32:5,13	available (7)
30:23	44:13;49:7,13;54:5	52:4	approaching (1)	11:17;25:2;35:4;
\$25,714,755 (1)	action (5)	ago (1)	74:12	46:6;64:8;65:10,22
31:19	1 1	36:8	appropriate (1)	
\$250.00 (1)	16:2;31:15,16,24;	l .		average (17)
8:4	57:12	agree (2)	16:21	12:15;13:3,14,15,24;
\$3,186,100 (1)	actions (1)	57:8;59:8	approval (1)	14:12;15:12,22;16:16,
32:11	43:25	agreed (1)	36:12	17;32:4,6,13,22,25;
\$3,200 (1)	activate (1)	17:11	approved (2)	34:16,16
7:4	31:8	AG's (2)	32:2;33:24	averages (1)
\$300,000 (1)	active (7)	41:12;74:10	approximately (1)	27:25
14:13	15:14;18:5;20:17;	ahead (1)	7:4	avoid (1)
\$31,363,325 (1)	22:2,5;27:4;62:17	25:21	arbitrarily (1)	68:19
32:3	actively (1)	alarm (1)	26:21	awaiting (1)
\$47.61 (1)	62:9	42:7	areas (2)	6:21
6:20	activities (2)	alleged (1)	49:18,20	aware (1)
\$579.61 (1)	30:4,16	41:4	around (7)	41:2
6:23	actually (9)	allow (3)	7:7;11:19;14:13;	away (1)
\$59 (1)	15:1;24:20;27:6;	43:1;49:22;56:14	21:14;28:24;72:16,17	49:17
48:7	28:7;44:5;56:1,14,19;	allowed (1)	arrangement (1)	awfully (1)
\$60 (1)	59:23	43:13	24:13	52:11
51:22	adapted (1)	allows (1)	Article (1)	aye (2)
	50:25	49:8	78:5	37:9;77:22
\$634.74 (1)	add (1)	alluded (1)	aside (1)	37.5,77.22
6:24	61:10	69:19	24:22	В
\$65 (1)	added (1)	almost (1)	assessed (1)	
48:7	7:11	42:23	7:15	hook (14)
\$79,224,055 (1)			•	back (14)
30:14	additional (2)	along (3)	assessment (2)	14:20;20:14;21:19,
\$81,888,457 (1)	14:1;35:8	41:12;43:1;49:5	7:5;19:7	25;35:9;38:18;40:13;
33:4	adjourn (1)	always (3)	assessments (2)	44:1;48:22;51:14;52:3,
•	<del>  77:</del> 13	23:6;45:4;67:16	6:24,25	9;56:16;60:23
A	ADJOURNED (1)	amended (1)	assistance (1)	backup (1)
	<b></b>	44:13	73:1	36:9
abandon (1)	administrative (2)	amendment (1)	associated (1)	BAKER (39)
43:20	22:11;24:1	46:3	21:12	4:15,16;12:9,16,20,
abandoned (1)	administratively (1)	amount (12)	Associates (1)	24;13:4,12,21;14:11,
43:11	21:13	8:4,25;19:9;21:24;	4:20	17,25;15:19,25;16:7,
	administrator (1)	25:1;33:3;38:13;40:10;	į .	11;17:2,7,15,19;19:4;
able (5)	39:3	41:15;48:18;59:8;66:9	4:5;50:5;74:7	25:18,22;26:15,25;
21:3;39:17;43:24;	adoption (1)	amounts (2)	AST's (1)	27:14;28:3,10;29:11;
48:20;71:14	41:8	30:20;31:20	59:21	34:13,23;35:25;36:7;
above (5)	advisory (1)	analysis (1)	AT&T (2)	73:12,16,24;75:18;
61:24;62:6,19,20;	20 VISUI Y (1)	anaiyoio (1)	AIGI (2)	13.12,10,24,73:18;
		L	· —,	<del>1</del>

HICKORY CERS CHEE	NONCOND CLOICIGE I	ZATIAN TAROST TOTIO		110101111111111111111111111111111111111
69:5	cover (7)	decided (1)	7:2;32:4,9,12	documentation (1)
connect (2)	29:16;37:25;38:1,6;	41:22	determines (1)	36:9
52:1;58:9	45:1;62:15;66:5	declare (3)	34:10	dollar (2)
consensus (2)	covered (5)	43:2,20;45:5	determining (1)	14:18,19
65:3,14	23:6;31:5;42:24;	dedicated (1)	34:2	dollars (4)
consider (3)	43:9;63:10	56:9	devalued (2)	21:24;32:23;74:8,12
33:25;70:2;75:20	covering (1)	deduct (1)	38:10,11	done (5)
consideration (1)	60:18	10:25	develop (1)	16:1;45:18;55:23;
64:5	creating (1)	deductible (1)	64:25	63:15,16
considered (2)	64:20	19:8	development (1)	door (1)
41:24:45:14	credit (2)	deductibles (5)	25:7	51:19
considering (1)	6:23;7:4	43:17;69:19,20;70:2,	developments (1)	dots (2)
· 70:1	credited (1)	22	59:18	52:2;58:9
Consultants (1)	24:11	deeper (1)	DHH (1)	double (2)
5:21	cross (1)	20:12	50:22	22:2;46:2
contact (2)	73:23	defend (1)	dialog (1)	double-dipping (1)
73:17,25	cumulative (1)	38:25	59:12	41:3
contamination (1)	31:8	defer (1)	diesel (2)	double-wall (1)
62:15	1	14:10	18:16,21	20:18
	current (5)	deficiencies (2)	difference (3)	down (1)
contents (1)	11:1,9;19:8;31:3;			26:4
42:22	32:6	30:1,25	11:17;35:3;40:14	
continual (1)	currently (7)	defined (1)	differences (1)	downtown (1)
40:20	17:4;44:15;46:13;	78:4	31:6	24:10
continue (2)	49:8;51:6,7;75:5	defines (1)	different (3)	draft (5)
23:5;68:9	cut (1)	38:9	24:16;30:10;64:16	33:9,11;59:24;72:8,
continues (2)	22:3	definition (6)	directly (2)	15
7:19;8:2	Cy (5)	42:2;43:4;47:9,13,	14:3;41:19	drain (1)
continuing (1)	5:14;6:10;9:4;10:5;	14,15	dirty (1)	68:21
33:6	51:14	delay (1)	29:15	draw (1)
conversation (1)	_	45:6	disbursements (2)	43:24
69:20	D	deliver (1)	10:23;11:6	drawn (1)
conversed (1)		10:12	disconnected (1)	63:17
76:9	Dakota (2)	delivering (1)	26:24	drinking (1)
conversion (1)	67:19;68:6	54:11	discontinues (1)	50:24
8:19	damage (2)	delivery (1)	46:18	drive (1)
corporations (2)	37:20;38:8	49:12	discourse (1)	26:24
9:22,24	dashes (2)	denoted (1)	78:10	driver (1)
corrective (4)	78:10,14	78:19	discovery (2)	57:15
16:1;31:15,16,24	data (3)	department (16)	7:25;75:6	driving (1)
correlate (1)	27:4,9,22	7:19;14:7;23:13;	discrepancy (1)	68:18
33:3	database (1)	33:25;35:5,6;41:12;	76:11	drop (1)
corresponds (1)	60:5	45:4;56:3,13;58:20;	discuss (5)	48:19
10:15	date (11)	59:6;62:21;65:5;71:21,	33:9;61:8;65:13;	dropped (2)
cost (25)	6:11;7:25;11:6;	23	70:21;77:8	23:3,4
13:6;14:2,3;16:4,16,	37:14;42:1,2,6,7,8,10;	department's (1)	discussed (3)	drops (1)
17;20:20;21:6,7,10,11,	47:15	33:19	33:12,22;36:8	57:17
12,18;22:6;25:15;	dates (2)	depending (1)	discussion (9)	due (3)
31:17,21,25;32:5,5,13;			29:7;36:10;39:9;	7:8;23:12;78:9
~ · · · · · · · · · · · · · · · · · · ·	1 75:20:76:3			··- <b>y</b>
	75:20;76:3	12:11 denosited (1)		during (4)
38:5,18;43:25;75:2	day (2)	deposited (1)	57:6;65:18;67:23;70:7;	during (4) 29:19:30:22:33:10.
38:5,18;43:25;75:2 costs (7)	day (2) 8:5;56:25	deposited (1) 41:19	57:6;65:18;67:23;70:7; 71:6;76:7	29:19;30:22;33:10,
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12;	day (2) 8:5;56:25 days (2)	deposited (1) 41:19 DEQ (14)	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6)	29:19;30:22;33:10, 20
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12; 32:14;34:17;52:25	day (2) 8:5;56:25 days (2) 54:15,20	deposited (1) 41:19 DEQ (14) 4:14,16,18;5:11,14,	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6) 10:6;28:24;39:7;	29:19;30:22;33:10, 20 Durwood (1)
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12; 32:14;34:17;52:25 count (1)	day (2) 8:5;56:25 days (2) 54:15,20 deadlines (1)	deposited (1) 41:19 DEQ (14) 4:14,16,18;5:11,14, 16,23;6:3,5,7;21:13;	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6) 10:6;28:24;39:7; 40:4;70:8;75:17	29:19;30:22;33:10, 20 <b>Durwood (1)</b> 4:14
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12; 32:14;34:17;52:25 count (1) 59:11	day (2) 8:5;56:25 days (2) 54:15,20 deadlines (1) 7:25	deposited (1) 41:19 DEQ (14) 4:14,16,18;5:11,14, 16,23;6:3,5,7;21:13; 24:1;40:5;49:10	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6) 10:6;28:24;39:7; 40:4;70:8;75:17 distributors (2)	29:19;30:22;33:10, 20 Durwood (1) 4:14 duty (1)
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12; 32:14;34:17;52:25 count (1) 59:11 country (1)	day (2) 8:5;56:25 days (2) 54:15,20 deadlines (1) 7:25 dealer (7)	deposited (1) 41:19 DEQ (14) 4:14,16,18;5:11,14, 16,23;6:3,5,7;21:13; 24:1;40:5;49:10 destruct (1)	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6) 10:6;28:24;39:7; 40:4;70:8;75:17 distributors (2) 9:20,25	29:19;30:22;33:10, 20 <b>Durwood (1)</b> 4:14
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12; 32:14;34:17;52:25 count (1) 59:11 country (1) 56:2	day (2) 8:5;56:25 days (2) 54:15,20 deadlines (1) 7:25 dealer (7) 47:4,5,8,9,12;52:18,	deposited (1) 41:19 DEQ (14) 4:14,16,18;5:11,14, 16,23;6:3,5,7;21:13; 24:1;40:5;49:10 destruct (1) 65:10	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6) 10:6;28:24;39:7; 40:4;70:8;75:17 distributors (2) 9:20,25 district (2)	29:19;30:22;33:10, 20 Durwood (1) 4:14 duty (1) 60:14
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12; 32:14;34:17;52:25 count (1) 59:11 country (1) 56:2 couple (1)	day (2) 8:5;56:25 days (2) 54:15,20 deadlines (1) 7:25 dealer (7) 47:4,5,8,9,12;52:18, 21	deposited (1) 41:19 DEQ (14) 4:14,16,18;5:11,14, 16,23;6:3,5,7;21:13; 24:1;40:5;49:10 destruct (1) 65:10 detail (1)	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6) 10:6;28:24;39:7; 40:4;70:8;75:17 distributors (2) 9:20,25 district (2) 45:20,22	29:19;30:22;33:10, 20 Durwood (1) 4:14 duty (1)
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12; 32:14;34:17;52:25 count (1) 59:11 country (1) 56:2 couple (1) 68:6	day (2) 8:5;56:25 days (2) 54:15,20 deadlines (1) 7:25 dealer (7) 47:4,5,8,9,12;52:18, 21 dealers (11)	deposited (1) 41:19 DEQ (14) 4:14,16,18;5:11,14, 16,23;6:3,5,7;21:13; 24:1;40:5;49:10 destruct (1) 65:10 detail (1) 6:16	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6) 10:6;28:24;39:7; 40:4;70:8;75:17 distributors (2) 9:20,25 district (2) 45:20,22 divided (1)	29:19;30:22;33:10, 20 Durwood (1) 4:14 duty (1) 60:14
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12; 32:14;34:17;52:25 count (1) 59:11 country (1) 56:2 couple (1) 68:6 course (5)	day (2) 8:5;56:25 days (2) 54:15,20 deadlines (1) 7:25 dealer (7) 47:4,5,8,9,12;52:18, 21 dealers (11) 46:12,15,24;47:1,2;	deposited (1) 41:19 DEQ (14) 4:14,16,18;5:11,14, 16,23;6:3,5,7;21:13; 24:1;40:5;49:10 destruct (1) 65:10 detail (1) 6:16 determination (2)	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6) 10:6;28:24;39:7; 40:4;70:8;75:17 distributors (2) 9:20,25 district (2) 45:20,22 divided (1) 22:4	29:19;30:22;33:10, 20 Durwood (1) 4:14 duty (1) 60:14 E
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12; 32:14;34:17;52:25 count (1) 59:11 country (1) 56:2 couple (1) 68:6 course (5) 39:24;40:9;41:13;	day (2) 8:5;56:25 days (2) 54:15,20 deadlines (1) 7:25 dealer (7) 47:4,5,8,9,12;52:18, 21 dealers (11) 46:12,15,24;47:1,2; 52:24;53:2;59:22;60:5,	deposited (1) 41:19 DEQ (14) 4:14,16,18;5:11,14, 16,23;6:3,5,7;21:13; 24:1;40:5;49:10 destruct (1) 65:10 detail (1) 6:16 determination (2) 31:10,12	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6) 10:6;28:24;39:7; 40:4;70:8;75:17 distributors (2) 9:20,25 district (2) 45:20,22 divided (1) 22:4 Division (1)	29:19;30:22;33:10, 20 Durwood (1) 4:14 duty (1) 60:14 E earlier (4) 21:21;34:25;44:10;
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12; 32:14;34:17;52:25 count (1) 59:11 country (1) 56:2 couple (1) 68:6 course (5) 39:24;40:9;41:13; 52:23;59:17	day (2) 8:5;56:25 days (2) 54:15,20 deadlines (1) 7:25 dealer (7) 47:4,5,8,9,12;52:18, 21 dealers (11) 46:12,15,24;47:1,2; 52:24;53:2;59:22;60:5, 6;67:21	deposited (1) 41:19 DEQ (14) 4:14,16,18;5:11,14, 16,23;6:3,5,7;21:13; 24:1;40:5;49:10 destruct (1) 65:10 detail (1) 6:16 determination (2) 31:10,12 determine (1)	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6) 10:6;28:24;39:7; 40:4;70:8;75:17 distributors (2) 9:20,25 district (2) 45:20,22 divided (1) 22:4 Division (1) 5:24	29:19;30:22;33:10, 20 Durwood (1) 4:14 duty (1) 60:14 E earlier (4) 21:21;34:25;44:10; 60:4
38:5,18;43:25;75:2 costs (7) 13:15;14:1,7,12; 32:14;34:17;52:25 count (1) 59:11 country (1) 56:2 couple (1) 68:6 course (5) 39:24;40:9;41:13;	day (2) 8:5;56:25 days (2) 54:15,20 deadlines (1) 7:25 dealer (7) 47:4,5,8,9,12;52:18, 21 dealers (11) 46:12,15,24;47:1,2; 52:24;53:2;59:22;60:5,	deposited (1) 41:19 DEQ (14) 4:14,16,18;5:11,14, 16,23;6:3,5,7;21:13; 24:1;40:5;49:10 destruct (1) 65:10 detail (1) 6:16 determination (2) 31:10,12	57:6;65:18;67:23;70:7; 71:6;76:7 discussions (6) 10:6;28:24;39:7; 40:4;70:8;75:17 distributors (2) 9:20,25 district (2) 45:20,22 divided (1) 22:4 Division (1)	29:19;30:22;33:10, 20 Durwood (1) 4:14 duty (1) 60:14 E earlier (4) 21:21;34:25;44:10;

MOTOR PUELS CRIDE	KOKOUND STOKAGE I	AIN INOSI FOID		November 17, 20	
gives (3)	26:19	25:8	internally (1)	41:7	
31:2;58:4;59:2	A STATE OF THE STA		73:23		
	head (2)	impossible (1) 74:25		knocking (1) 51:19	
giving (1)	12:17;52:23		interrogation (2)		
11:14	headed (1)	inaudible (3)	20:6;29:3	knowledge (4)	
glad (1)	20:23	47:21;54:15;78:19	into (14)	9:13,21;15:11;71:25	
40:6	hear (3)	incidents (3)	14:8;25:6;41:6,19;	knows (3)	
goes (4)	64:7;65:3;77:17	18:2,5,16	44:1,5,13;48:19;51:7,	39:20;49:19;66:7	
42:7;54:3;57:16;	heard (1)	inclined (1)	20;59:22;60:10;63:21;		
60:9	54:25	50:2	67:15	L	
Good (13)	held (2)	include (4)	investigation (5)		
6:14;15:8;20:16;	8:18,19	17:21;22:17,24;	16:13;44:11,18,24;	land (1)	
23:20;26:18;36:10;	help (5)	47:10	45:17	38:1	
39:21;62:4,8;68:18;	23:21,23;72:1,4,10	included (3)	investigations (4)	language (1)	
71:16;76:25;77:5	helped (1)	22:12,25;41:24	44:7,15,25;45:1	72:3	
grant (1)	40:7	includes (3)	invoices (2)	large (2)	
49:5	hereby (1)	14:14;26:1;31:19	47:19;52:8	27:5;53:9	
grants (2)	78:7	including (2)	involving (1)	last (14)	
26:1;49:6	high (3)	15:2;65:17	37:18	7:10;8:3;9:9;12:13;	
great (5)	14:18;20:17;33:11	incorporate (1)	ISAACKS (6)		
21:20;55:21;56:23;	higher (2)	25:24	5:17,18;73:20;74:2;	17:24;22:6;27:17;30:	
71:8,12	21:18;45:7			34:14;42:15;45:21;	
		incorporated (1)	76:17,23	46:5;69:15;73:11	
greater (1)	highly (1)	25:5	issues (1)	later (1)	
21:3	72:2	increase (1)	33:12	61:8	
ground (4)	HILL (41)	43:10	item (4)	law (2)	
61:24;62:6,20;63:10	4:2,8,23,24;6:8;10:4,	indicate (1)	10:10,15;37:12;39:8	46:17;49:14	
group (6)	9;18:10,18;19:11,22;	78:11	_	lawsuit (2)	
17:13;35:1;50:19,22;	20:1;28:22;29:5;34:6;	indicated (3)	J	38:17;74:6	
58:11;69:20	35:13;36:17,22;37:2,7,	37:9;77:22;78:15		LDEQ (1)	
groups (1)	10;39:6,13;50:4,13;	industry (1)	Jason (1)	4:12	
33:13	63:18,24;69:14;71:7,	52:15	6:3	least (2)	
guess (11)	15;75:15;76:1,6,13,21;	informally (1)	Jeff (8)	60:17;74:17	
12:21;20:15;21:22;	77:1,6,11,16,20,23	61:5	4:16;12:8;15:9;	leaves (1)	
27:24;35:17,19;47:19;	hire (1)	information (13)	21:15;29:9;34:7;44:10;	11:10	
52:7;53:5,8;66:22	75:3	10:17,19;15:15;19:2;	72:14	left (3)	
guidance (1)	historical (1)	20:14;28:15;56:18;	job (2)	11:1;74:14;78:16	
33:7	15:13	58:4;59:3;60:16;73:5,	21:2;55:21	lefthand (1)	
guy (4)	hold (2)	6,8	Johnny (5)	10:17	
47:24;51:21,24;	46:12;75:5	infrastructure (1)	5:2;20:3;30:10;	Legal (4)	
53:18	holders (1)	47:6			
	46:13	The state of the s	31:22;65:1	4:12;8:4,19,24	
guys (21)		initiate (1)	Jones (2)	legally (2)	
17:11;23:17;24:3;	home (1)	8:6	4:22;6:1	7:20;52:25	
43:6;48:16,17;50:11;	55:5	inspection (1)	judgment (1)	legislation (1)	
53:15,16,20;55:9,17;	hope (3)	55:7	45:20	70:19	
57:3;60:15,23;64:5;	33:14;57:2,15	inspector (1)	jump (1)	legislative (2)	
67:2;69:8;70:24,24;	house (1)	54:3	22:14	39:9;59:18	
72:3	44:21	inspectors (1)		legislatively (1)	
		55:12	K	58:12	
H	I	instance (1)		Lending (1)	
		53:7	Karyn (1)	57:1	
half (3)	idea (5)	instances (1)	28:14	less (3)	
33:16;74:8,11	17:18;62:13,22;68:8,	42:6	keeps (1)	19:8;22:7;65:9	
hand (3)	18	institutional (1)	21:17	letter (1)	
58:7,25,25	identical (1)	71:25	KEMP (2)	44:15	
nandle (1)	42:23	insurance (3)			
	The state of the s		6:4,5	letters (1)	
19:14	illness (1)	24:19,22;41:10	Kerry (2)	46:21	
ands (E)	7:8	intended (1)	4:24;71:19	level (1)	
	1 (2)	64:23	kinda (11)	33:11	
47:22,22;54:14,23;	imagine (3)		10.11.15.00.16.10.	liability (8)	
47:22,22;54:14,23; 57:1	14:9;62:4;66:2	interaction (1)	12:11;15:22;16:13;		
47:22,22;54:14,23; 57:1 happened (1)	14:9;62:4;66:2 immediately (1)	interaction (1) 78:9	29:13,14;30:3,8;40:17;	10:25;11:9;12:4;	
47:22,22;54:14,23; 57:1	14:9;62:4;66:2	interaction (1) 78:9 interest (2)		10:25;11:9;12:4;	
57:1 happened (1)	14:9;62:4;66:2 immediately (1)	interaction (1) 78:9	29:13,14;30:3,8;40:17; 65:18;68:12,15		
47:22,22;54:14,23; 57:1 happened (1) 62:16	14:9;62:4;66:2 immediately (1) 41:17	interaction (1) 78:9 interest (2)	29:13,14;30:3,8;40:17; 65:18;68:12,15 KING (2)	10:25;11:9;12:4; 25:2;31:16;44:12;46:2 8	
47:22,22;54:14,23; 57:1 happened (1) 62:16 happy (1)	14:9;62:4;66:2 immediately (1) 41:17 importantly (1)	interaction (1) 78:9 interest (2) 33:5,18	29:13,14;30:3,8;40:17; 65:18;68:12,15	10:25;11:9;12:4; 25:2;31:16;44:12;46:2	

MOTOR FUELS UNDER	RGROUND STORAGE T	ANK TRUST FUND		Novemb
obligations (5)	optics (1)	29:13	4:12;5:20,21;15:3;	7:5
12:5;13:10;31:13;	23:10	page (13)	37:14;38:20;39:14;	powers (1)
34:3;36:5	oral (1)	7:7,17;8:23;10:20;	50:5;53:5;61:10;64:4;	70:23
Obviously (1)	39:19	11:12;29:18;30:2,3,8,	69:18;71:17,18,19;	PPM (1)
31:4	order (2)	16;31:1,7;56:8	72:9,18,23;73:7,18;	5:21
occupies (1)	49:24;75:2	pages (1)	74:5	precise (1)
24:12	ordinarily (1)	6:15	personally (2)	15:17
	68:22		20:25;63:5	predicting (1)
October (1)		paid (11)		15:10
8:9	organization (1)	6:18;7:16,21;8:13,	phase (3)	
ODR (5)	64:13	13;9:14;24:9;51:25;	7:3;16:13;31:15	preliminary (
8:6,8,10,18,20	originally (2)	63:20,21;74:10	phrase (1)	50:16
off (5)	22:11;39:16	pardon (2)	78:19	prepared (6)
12:17;40:16,21,22;	orphan (2)	55:4;57:5	phrases (1)	6:19;8:4,14
42:7	44:3,4	part (10)	78:15	67:12;72:14
office (2)	orphaned (1)	16:8;20:24;21:5;	picture (1)	preparing (1)
41:12;74:10	43:11	24:1;25:23;54:12;55:7;	22:25	59:24
officer (1)	others (1)	57:12,19;69:17	piece (1)	present (1)
78:4	64:9	party (3)	70:19	75:24
officially (2)	otherwise (1)	37:13;45:25;46:7	pipelines (1)	presentation (
33:24;36:14	43:3	pass (2)	46:25	39:19
offline (2)	out (34)	52:24,25	places (1)	presented (1)
55:16;58:11	10:25;11:8;18:4;	passed (2)	53:18	33:22
off-the-record (1)	36:9;41:22,23;42:9;	46:4;59:19	placing (1)	presumably (1
67:23	43:7,7;44:3,16;46:15,	past (4)	43:8	44:2
		27:2;37:17;40:23;	plan (4)	pretty (2)
Oil (12)	19;47:20,23;48:17;			40:16;48:2
4:24;5:2,5,8,18;41:1,	49:10;51:2;52:19;54:3;	62:16	31:17,25;62:25;63:2	
5;67:21;71:23;72:10,	55:3,6;56:6,11;57:6,	path (2)	planned (1)	prevention (1)
25;76:10	13;60:8,9;69:4;71:22;	59:2;64:9	39:16	68:15
old (1)	72:22;73:2;74:10;	pauses (1)	plans (1)	previous (3)
47:3	78:16	78:11	16:2	30:7;31:4;33
once (2)	outstanding (2)	pay (11)	players (1)	price (2)
54:4,5	8:25;31:16	25:2;44:2,5;47:25;	74:14	45:6;48:20
One (49)	over (4)	48:5,15;49:2;50:2;	please (1)	principles (2)
6:18,22;7:3,5,6,14;	30:5;33:21;50:22;	51:21;53:25;57:23	29:10	25:3,5
8:18;9:14;19:1;21:7,	74:22	paying (5)	plume (1)	prior (1)
11;22:9;34:10;37:16,	overall (1)	48:2,16,17;57:11;	45:12	41:8
22,24;38:12;40:18,24,	22:25	59:2	PM (1)	probably (9)
25;42:21;43:12;44:5,7,	overhead (1)	payment (3)	77:25	21:1;45:13;
20;47:21;53:10;54:16;	22:22	8:3;29:24;30:22	point (4)	56:1;59:18;6
56:8,12,24;57:9;60:3,	Overland (2)	payments (4)	21:21;33:18;53:5;	problem (2)
10,25;61:12;63:5;	78:2,21	8:2,6,10;24:11	58:9	41:3;47:18
69:15;70:5,6,8,23;	overs (1)	pays (1)	points (1)	problems (5)
73:11,13;74:16,18,18;	78:12	60:10	33:5	40:4,24;43:1
75:6,7	overview (1)	pending (2)	populations (1)	44:6
	30:4	29:23;30:19	49:13	Procedure (2)
ones (2)		•	portion (2)	78:5,6
17:22;66:5	owe (3)	people (9)		
ongoing (2)	52:16,20;53:1	24:8;41:16;43:15;	31:5;62:8	proceeding (3)
9:22;20:10	owed (3)	45:3;48:3;50:1;53:1;	position (2)	44:7;78:10,1
only (12)	52:17,17,21	57:22;68:18	64:12;66:14	process (8)
31:4;39:24;40:14;	own (7)	per (7)	possibility (1)	17:12;21:8;3
49:22,23;51:5;53:1;	37:25;38:1,10;47:6;	13:3,20;14:2;21:16;	44:19	41:13;46:14
56:8;58:7;62:25;63:2;	48:1;64:9,12	22:6;23:25;48:12	possible (1)	53:7
66:2	owned (1)	percent (2)	46:2	processed (2)
open (4)	41:1	26:6;42:16	posted (1)	29:24;30:22
6:16;9:14;69:5;77:9	owner (6)	percentage (1)	54:2	program (14)
operating (3)	38:23;39:2;47:20,25;	67:4	posthaste (1)	11:14,18,18
9:20,25;68:10	52:3,16	permanent (1)	72:2	49:5,25;64:7
operation (1)		38:7	postponed (1)	66:10;68:3,4
62:25	P	permanently (1)	7:7	programs (1)
	1	38:10	potential (7)	64:25
opportunity (1)	no alreat (1)			i
56:23	packet (1)	permission (1) 56:12	6:22,23,25;7:4; 31:13;34:2;75:24	progress (2) 7:1;20:19
		30.17	1 1111147/1114	. 7.11.70°1 <b>9</b>
opposed (1) 56:20	56:5 packets (1)	Perry (21)	potentially (1)	projected (2)

7:5 owers (1) 70:23 PM (1) 5:21 recise (1) 15:17 redicting (1) 15:10 reliminary (1) 50:16 repared (6) 6:19;8:4,14;56:14; 67:12:72:14 reparing (1) 59:24 resent (1) 75:24 resentation (1) 39:19 resented (1) 33:22 resumably (1) 44:2 retty (2) 40:16;48:2 revention (1) 68:15 revious (3) 30:7;31:4;33:23 rice (2) 45:6;48:20 rinciples (2) 25:3,5 rior (1) 41:8 robably (9) 21:1;45:13;55:4,16; 56:1;59:18;61:2,4;77:5 roblem (2) 41:3;47:18 roblems (5) 40:4,24;43:15,19; 44:6 rocedure (2) 78:5,6 roceeding (3) 44:7;78:10,14 rocess (8) 17:12;21:8;33:10,21; 41:13;46:14;50:16; 53:7 rocessed (2) 29:24;30:22 rogram (14) 11:14,18,18;35:4,10; 49:5,25;64:7,14,17; 66:10;68:3,4,5 rograms (1) 64:25 rogress (2) 7:1;20:19

MOTOR FUELS UNDE
Sam (2)
53:24;54:15 same (5)
8:7;67:4;70:17;75:4;
78:12
Samuel (1) 5:23
sand (1)
52:23 saw (1)
42:15
saying (3)
52:14;67:2,12 scales (1)
24:5
scheduled (1) 76:2
scientifically (1)
21:22 screen (2)
39:17;72:8
second (14)
4:3;7:6;8:1;11:12; 37:6,18,22;38:13;
39:23;51:15;69:17,17;
77:17,19
secret (1) 43:12
secretary (5)
39:3;43:1,14,20;49:9
section (4) 14:22;30:15;31:22;
32:1
securing (1) 40:8
seems (1)
21:10
Senate (1) 71:20
send (9)
8:2,5,5;47:19,23;
60:8;72:21,22;73:21 sending (1)
57:13
sends (1) 71:21
sense (1)
21:19
sent (5) 28:14;36:9;44:16;
50:12;73:1
separate (1) 70:19
September (6)
11:5;30:18,18;31:10,
14,18 sequence (1)
75:1
serve (1)
49:18 Services (2)
5:12;10:11
servitude (1)

I	RGROUND STORAGE T
	38:2
	session (2)
	39:10;40:1 set (7)
	7:23,24;24:22;45:15;
	49:25;53:22;57:20
	setting (2)
	59:13;63:2 settle (2)
	37:23;38:12
	settlement (1)
	74:14 settling (1)
	38:3
	seven (3)
	7:10;10:10,15 several (2)
	30:5;33:13
	shame (1)
	56:22 shape (1)
	72:1
	share (4)
	67:3;69:11;72:3; 73:9
	Shawn (1)
	6:1
	sheet (1) 52:9
	sheets (1)
	24:24
	show (3) 33:2;53:19;67:11
	showing (1)
	27:10
	shows (1) 30:6
	side (1)
ı	10:20
	significant (1) 41:15
	similar (1)
	48:22
	simply (1) 64:17
	single (1)
	34:18
	sit (2) 23:18;45:10
	site (20)
	13:3,20;14:2;15:12,
	21;16:14;19:1;21:16; 22:6;23:25;31:23;32:5,
	13;45:5,10,10;52:2,2;
	58:5;62:17
	sites (34) 11:1,9;12:6;13:10,
	14,15;14:14,18,19;
	15:9,15;16:1,18,22,25;
	17:3;18:1,2;20:17,17; 22:3,5;26:23,24;27:2,4,
	5,13;31:14;32:2,6,9,14;
	47:17
-1	

TY ANK TRUST FUND					
sits (1)					
38:2 sitting (1)					
44:21 six (3)					
6:15;7:11;53:20 small (3)					
50:23;56:8;67:4 smaller (1)					
54:22 softened (1)					
21:10 sometime (2)					
33:16;74:22					
Sometimes (1) 44:9					
somewhere (2) 12:25;13:1					
sorry (5) 13:9;31:9;32:19;					
73:15;76:18 sound (2)					
20:6;29:3 source (1)					
26:9 speak (3)					
9:23;21:1;69:21					
speaking (3) 20:25;53:1;65:1					
specific (4) 15:21;16:14;31:23;					
52:10 speed (1)					
44:9 spend (5)					
28:9;45:13;66:25; 68:11,12					
spent (2) 27:17;35:9					
spill (2) 18:16,17					
spills (2)					
18:22,22 split (1)					
29:13 spoke (1)					
63:4 spontaneous (1)					
78:10 spreading (1)					
45:12 ST (14)					
5:7,8;21:23;34:9,19; 35:11;58:15,19;61:23;					
62:3,7,14;63:1,11					
Staff (1) 4:12					
stakeholders (1) 33:8					
standards (2) 21:9,18					
standpoint (1)					

start (1)
65:7 started (1)
27:3
state (7) 10:1;24:8;43:12;
49:9;55:25;78:3,8
States (9)
42:17;55:24;56:7; 60:20,21;67:14,17,20;
68:7
station (7) 38:21,25;49:10,11;
54:2,12,14
stations (10)
41:2;43:16;49:18,20; 52:20;54:22;65:23;
67:22;68:1;69:23
status (6) 6:11;7:23;8:7;9:23;
29:8;37:13
statute (10)
23:7;24:17,18;37:24; 38:4,8;40:9;45:4,7;
50:9
stepping (1) 69:12
Steve (1)
4:20
sticks (1) 59:15
still (12)
7:1;9:5,14,21;16:12; 21:10;27:9;40:21;
46:15,20;74:16;75:10
stop (2)
8:6;23:22 storage (5)
56:10;61:24;62:6,21;
63:20 stored (1)
42:14
structure (1)
47:17 struggle (1)
64:22
stuck (1) 58:5
study (3)
59:21;60:22,23
stuff (3) 9:22;26:20;59:14
STUMP (2)
6:6,7
subject (1) 48:3
submitted (2)
32:10,15 submitting (1)
52:5
success (1)
74:5 sudden (1)

	43:6
	suit (3)
	37:21;38:13,20
	sum (1)
	39:21 summary (1)
	45:19
	summer (1)
	74:23
;	supplier (1)
	63:9
	supplies (1) 68:22
	support (2)
	57:4;64:21
	suppose (2)
	54:2,21
	sure (12) 46:1;47:5;51:11;
	52:6;57:17,20,22;59:7;
	60:1;64:12;66:6;76:10
	surface (1)
	20:15
	surplus (1) 64:18
	surprising (1)
	56:24
	sustained (1)
	37:20
	switch (4)
	40:16,20,21,22 sworn (1)
	78:7
	synopsis (1)
1	61:13
	system (5)
	27:6,9;53:22,23; 57:19
	systems (3)
	20:18;27:22;50:23
	T
	tab (3)

ı					
tab (3)					
6:15;10:14;29:12					
table (5)					
31:2,2;75:7,8;77:9					
tables (1)					
30:3					
tag (2)					
48:4,14					
talk (5)					
58:11,12,25;61:4;					
78:12					
talked (2)					
25:10;60:3					
talking (15)					
13:5,8,13:15:3;					
22:11;24:1;30:10;					
31:23;34:25;51:18;					
53:24;61:11;65:20;					
70:18;71:20					
tank (12)					

sudden (1)

51:24

	MOTOR FUELS UNDER	RGROUND STORAGE T	ANK TRUST FUND		November 1
	31:11	55:8	26 (1)		
	world (5)	1000 (1)	10:22	-	
			1	7	
	48:25;60:1;65:4;	29:20	270 (1)	, , , , , , , , , , , , , , , , , , , ,	
•	66:3,15	13,000 (1)	12:10	7.5 (1)	
	worried (1)	23:25	28 (1)	35:7	
	53:14	13.7 (1)	78:4	715 (1)	
	worry (1)	10:23	280 (8)	20:17	1
	53:13	138 (1)	12:25,25;13:10;15:9,	79 (2)	
	worth (1)	29:23	14;16:21,24;20:17	12:5;13:9	
	75:11	14 (2)	280,000 (1)	· · · · · · · · · · · · · · · · · · ·	-
	Wow (1)	8:9;11:2	13:3	8	
	18:9	143 (1)	285 (1)		
	wrap (1)	30:19	12:23	82 (1)	
	21:14	1434b (1)	28th (1)	11:9	
	write (1)	78:5	7:24	8th (1)	
	50:17	16th (1)	290 (1)	8:11	
	writing (1)	75:23	12:25	0.11	
	7:3	17 (1)		9	
	written (1)	7:6	3		1
	63:7	17th (1)		0.43	
		75:23	3 (1)	9(1)	1
	Y	186 (1)	46:8	11:10	
		30:21	3,000 (1)	90 (1)	•
	ya'll (13)	18th (1)	23:24	54:15	
		75:23	I .	91 (1)	
	6:9;10:14;11:22;	1998 (1)	30 (3)	11:8	
	29:12;35:20;45:21;		54:18,20;68:18	912 (1)	
	59:20;63:5;65:12;70:4;		300 (1)	29:23	
	72:22;76:5;77:24	1st (2)	12:10	93 (3)	
	year (34)	44:22,23	30th (2)	10:24;12:3;13:9	
	4:4;7:6,9;10:16,18,		11:5;31:11	97083 (1)	
	22,25;12:13;13:16;	2	32 (1)	78:22	
	26:2,2;29:16,20,22;		6:16	9th (2)	
	30:6,12,17,23;31:3,4,5;		332,000 (1)	8:3,14	
	32:4,12,17,22;33:17;	35:7	13:20		
	36:8;40:17;44:14;46:5;		37 (1)		
	51:16,20;52:1;74:11	11:7	30:23		
	years (22)	2:19 (1)	-	1	
	19:16;22:7,7,16,19;	77:25	4		
	27:2,7,7,18;30:5,7;	20 (1)		1	
	33:1;34:15;44:10,18,	18:1	4.9 (1)		
	20,23;45:11,18;54:4,6;	2005 (1)	35:8		
	74:9	24:3	40 (2)		
	year's (1)	2006 (1)	42:16;68:18		
	75:20	24:3	400 (2)		
	yesterday (1)	2007 (1)	18:7,7		
	20:7	24:2			
		2008 (1)	5		
	0	24:3	ļ		1
	<u> </u>	2015 (1)	5.8 (1)		j
	02 (1)	8:9	11:6		
	02 (1)	i .			
	71:20	2016 (11)	500 (1)		
	08 (1)	10:16,22;29:16,20;	18:7		
	21:25	30:6,12,19;31:14,18;	521 (4)		
	09 (1)	33:8;39:9	40:2,18;42:21;43:13		
	22:1	2017 (7)			
		4:4;10:18;11:4,13,	6		
	1	20;29:17;30:17			
		2018 (2)	60 (2)		
	1 (3)	11:14,20	8:5;48:10		
	33:8;45:24,24	21 (1)	67 (1)		
	1.5 (2)	6:24	29:25		
	46:4,6	23rd (1)	•		
	100,000 (1)	75:22			
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### In The Matter Of:

# DEPARTMENT OF ENVIRONMENTAL QUALITY MOTOR FUELS UNDERGROUND STORAGE TANK TRUST FUND

MEETING
November 17, 2016

Associated Reporters, Incorporated 225-216-2036

Original File Trust2.txt
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IAIO	TOR FUELS UNDERGROUND STORAGE TANK TRI	USI.	rund november	17, 2010
	Page 1			Page 3
1		1	INDEX	
1 2 3	CMAMP OF LOUICIANA	2		
	STATE OF LOUISIANA		EXAMINATION:	PAGE (S):
4	DEPARTMENT OF ENVIRONMENTAL QUALITY	3	None	
5	MOTOR FUELS UNDERGROUND STORAGE TANK TRUST	4		
6	FUND ADVISORY BOARD	5	EXHIBITS:	
7		6	None	
8		7	,	
9		8	REPORTER'S PAGE	78
1		وا	REPORTER'S CERTIFICATE	79
10		10		
11			* * * * *	
12	Who about activity of earlies are below the	11		
13	The above-entitled meeting was held at the LDEQ, Galvez Building, Conference Center, 602	12		
14	North 5th Street, Baton Rouge, Louisiana, beginning at 1:13 p.m., on November 17, 2016.	13		
15		14		
16		15		
		16		
17		17		
18		18		
19	BEFORE:	19		
20	Lori B. Overland Certified Court Reporter	20		
21	In and for the State of Louisiana			
22		21		
23		22		
		23		
24		24		
25		25		
		ļ		
	Page 2			Page 4
1	APPEARANCES	١,	* * * *	
2		1	MR. HILL:	
3	Kerry Hill Chairman	2		
4	Durwood Franklin	3	Now, let's have a call for the second	
5	Jeff Baker Gary Fulton	4	quarter fiscal year 2017 board meeting. I	
6	Cy Morin Johnny Milazzo	5	assume we need a roll call.	
1	Perry Theriot	6	MR. THERIOT:	
7	Nick St. Romain Steve Burnham	7	We'll need a roll call.	
8	Roger Bright Theresa Chatelain	8	MR. HILL:	
9	Melissa Vizinat	9	Could we have a roll call for today's	
10	Sam Broussard Jason Efferson	10	meeting?	
11	Shawn King	11	MR. THERIOT:	
12	Trey Kemp Randi Stump	12	Perry Theriot, LDEQ Legal Staff.	
13	Natalie Isaacks Todd Perry	13	MR. FRANKLIN:	
14	* * * * *	14	Durwood Franklin, DEQ Trust Fund.	
15				
		15	MR. BAKER:	
16		16	Jeff Baker, DEQ Trust Fund.	
17		17	MR. FULTON:	
18		18	Gary Fulton, DEQ.	
19		19	MR. BURNHAM:	
20		20	Steve Burnham, Engineering Associates.	•
21		21	MR. BRIGHT:	
22		22	Roger Bright, Jones Environmental.	
23		23	MR. HILL:	
24		24	Kerry Hill, Louisiana Oil	
25		25	Marketers.	
23		_	•	
<b></b>		4		

MR. KING:

Page 7

Page 8

Page 5 MR. MILAZZO: Johnny Milazzo, Louisiana Oil 2 Marketers. 3 MR. MARCELLO: 4 Frank Marcello, Louisiana Oil 5 Marketers. 6 MR. ST. ROMAIN: 7 Nick St. Romain, Louisiana Oil 8 Marketers. 9 10 MS. CHATELAIN: 11 Theresa Chatelain, DEO Financial 12 Services. 13 MR. MORIN: Cy Morin, DEO Audit. 14 15 MS. VIZINAT: Melissa Vizinat, DEQ Trust Fund. 16 17 MS. ISAACKS: 18 Natalie Isaacks, Louisiana Oil 19 Marketers. 20 MR. PERRY: Todd Perry, PPM Consultants. 21 22 MR. BROUSSARD: 23 Samuel Broussard, Louisiana DEQ UST Division. 24

Five cases are still in progress with results to be determined. And two cases are in the report writing phase. One has a potential credit of approximately \$3,200 and 4 one is potentially clean with no assessment. 5 One fiscal year '17 case on the second 6 page, it was postponed around the time of the flood due to an illness. It will be rescheduled after the first of the year. 9 10 Since the last meeting, seven new cases have been added to this list and six 11 cases have been closed and removed from the 12 13 Of those removed, one was clean and 14 five were assessed a total of \$13,749.69, 15 all of which was paid in full. 16 And if you don't mind, turn to page 17 18 three of the report. The department continues to pursue 19 four of these cases legally. The fifth case 20 on this list has recently been paid in full. 21 The first case -- for the first case, 22 the status conference has been set for 23 November 28th and this will be used to set a 24 trial date and discovery deadlines.

Shawn King, Jones Environmental. 1 2 MR. EFFERSON: Jason Efferson, DEQ Trust Fund. 3 MR. KEMP: 4 5 Trey Kemp, DEQ Trust Fund. MS. STUMP: 6 Randi Stump, DEQ Trust Fund. 7 MR. HILL: 8 Okay. Thank ya'll. 9 At this time, we'll ask Cy Morin to 10 bring us up to date on the audit status 11 12 report. MR. MORIN: 13 14 Yes, sir. Good afternoon. If you'll turn to tab six. The first two pages of 15 this report detail 32 open motor fuel audit 16

One case has been paid in full and is

Twenty-four cases are awaiting review.

being prepared for closure. We collected

In our review, we have one potential

assessments, totaling \$634.74. And 21

potential clean audits with no assessments.

credit of \$579.61 and two potential

The business in the second case 1 continues to send in monthly payments. The 2 last payment was received on November 9th in the amount of \$250.00. Legal is prepared to send this -- send a 60 day notice to 5 initiate referral to ODR if payments stop. 6 The status remains the same for the 7 third case. It's been with ODR collections since October 14, 2015. We have not 9 received any payments from ODR as of 10 November 8th. 11 The fourth case is a case that has 12 been paid in full. It was paid in full 13 November 9th and is being prepared for 14 15 closure. There's been no change in the fifth 16 case. The file is ready for referral to 17 ODR. This one was held up - I'm told by 18 legal, it was held up by a conversion that 19 ODR was going through and the flood. So 20 this should be taken care of in the very 21 near future. 22 And as you can see on this page, the 23 24 five -- the four remaining legal cases

represent a total outstanding amount of

17

18

19

20

21

22

23

24

cases.

\$47.61 on this case.

Page 6

Page 11 Page 9 \$119,723,30. on the current sites, that left us with an 1 unobligated balance of 14 million. 2 That concludes the audit report. 2 And then fast forward to the end of MR. MILAZZO: 3 3 Cy, I may have asked this question the first quarter of 2017, which was 4 4 before, but are any of these companies still September 30th. We have total receipts 5 5 to date of 5.8 million. Total disbursements in business? 6 6 of 2.9 million. And we're looking at a cash 7 MR. MORIN: 7 balance of 91 million when you net out the Yes. You did ask that, I believe, in 8 8 liability of the current sites of about 82 the last meeting. 9 9 MR. MILAZZO: million, that leaves you with 9 million 10 10 Yes. unobligated. 11 11 If you'll turn to the second page, 12 MR. MORIN: 12 this has the projected numbers for 2017 and The company that -- to my knowledge 13 13 2018, giving you what the program balance that is still open is the one that has paid 14 14 will be and that'll be the transfer to the in full. 15 15 environmental trust fund. It's the 16 MR. MILAZZO: 16 difference between the revenue available for 17 Okay. 17 MR. MORIN: the program and the program expenditures. 18 18 So we're projecting right around five The other four companies are not 19 19 million for both 2017 and 2018 in the operating as motor fuel distributors, to my 20 20 knowledge. There's still litigation with transfer to the environmental trust fund. 21 21 the corporations and stuff ongoing. So I And if ya'll have any questions? 22 22 can't really speak to the status of the MR. MARCELLO: 23 23 corporations, but they are no longer I do. 24 24 operating as motor fuel distributors in the MS. CHATELAIN: 25 25 Page 10 Page 12 Okay. 1 state. 1 2 MR. MILAZZO: 2 MR. MARCELLO: Okay. We have a cash balance fund of 93 3 3 MR. HILL: million and you have liability or 4 4 Thank you, Cy. Does anybody else have obligations totaling 79 million. And that 5 anymore questions or discussions related to is how many sites? 6 6 the audit? 7 MS. CHATELAIN: 7 Teff? (No response.) 8 R MR. HILL: MR. BAKER: Q 9 If not, we'll go to item number seven, It ranges anywhere from 270 to 300, 10 10 depending upon the -- it has kinda the financial services report. And we'd 11 11 like to ask Theresa to deliver that. fluctuated that -- from those numbers in the 12 12 MS. CHATELAIN: last year or so. 13 13 All right. If ya'll turn to tab MR. MARCELLO: 14 14 Do you have an average? seven, which corresponds to our agenda item, 15 15 I have the fiscal year 2016 ending MR. BAKER: 16 16 information in the lefthand box and then the Not off the top of my head. 17 17 end of the first quarter of fiscal year 2017 MR. MARCELLO: 18 18 financial information in the box on the 19 19 Okay. right-hand side of the page. MR. BAKER: 20 20 Final receipts as of -- for fiscal I would guess ---21 21 year 2016 were just under 26 million, with MS. CHATELAIN: 22 22 total disbursements of 13.7 million. So the 285. 23 23 cash balance was 93 million at the end of MR. BAKER: 24 24 the year. When you deduct out the liability -- 280, somewhere in -- 280 to 290, 25

Nov	ember 17, 2016 M	IOTOR F	UEI	S UNDERGROUND STORAGE TANK TRUST FUN
		Page 13		Page 15
1	somewhere in there.		1	- you'll see that that actually
2	MR. MARCELLO:		2	encompasses a number of categories including
3	280,000 average, per site?		3	what Perry is talking about, transfers and
4	MR. BAKER:		4	other things.
5	Oh, no. No. You're talking about		5	MR. MARCELLO:
6	cost?		6	Okay.
7	MR. MARCELLO:		7	MR. MILAZZO:
8	Yes. I'm talking about I'll do the		8	You know, that is a good question.
9	math, but 93 million I'm sorry. 79		9	Jeff, when you look at 280 sites and
10	million in obligations on 280 sites as an		10	forecast and predicting some value for
11	example.		11	cleanup, is that because of knowledge of
12	MR. BAKER:		12	each site or is this just some average, a
13	Okay. I thought you were talking		13	historical number, that you march forward
14	about average number of sites. No. I mean,		14	with? Are those 280, call them, active
15	our average closure costs on those sites		15	sites, is that based on information coming
16	ranges at the end of the fiscal year, it		16	from what the environmental companies, your
17	was		17	team — is there something fairly precise
18	MR. MARCELLO:		18	about that number?
19	It — it — I'm coming up with about		19	MR. BAKER:
20	332,000 per site		20	Well, the answer to that question is
21	MR. BAKER:		21	yes. It's site specific, but it's also
22	On		22	kinda of an average.
23	MR. MARCELLO:		23	MR. MILAZZO:
24	average.		24	Okay.
25	MR. THERIOT:		25	MR. BAKER:
		Page 14		Page 16
_		i age i-i	_	
1	There are additional costs besides the		1	The sites that we've done corrective
2	cost per site. Okay. Those are the		2	action plans on, the RACs have come in to us
3	directly reimbursed cost. MR. MARCELLO:		3	and told us, this is what we expect these to
4		•	4	cost. MR. MILAZZO:
5	Right. MR. THERIOT:		5	And that's that number?
6			6	MR. BAKER:
7	There are other costs the department		7	And that's part of that calculation.
8	maintains that are also figured into the		8	MR. MILAZZO:
9	obligated balance, I would imagine. But I would defer to the Theresa.		9	
10			10	Okay. MR. BAKER:
11	MR. BAKER:		11	The rest of them that we're still
12	Well, our average closure costs ranges	+	12	
13	around \$300,000. You know, and that bu	L	13	kinda in the investigation phase, we don't have anything telling us what site specific
14	that includes all sites		14	that number would be. So what we do is, we
15	MR. MARCELLO:		15	•
16			16	come up with an average closure cost and we apply that average closure cost to those
la =	Right.		9	
17	MR. BAKER:		17	** *
18	MR. BAKER: the high dollar sites and low		18	sites because we just don't know.
18 19	MR. BAKER: the high dollar sites and low dollar sites. But the obligation		18 19	sites because we just don't know. MR. MILAZZO:
18 19 20	MR. BAKER:  the high dollar sites and low dollar sites. But the obligation calculation, if you'd go back through and		18 19 20	sites because we just don't know. MR. MILAZZO: Okay. So in that case, your number
18 19 20 21	MR. BAKER:  the high dollar sites and low dollar sites. But the obligation calculation, if you'd go back through and look we we'll get to that in my		18 19 20 21	sites because we just don't know.  MR. MILAZZO:  Okay. So in that case, your number would be appropriate, but — so 280, is that
18 19 20 21 22	MR. BAKER:  the high dollar sites and low dollar sites. But the obligation calculation, if you'd go back through and look we we'll get to that in my section		18 19 20 21 22	sites because we just don't know.  MR. MILAZZO:  Okay. So in that case, your number would be appropriate, but so 280, is that the total number of sites some you have
18 19 20 21 22 23	MR. BAKER:  the high dollar sites and low dollar sites. But the obligation calculation, if you'd go back through and look we we'll get to that in my section MR. MARCELLO:		18 19 20 21 22 23	sites because we just don't know.  MR. MILAZZO:  Okay. So in that case, your number would be appropriate, but so 280, is that the total number of sites some you have are already in remediation, some you might
18 19 20 21 22 23 24	MR. BAKER:  the high dollar sites and low dollar sites. But the obligation calculation, if you'd go back through and look we we'll get to that in my section MR. MARCELLO: Yes, sir.		18 19 20 21 22 23 24	sites because we just don't know.  MR. MILAZZO:  Okay. So in that case, your number would be appropriate, but so 280, is that the total number of sites some you have are already in remediation, some you might just be looking at but 280, does that
18 19 20 21 22 23	MR. BAKER:  the high dollar sites and low dollar sites. But the obligation calculation, if you'd go back through and look we we'll get to that in my section MR. MARCELLO:		18 19 20 21 22 23	sites because we just don't know.  MR. MILAZZO:  Okay. So in that case, your number would be appropriate, but so 280, is that the total number of sites some you have are already in remediation, some you might

MO	IOR FUELS UNDERGROUND STORAGE TANK TR	031	rund november 1	/, ZUX
	Page 17	-	P	age 19
1	about?	1	- on one site. You know, multiple.	
2	MR. BAKER:	2	That's the way we track that information, so	
3	That represents the sites that are	3		
4	currently receiving reimbursements	4	MR. BAKER:	
5	MR. MILAZZO:	5	And some cases, they'll come and	
6	Okay.	6	they'll basically, when they work a RAC,	
7	MR. BAKER:	7	they'll determine that the assessment is	
8	from the trust fund.	8	going to be less than the current deductible	
9	MR. MILAZZO:	9	amount. And as such, they don't even	
10	Okay. So there's been some work that	10	request eligibility.	
11	you guys have agreed it's eligible and	11	MR. HILL:	
12	there's some reimbursement in the process.	12	I understand.	
13	So there's a whole other group that you	13	MR. FULTON:	
14	haven't even got to that number yet.	14	We handle quite a few of those.	
15	MR. BAKER:	15	MR. BURNHAM:	
16	Yes, sir. MR. MILAZZO:	16	And they have two years to do so; is that correct?	
17 18	Any idea what that number may be like?	17 18	MR. FULTON:	
19	MR. BAKER:	19	Yes.	
20	It varies. You also have a category -	20	MS. CHATELAIN:	
21	- we include this in the obligation of	21	Anything else?	
22	ones that have requested eligibility from us	22	MR. HILL:	
23	but yet they haven't requested	23	Are we through with that?	
24	reimbursement. And I think the last	24	MR. MARCELLO:	
25	quarter, when I looked at the numbers, those	25	No.	
	· · · · · · · · · · · · · · · · · · ·			
	Page 18		P	age 20
1	were about 20 sites. And you have a chunk	1	MR. HILL:	
2	of sites that have we have incidents for	2	Does that answer your question,	
3	that have never requested eligibility. And	3	Johnny?	
4	there out there too. I'd say that's how	4	MR. MILAZZO:	
5	many active incidents do we have right now?	5	Well, it does, because - and I don't	
6	MR. FULTON:	6	want this to sound like an interrogation,	
7	About 400 or so. 400 or 500.	7	but there was a meeting yesterday and	
8	MR. MILAZZO:	8	even though I'm no longer on the board, you	
9	Wow.	9	know, a bunch of calls come in because they	
10	MR. HILL:	10	know my roll here today and ongoing. And it	
11	Why would you think they hadn't asked	11	just wouldn't be fair for me not to have	
12	for everything? They don't think they're	12	really a much better and deeper	
13	qualified or	13	understanding so I can provide better	
14	MR. FULTON:	14	information going back. Because when you	
15	But that's a total number of	15	look at this on the surface, I guess there's	
16	incidents. You could have a diesel spill or	16	some good news here, right? If you look at	
17	gas spill or MR. HILL:	17	the high 715 active sites, today, 280 sites.	
18	Oh, okay.	18	So there's certainly double-wall systems, a	
19 20	MR. FULTON:	19	lot of progress being made. I think there's a lot of concern for escalation of cost, I	
20 21	You could have two two diesel	20	•	
21 22	spills, two gas spills	21 22	think. And you look at these cleanups where we were, where we are and where we may be	
~~	ohmo, tan kao ohmo	<b>  ~ ~</b>		
22	MR RITRNHAM.	22	headed there's uset a lot of assessore	
23 24	MR. BURNHAM:	23	headed, there's just a lot of questions	
23 24 25	MR. BURNHAM: Right. MR. FULTON:	23 24 25	coming in. And I think being part of this board me personally speaking. I don't	

- speak for anybody else I probably need to
- 2 do a better job of understanding the total
- role here and being able to provide greater 3
- feedback, with better understanding. So I
- think that's a big part of it, because those
- questions are coming up, looking at cost
- then and cost today, and understanding, one, 7
- 8 there's -- there's a cleanup process where I
- think remediation standards have been 9
- softened some and yet cost seems to still be 10
- escalating for two reasons. One, cost in 11
- the field and then whatever cost associated 12
- with the DEO administratively. So I'm --13
- I'm just trying to wrap my brain around it.
- Jeff, to better understand it. It just 15
- looks like on the per site, that number just 16
- -- just keeps ratcheting up, where we were 17
- 18 thinking with higher standards, cost would
- be rolling back. Does that make sense? 19
- 20 I think, Nick, you brought up a great
- point a little bit earlier. And if you look 21
- at it more scientifically, I guess --22
- 23 MR. ST. ROMAIN:

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- Yes. The amount of dollars 24
- transferred to the fund, say back in '08,

'09 versus today has escalated. So it's

about double. But the number of active

sites has gotten cut in three. So it's a --

by the number of active sites, it's

less than ten years, eight years.

I think that -- I think he might be

expenses were not included in that

appears to jump but it really didn't.

calculation. That's the reason why it

MR. THERIOT:

if you look at the transfer to fund divided

quadrupled, the cost per site, in the last

Theresa, you want to answer that one?

It was low for years because we didn't

Yes, it was low for years because we -

talking about originally, the administrative

So while it appears to have gone up, it just

Page 23

Page 24

- more truly reflects what we're doing. And
- EPA's money has dropped. I mean, there's no 3
- question that EPA's money has dropped while 4
- expenses continue to rise. And so those are 5
- covered by the fund and always have been
- really, because the statute authorizes it. 7
- MR. MILAZZO: 8
- 9 Well, my response to that, I think the
- optics are this: you know, what does it look 10
- like? You know, if we were having fair 11
- comparisons, in all due respect to the 12
- 13 department, you know, when you look at those
- who are generating this revenue or have the 14
- responsibility, you know, for collection and 15
- getting it in, you get a lot of folks asking 16
- questions, well, can you guys explain that, 17
- 18 you sit on this board with a responsibility,
- give us answers. And without that fair 19
- 20 comparison, there's not a good answer.
- That's -- so if you can help us maybe -- and 21
- 22 not stop what you're doing. But that does
- help that because when you look at it 23
- here, you know, it's -- it's 3,000 versus 24
- 13,000 per site. So -- and we're just

Page 22

- talking about the DEO administrative part of
  - that. But if it's not fair because in 2007,
  - or 2008 or 2005 or 2006, you guys didn't
  - report it that way, then we got -- the
  - scales not --5
  - 6 MR. THERIOT:
  - 7 Some of that was moving here. A lot
  - of people don't understand that state
  - agencies paid for these buildings. Okay. 9
  - Every building that you see downtown, the 10

  - payments for them are credited to the agency 11
  - that occupies them. It's much like a 12
  - commercial arrangement. So some of that, we 13
  - didn't use to account for, now we have to in 14
  - the budgets. It's a little -- it's a little 15
  - bit different than it use to be. The 16
  - statute requires us, I think, if you -- in 17

  - the statute that we truly reflect much like 18
  - an insurance company would do, when a claim 19
  - comes in, whether the claim is actually 20
  - viable or not, when it gets here, we have to 21
  - set aside funds. That's what insurance 22
  - 23 companies are required to do on their
  - accounting sheets. And so when we get a 24
  - request for eligibility, we have to know a

MS. CHATELAIN:

MS. CHATELAIN:

- -- total overhead. 22
- 23 MR. THERIOT:

include the --

MR. THERIOT:

- -- didn't include it. And now it 24
- is included in the total overall picture.

1110	TOR FUELS UNDERGROUND STORAGE TANK TR	USI.	FUND November	
	Page 25		· · · · · · · · · · · · · · · · · · ·	Page 27
1	certain amount of funds are going to be	1	Well, and I will tell you this as	
2	available to pay if that eventual liability	2	well, the number of sites in the past years,	
3	under accounting principles. And so we	3	when I first started, we went through and	
1	those things have been in those		did a data analysis of the active sites.	
4 -	_	4	•	
5	accounting principles are being incorporated	5	And a large chunk of the sites we had in our	
6	into what we do here. And those that	6	system at the time had actually been NFA'd	
7	was a recent development. Theresa you maybe	7	and closed years and years before. And we	l
8	know more than I do when they began imposing	8	went through and cleaned those up in our	-
9	that that accounting requirement. I	9	data system. However, they were still	
10	remember when they talked about it, but -	10	showing up on our reports.	
11	MS. CHATELAIN:	11	MR. MILAZZO:	
12	No.	12	So you could have an exaggeration of	1
13	MR. THERIOT:	13	sites that	
14	we now use that accounting method	14	MR. BAKER:	
15	that truly accounts for cost.	15	Yes.	
16	MS. CHATELAIN:	16	MR. FULTON:	
17	Right. And	17	That — that is — we spent the last	ľ
18	MR. BAKER:	18	three years	
19	And also	19	MR. MILAZZO:	
20	MS. CHATELAIN:	20	Okay.	
21	Go ahead.	21	MR. FULTON:	
22	MR. BAKER:	22	cleaning up our data systems. Yes.	
23	Also, you know, part of our transfer	23	MR. MILAZZO:	
24	of funds is, we have to incorporate our	24	Well, I guess it's fair to say, we're	
25	revenue coming in. Our revenue coming in	25	building better averages today?	
1		ļ		
	Page 26	<b>†</b>		Dago 29
	Page 26			Page 28
1	includes EPA grants and whatnot. And those	1	MR. FULTON:	Page 28
1 2	includes EPA grants and whatnot. And those fluctuate year to year as well. And that	1 2	MR. FULTON: Yes.	Page 28
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Page 32

Page 29

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I'd just like to say thanks for 1 2 explaining it to me. Truly, I didn't want

it to sound like an interrogation, but I

need a better understanding.

MR. HILL: 5

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Okay. We will - if no further discussion on the financial report, we will move to number eight, the trust fund status report. I'd like to ask Jeff to report on that for us, please. MR. BAKER:

If ya'll would go to tab eight in your packets. We're going to kinda split my report up. We're going to do this kinda of a real quick and dirty on the end of fiscal year 2016 and then we'll cover the first quarter of 2017.

If you'll look at the first page there, you'll notice that during the fiscal year of 2016, the trust fund received 1000 applications, totaling \$15,724,270. At the close of this fiscal year, the trust fund had 138 pending applications, with 912 applications processed for payment, totaling \$12,847,679. And we had 67 applications

Again, if you'd flip the page, the 1 2

table on -- this table gives you a

comparison of the current fiscal year to the 3

previous fiscal year. Obviously, we've only

covered a portion of that year, so you'll 5

see the differences there. 6

If you'll flip to the next page, this is entitled, report of cumulative activate -

9 - I'm sorry - the monthly motor fuel trust

fund obligation determination with September 10 30th at the top. This worksheet list the 11

various component determination of the 12

potential obligations against the trust fund 13

as of the end of September 2016. For sites 14

in the corrective action phase, the 15

outstanding liability of corrective action 16

plan and budget estimated cost to reach 17

closure as of the end of September 2016 was 18

\$25,714,755. This total includes the CAP 19

budgets remaining amounts and the RAC 20 21

estimated cost to closure.

Johnny, that was the section where we were talking about, that is site specific, where we know there's a corrective action plan and what those cost are.

Page 30

that were returned with deficiencies.

If you'd go to the next page, the tables on this page kinda give you an overview of the commutative activities of the trust fund over the last several years

and it shows you how fiscal year 2016 6 compares to the previous years.

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If you go to the next page, this kinda gets to the calculation that you were talking about, Johnny, and the different categories. And if you'll look, as of the end of fiscal year 2016, the total obligation from all the categories was \$79,224,055.

If you go to the next section, next page, it's entitled, reports of activities for the first quarter of fiscal year 2017. As of September -- the end of September of 2016, the trust fund had 143 pending applications, which have requested amounts totaling, \$1,728,185. 186 applications were processed for payment during the fiscal

22 year, totaling \$2,632,951. And 37 23 applications were returned with 24 deficiencies.

The next section, the fund obligation 1

recognized for sites without ROG approved 2

CAP budget is \$31,363,325. This is 3

determined by using a three year average

site closure cost, applying these cost to 5

the average trust fund sites without current 6

7 CAP budgets.

The fund obligation recognized for sites that are determined to be trust fund eligible, however, have not submitted reimbursement applications is \$3,186,100. 11 This is also determined by using three year 12 average site closure cost, applying these 13 costs to the sites that have requested eligibility and have yet not submitted a 15 request for reimbursement from the fund. 16

The five year projected fund obligation related to the motor fuel trust fund -- I'm sorry -- related to transfers from the motor fuel trust fund to the environmental trust fund is \$18,624,277. This estimate uses a three year average dollars transferred from the motor fuel trust fund to the environmental trust fund and multiplies this average by an estimated

Page 35 Page 33 get that from the accounting group. five years. 1 2 The total component categories show a 2 MS. CHATELAIN: -- correlate the quarterly obligation amount Yes. It's the difference between the 3 3 program revenue that is available for of \$81,888,457. 4 4 department expenditures and the total Some points of interest. The trust 5 5 department expenditures. So the revenue is fund is continuing to work on the revised 6 6 2.6 million but the expenditures were 7.5. guidance document. A workgroup of 7 7 So the additional 4.9 has to be transferred stakeholders met on November 1, 2016 to R back to ETF, because ETF spent the money for discuss the draft document and began the 9 review process. During this meeting, the the program. 10 MR. ST. ROMAIN: members had a high level review of the draft 11 11 document and discussed a number of issues. 12 Okav. 12 Several breakout groups were formed to begin MR. HILL: 13 13 Any other questions? working on various projects. We hope to 14 14 have a final document ready for the board's MR. FULTON: 15 15 Like -- well, I just wanted to -- I review sometime in the first half of the 16 16 guess the question regarding the revised next calendar year. 17 17 method, I'd like to make a motion that we Another point of interest. It was 18 18 accept the revised method. I guess, were brought to the department's attention, 19 19 during a recent audit, that the revised ya'll fine with the revised method? 20 20 obligation process that we just went over, MR. MILAZZO: 21 21 was presented and discussed by the board in For reporting? 22 22 a previous board meeting, but was not MR. FULTON: 23 23 officially approved by the board. The 24 Yes. 24 MR. BAKER: department request the board consider the 25 25 Page 36 Page 34 For obligation -revised method as a viable and accurate net 1 tool for determining the potential 2 MS. CHATELAIN: 2 obligations against the trust fund moving For the obligation --3 3 MR. FULTON: forward. 4 4 Does anybody have any questions? For the obligations against the fund, 5 5 the -- the new revised method. 6 6 MR. HILL: Thank you, Jeff. Does anybody have 7 MR. BAKER: 7 any questions? We discussed this about a year ago and 8 8 MR. ST. ROMAIN: we sent out the backup documentation and --9 9 and it was a good discussion with the board One question. What determines the 10 10 in the board meeting. However, it was never annual transfer from motor fuel trust fund 11 11 voted by the board for approval. to the environmental trust fund? 12 12 MR. FULTON: MR. BAKER: 13 13 What we do is we take the last three We never officially voted. 14 14 years of transfers and we take that money, MR. MILAZZO: 15 15 we average -- average those three transfer I'm comfortable with it. 16 16 costs on an annual basis and come up with a MR. HILL: 17 17 I'm -- I'm fine with it. We need to single value and multiply that times --18 18 MR. ST. ROMAIN: 19 19 But how do you come up with those MR. FULTON: 20 20 annuals transfers? What -- what triggers So I make a motion to accept. 21 21 those? Do they fluctuate? 22 22 MR. HILL: MR. BAKER: -- make a motion to accept. 23 23 They do fluctuate. Those are the MR. FULTON: 24 24

numbers we were talking about earlier. We

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I do. I'm going to make a motion to

NOV	ember 17, 2016 N	AOTOR FU	UKL.	S UNDERGROUND STURAGE TANK TRU	STRUND
		Page 37			Page 39
1	accept.		1	MR. THERIOT:	
2	MR. HILL:		2	Yes. The owner of the tank and the	
3	We have a motion to accept the new		3	secretary as administrator.	
4	revised		4	MR. BURNHAM:	
5	MR. MILAZZO:		5	Right.	
6	Second.		6	MR. HILL:	
7	MR. HILL:		7	Okay. If no further discussions on	
8	All in favor?		8	that. Under agenda item number nine (a)	
9	(All indicated "aye".)		9	discussion of legislative changes for 2016	
10	MR. HILL:	. :	10	session.	
11	All right. So moved.		11	MR. THERIOT:	
12	We will move on to agenda item number	er :	12	That would also be me.	
13	nine, third party claim status. I'd like to		13	MR. HILL:	
14	ask Mr. Perry to bring us up to date.	:	14	That would also be Perry.	
15	MR. THERIOT:	:	15	MR. THERIOT:	
16	We have one new case. And it was	:	16	I had originally planned to put this	
17	filed within the past month. And it was a	:	17	on the screen but we're not able. So I'm	
18	second case involving AT&T, BellSouth, for	ra :	18	going to go through my notes here and I'll	
19	manhole that, as a result of a release from	:	19	just give an oral presentation.	
20	a nearby UST, sustained damage to the	]:	20	Most everyone here knows about the	
21	communications equipment. They filed sui	t :	21	act, but it's just good to sum up what we	
22	against us. This is our second one like	1:	22	did come up with as the final. Let me take	
23	that. It will likely settle, as the first	:	23	a second and get my notes up.	
24	one did, because the - the statute is such	:	24	Okay. Of course we had only we had	d
25	that they don't own the manhole cover, nor	2	25	the bill that we worked on with the board	
		Page 38			Page 40
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- do they own the land that the manhole cover
- sits on. It's usually a servitude and what
- we don't -- the fund doesn't mind settling
- for what the statute refers to as un-
- reimbursed cost of -- of remediation,
- meaning events to get the manhole cover 6
- fixed. We will not -- there's no permanent 7
- damage to any property, which the statute
- defines as real property that has been
- 10 permanently devalued. So if you don't own
- 11 it, it's not been devalued. So we
- anticipate that one will settle for a minor 12
- amount in the future. It's our second suit 13
- by them, so they're going to get familiar 14
- with it and we're liable to -- each time it 15
- gets in a manhole, we're going to get a 16
- lawsuit where they try to get some of their 17
- cost back. 18
- 19 MR. BURNHAM:
- Perry, AT&T filed suit against the 20
- station and --21
- 22 MR. THERIOT:
- The owner of the tank. 23
- MR. BURNHAM: 24
- then we defend the station. 25

- and -- and with everyone at session. And it
- resulted in in Act 521, which we have in
- effect today. When we got together, we --
- we had some discussions. But the problems
- that the DEQ were wanting to fix with this
- bill and we've been very -- I'm very glad 6
- to see that the board has helped us in
- securing some of these things. We have a
- 9 cap in this statute, of course, that caps
- 10 the amount of unobligated balance that will
- trigger the cessation of the -- of the 11
- collection of the fund and then return it 12
- when you get back to a balance. And there 13
- was only a \$10 million difference between
- the two. So it would've been triggering the 15
- on and off switch pretty quickly throughout 16
- the year, which would've been kinda of a 17
- nightmare. So one of the things that 521 18
- did was to raise that cap so that we 19
- wouldn't have the continual switch on. 20
- We can still switch off now, but it won't 21
- switch on and off as quickly as it would've 22
- 23 in the past.
- There were a few other problems. One 24 of them was that the -- at one time, all the

Page 41

- major oil companies owned many of the 1
- 2 stations and as all of you are aware of the
- double-dipping problem, many of -- many of 3
- the -- it is alleged that many of the major 4
- oil companies waited until the fund came 5
- into being and then filed their claims for 6
- releases after -- even though they knew they 7
- had releases prior to the adoption of the R
- fund, or that they filed claims against
- their insurance companies while collecting 10
- from the fund for all their remediation. 11
- 12 The department along with the AG's office,
- of course, began the process of recovering 13

that money. 14

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12

We have recovered a significant amount of money from -- from these people and it would've immediately triggered the cessation of the collection had they been -- had this money been deposited directly into the motor fuel trust fund.

So we worked with the AG and we decided that we would put out that -- put the bill out to do a few things. We included a few what we considered to be reforms. We were having trouble in some of

- allow the secretary along with the advisory
- board to declare some fuels to be motor 2
- fuels if they use if they otherwise meet 3
- the definition. And that will take care of
- it. If we ever need it, we have. And so we 5
- can get -- if you guys all of a sudden come 6
- out -- they come out with a bio-fuel that 7
- you're going to be placing in your UST's,
- you will be covered. 9

10

11

We also are experiencing an increase in abandoned and orphaned tanks within the

- 12 state. That's not a secret. One of the
- 13 things we did with Act 521 is, we allowed
- the secretary to -- we -- we have a lot of 14
- problems with people who don't have any 15
- money and then they close their stations and 16
- they can't even come up with deductibles, 17
- they can't pull their tanks. There's a lot 18
- of problems. So we're going -- the 19
- 20 secretary can declare a tank an abandon tank
- for purposes of the fund. As you know, we 21
- were limited to the interests on the trust 22
- fund which has gotten okay. But we're now 23
- going to be able to draw on the funds from 24
- 25 the cost recovery actions. So the money

Page 42

6

Page 44

- the cases with the date of the release. So 1
- 2 we put a definition in for the date of
- release that will make things a little bit 3
- clearer to both the regulated community and 4
- to us, which is, now, it's going to be -- if
- we don't know an exact date, for instances, 6
- your alarm goes off, we know the date, you 7
- call it in. If we don't know the date, R
- which we find out a lot times from a real a
- estate transfer, it will be the date that 10
- it's reported to us. And that's now clear. 11

We also were getting the -- the age of

- bio-fuels is coming. And they're going to 13
- be stored in UST's. I don't know if any of 14
- you saw the news last night, but the Navy 15
- now uses, I think, 40 percent bio-fuel for 16
- the entire United States Navy and their 17
- F-18's are flying on bio-fuel now. So the 18
- age is coming for it and we needed to be 19
- ready for it if it comes. Right now, before 20
- 521, a release from one of those, even 21
- though the contents of the tank would've 22
- been almost chemically identical, it would 23
- not be covered because they're bio-fuels. 24
- So we changed it to redefine motor fuels to

- that was coming back from the into the 1
- 2 fund, we can use presumably to pay for some
- of these orphan tanks and get them out. 3
- Because most of those orphan tanks did 4
- actually pay into the fund at one time. 5

Okay. We're also having problems with investigations not proceeding. That was one

- 7
- of the things we would've liked to have seen 8
- speed up. Sometimes we'll get a case and as 9
- Jeff said earlier, it's been two years and 10
- we don't have an investigation. So we don't 11
- 12 even know what the liability is at the
- moment. We amended it and put into the act 13
- a two year time limit in these 14
- investigations. Currently, there's a letter 15
- that will be sent out to all new releases 16
- that will be telling them they have two 17
- years to get their investigation in. 18

There's also the possibility that any 19 one that's -- it could be three years and

- 20
- been sitting in house, but the bill was 21
- effective August 1st. So now they have two 22
- years from August 1st to get that 23
- investigation in. We expect a few more 24
- investigations. The result of not doing the 25

- investigations is, we're not going to cover
- 2 your tanks. Now, this is not a major change
- that some people believe it is. Under the 3
- statute, the department always had the right 4
- 5 to declare your site to be not eligible if
- your delay caused the price of the cleanup.
- 7 to go way higher. Because the statute
- requires that we use the most economically 8
- efficient and timely way to cleanup the 9
- site. If you sit on the site for two, 10
- three, four years, there's no question that 11
- the plume is spreading and you're going to 12
- 13 have to spend probably more money to clean
- it up. So this was considered to be a 14
- reform that would be set that the regulated 15
- community would know, now when you have a 16
- release, you need to get your investigation 17
- 18 done in two years.

19

- We recently loss a motion for summary
- 20 judgment in a district court -- I think I
- told ya'll about this in the last meeting 21
- 22 that I was here -- where a district ruled
- 23 that there were two caps on the fund, there
- was 1 million for remediation and 1 million 24
- for third party claims. We wanted to make

things. And many bulk dealers don't have

Page 47

Page 48

- this anymore. Bulk dealers are closer to 2
- 3 brokers than they are to the old fashioned
- bulk dealer that used to exist. So we 4
- redefined the bulk dealer to make sure that 5
- you didn't have to own any infrastructure. 6
- You just had to have a certificate and you 7
- had -- to be a bulk dealer, you had to meet
- the definition of a bulk dealer, which 9
- include brokers. So now everyone who 10
- brokers fuel is going to have to register as 11
- a bulk dealer. 12
- 13 We have new -- the new definition of
- the bulk facility, new definition of the 14
- date of release, new definition of motor 15
- fuels. We also tightened up on the fee 16
- structure. We have a lot of sites that 17
- 18 transfer. This is a common problem up here.
- And we send invoices because guess what, the 19
- 20 new owner doesn't fill out his new
- (inaudible) one, so we don't know that it's 21
- 22 changed hands, but it's been changing hands
- 23 all the time. And we send out a bill -- a
- fee bill to the guy who's listed in our 24
- records as the owner. They don't pay it

Page 46

- sure that that was not the case, because that would double the possible liability of 2
- the fund. So we -- when the amendment was 3
- passed, we made it clear that there's 1.5
- million, because we raised the cap last year
- -- there's 1.5 million available for third
- 7 party claims and remediation. We don't want
- the liability going to 3 million. So that 8
- 9 was made clear.

10

- We were having trouble they are
- very there's quite a lot of number of 11
- bulk dealers that we have that hold are 12
- 13 holders of certificates. We are currently
- 14 in the process of auditing these bulk
- dealers to find out who's still in business 15
- 16 and who's not, because there was no --
- there's nothing in the law that -- that 17
- discontinues their certificates. So we're 18
- 19 looking at those things to find out who's
- still in business. And they're going to get 20
- letters that we're going to be canceling 21
- their certificates if they're not in 22
- 23 business any longer.
- Bulk dealers used to be required to 24
- have pipelines, tanks and quite a few other

- because they go, I don't own that anymore.
- I'm not paying that. That's pretty -- not 2
- unusual. Now, those people will be subject 3
- to what is basically the red tag. If you 4
- don't pay your fees for the tanks, which are
- very reasonable fees, they're not, you know,
- 7 it's -- it's -- what's it, \$59, or \$65, now,
- I think?
- MS. CHATELAIN: 9

60. 10

## MR. THERIOT: 11

12 Per tank. We're not going to let you

13 receive -- you're going to get put on the

red tag list and you will not get any fuel 14

until you pay those fees. Because it's not 15

16 fair to you guys paying the fees to have

guys out there not paying their fees. And 17

anybody who can afford the amount of tanks 18

to drop a load of fuel into these tanks, has 19

bound to be able to afford that price. 20

So this is the new way of -- it's much 21

similar to what we did back in 1998. Those 22

23 of you who have been here a long time know

that when they put the upgrade requirements

in the tank world, if you didn't upgrade

24 25

Page 49 your tanks, you couldn't get fuel. So now, 2 this will be, you got to pay your fees or you don't get fuel. 3 We also wanted to establish a loan or 4 grant program. We did not -- we went along, 5 6 we said we don't really need the grants so we'll go with the loans. The Energy Act 7 currently has a provision in it that allows 8 the state to exempt -- the secretary of the 9 DEQ can exempt any rural station out there 10 if he believes that the station is not 11 12 necessary to ensure fuel delivery to certain populations. That is in the Energy Act. That is federal law. So what we wanted --14 15 it's better to upgrade them than to close them in some cases. So we're not going to 16 give it away, but we're going to take 17 stations that might serve rural areas that, as everyone knows here, the economic 19 20 viability of rural areas fueling stations is getting on a very close margin, if at 21 all. So this will allow us to only use --22 not the fund but the recovered money. Only the recovered money, not the fund. In order 24 to set up a loan program to enable these 25

Page 51 the use that we want to. We're not going to 2 loan out any money until we have regulations. 3 Okay. And that is also restricted 4 only to the money we have recovered, not to 5 6 anything that's currently -- the fees 7 currently going into the fund. MR. MILAZZO: 8 Could I ask a question --9 MR. THERIOT: 10 Sure. 11 12 MR. MILAZZO: 13 - in the middle? So let's just use an example. And, Cy, I'm going to go back 14 to your report for a second. 15 So a three tank location, \$180 a year, 16 if my math is right. But most importantly, 17 at eight tenths of a cent, we're talking -18 we're knocking on a door of about \$10,000 a 19 20 year, fee into that fund. So I'm not as 21 concerned about the guy that doesn't pay that \$60. But that's your tracking 22 mechanism. But from an audit trail 23

standpoint, how do you know what that guy

the balance of the year? Do you connect the

that's paid his little \$180 might be doing

people to upgrade their tanks, if they feel 2 so inclined to pay the loan and upgrade their tanks. 3 MR. HILL: 4 5 Perry, I assume that you'll go through some motion or financial responsibility. 6 How does that work? 7 MR. THERIOT: R We are -- we are -- the statute 9 requires us to do regulations, which you 10 guys will get to see before they're ever sent anywhere. 12 MR. HILL: 13 Okav. 14 MR. THERIOT: 15 We're in the preliminary process. 16 That's not going to be easy to write 17 regulations for loan making. We're not a 18 loan making group. 19 We are going to try to borrow and look 20 21 at some of the loan regulations that are

used. Our rural water group over at DHH

that loans money to small systems for

drinking water, we're going to look at

theirs and see if they can be adapted for

2 dots with him as a site -- registered site owner. You go back to folks like me who are 3 the collects -- the collection agent, 4 submitting this for you. And if you were to 5 audit me, you took a -- I'm not really sure 6 what you do, but have. I guess you'd look 7 at all these invoices and look at maybe some 8 balance sheet numbers. Do you ever go back 9 to the specific location? Because I'm 10 awfully ---11 12 MR. THERIOT: I think I can answer and put your mind 13 at ease, because what you're saying is a 14 misconception in the industry. The tank 15 owner does not owe the motor fuel trust fund 16 fee. It has never owed it. It is owed by 17 18 the bulk dealer, upon withdrawal from bulk. So no, we do not go out and audit the 19 stations because they don't owe the fee. 20 It's owed by the bulk dealer. 21 22 Now, we're not -- you know, we're not with our head in the sand. Of course, 23 you're going to pass -- bulk dealers are 24 going to pass the costs on. But legally

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Page 50

Page 52

Page 53 Page 55 speaking, the only people who owe the fee That's a challenge. 2 are the bulk dealers. So - so I can see the audit trail 2 MR. MILAZZO: 3 there then. So if you go out to do -- and 3 4 Yes. And I -- and I get that. And I pardon me, because I'm probably -- some guess the point I want to make, Perry, is 5 folks are ready to go home, but this is a -5 that, do you have a check and balance to 6 if you go out and you're doing a three-year 7 that process? For instance, what are the inspection and reconciliation is a part of total gallons, first? I guess for road that, right? So I see you do 100,000 8 purpose, you would think by and large it gallons a month. Who's -- do you guys not 9 9 would be UST related. That's one number even look at that anymore? 10 10 11 multiplied would say, are we collecting 11 MR. THERIOT: something close to this number? I just 12 No. The inspectors do not look at 12 worry about -- and maybe I shouldn't be 13 13 worried about anything. Right? I mean, MR. MILAZZO: 14 14 it's -- it's what you guys are doing. But I 15 Okay. All right. Maybe I'll take 15 16 just -- you know, I commend you guys. I that offline, but it's probably something --16 mean, you know, you're looking in all the 17 17 the guys that are -18 right places, but if you just go to a guy 18 MR. THERIOT: and say, show me what you're doing. He may I will tell you --19 not be doing anything with five or six guys. 20 MR. MILAZZO: 20 MR. THERIOT: -- doing a great job, that --21 21 22 Okay. The system is set up. And it MR. THERIOT: 22 is in the regs. There is a system that 23 23 I will tell you that that is done in you're talking about. Sam who's here can many states. But that is - we're are 24 24

Page 54

Page 56

- you receive a certificate that you're
- suppose to have posted at your station. 2
- 3 When an inspector goes out, which is about

tell you that when you pay your tank fee,

- once every three years and that -- it's
- required by the Energy Act, once every three
- years, that's the first thing they check, to
- 7 see if you have your certificate, okay, as a
- -- as a gas. And that -- this -- the way 8
- 9 this was rewritten, is if you don't have
- 10 that certificate, okay, then they're going
- to look at not delivering fuel to your 11
- 12 station. Okay. But that is part of the
- checks. And we also the regulations do 13
- require when a station changes hands, they
- have 90 days, Sam, to do the (inaudible)
- one? I think it's --16
- 17 MR. BROUSSARD:
- 18 30.
- MR. THERIOT: 19
- 30 days to do a new registration with 20
- us. And they're suppose to do it. There 21
- are many, many, many of our smaller stations 22
- that change hands regularly. 23
- 24 MR. MILAZZO:
- 25 Yes. Well, I heard you mention that.

probably -- we're actually I think a little

unique in this state. And I think that it's

- better. But in most of the country, this
- fee is collected by the Department of
- Revenue who collects your excise taxes too.
- I have seen and requested a packet of the
- forms that you have to fill out in those
- states and they're about this thick. And 7
- the -- only a small, one page of it, is
- 9 dedicated to the motor fuels underground
- storage tank trust fund, but you have to 10
- fill out the whole thing. And -- and we 11
- 12 attempted at one time to get permission from
- 13 the Department of Revenue here -- we
- actually prepared a bill to allow them to 14
- give us access to their excise tax figures 15
- so that we could do a back audit. We -- we 16
- really did want to do that. Revenue has 17
- 18
- been very protective of their information
- here and will not give it to us and actually 19
- opposed us -20
- 21 MR. MILAZZO:
- Boy, that's a shame because that's a 22
- great opportunity for you. It really is. 23
- 24 And it's surprising because you're one
  - gigantic agency at the end of the day.

Page 60

|--|

- 1 Lending, you know, hands to -- and I'm all
- 2 for -- for the audit. I mean, I -- I hope
- 3 you guys gather that. We want
- 4 accountability. We absolutely support
- 5 accountability. Pardon me for making a long
- 6 discussion out of that.
- 7 MR. THERIOT:
- 8 No. And we agree with you. And
- 9 that's one of the reasons for this change in
- 10 the bill, is to force those who are not
- 11 paying their fees, we're -- we're going to
- take part of the action and then we don't
- 13 have fees, we're not sending out the
- 14 certificates. Okay. And if they don't have
- 15 a certificate, we would hope that the driver
- 16 goes in and checks that certificate before
- 17 he drops his fuel and makes sure that
- 18 they're a qualified user of the fuel.
- But that's part of the system that's
- 20 set up to try and make sure. We're just
- 21 tightening up on it a little bit to make
- 22 sure that we're not bringing fuel to people
- 23 who are not willing to pay their fees.
- 24 MR. BROUSSARD:
- 25 And let me clarify. That's the annual

- 1 accountability for those who should be
- 2 paying and make -- gives you a clear path to
- 3 the information. That -- that's what we
- 4 want.
- 5 MR. THERIOT:
- 6 And our audit department would love to
- 7 see those figures from revenue to make sure
- 8 that they agree with the amount of gallons
- 9 that are being reported to us.
- 10 MR. MILAZZO:
- 11 Yes. So let -- let's count on some
- 12 more dialog and then maybe not in this
- 13 setting, but, you know, where we can really
- 14 throw some stuff to the board and see if it
- 15 sticks.
- 16 MR. THERIOT:
- 17 The other thing, of course, on
- 18 legislative developments -- that's probably
- 19 enough on the bill that we got passed, but
- 20 ya'll there is the resolution that
- 21 requires us to study AST's at the bulk
- 22 dealers for conclusion into the fund.
  - In that line, we've actually begun
- 24 preparing -- we have a draft. We're not
- 25 finished with it yet -- of a questionnaire,

Page 58

23

- 1 fee.
- 2 MR. MILAZZO:
- No, I understand. Right, right.
- 4 That's the thing that gives you information
- 5 about that site. That's what I'm stuck on
- 6 here is that, you have the evidence in your
- 7 hand. It's matching up -- that's only \$180.
- 8 I'm chasing \$10,000. That is -- that's my
- 9 point. How do we connect those two dots?
- 10 More to come. Okay? We -- we'll take that
- 11 offline, talk within our group. And maybe
- 12 as you talk legislatively, bolting this
- 13 thing together in future without putting the
- 14 burden on you.
- 15 MR. ST. ROMAIN:
- 16 Are you can get the numbers from --
- 17 MR. MILAZZO:

18

- Are you can get the numbers.
- 19 MR. ST. ROMAIN:
- 20 the Department of Revenue.
- 21 MR. THERIOT:
- 22 Well, that would be nice --
- 23 MR. MILAZZO:
- 24 And -- and I think that's where we go
- 25 hand in hand with you to talk about

- because we're not even sure of the world
- 2 that we're dealing with. Because of --
- 3 that's one of the things we talked about
- 4 earlier, about the cleaning up of the
- 5 database for the bulk dealers. We had a ton
- 6 of bulk dealers who don't even exist
- 7 anymore. We're working on a questionnaire
- 8 that we're going to send out for them to
- 9 fill out, because not everything that goes
- 10 into a bulk tank pays the fee. That's one
- of the things we're going to have to know.
- 12 And so there's going to be a questionnaire
- on, do you do this, do you do that, how much
- 14 duty free fuel do you sale through these
- 15 tanks? You guys are going to be asked to
- 16 provide us that information so that we can
- 17 do at least a little bit more research on
- 18 covering them. And then, you know, I would
- 19 recommend -- we're going to -- I know some
- 20 states do -- and so we're going to look to
- 21 see what other states are also doing on it.
- 22 But you've asked us to study it, and we're
- 23 going to study it and get back with you guys
- 24 at this board before we do anything else.
- 25 There is one other thing that I --

TAOA	cimber 17, 2010	MOTOR	OLI	S UNDERGROUND STORAGE TAIN. TRU	OF LOIAT
		Page 61			Page 63
1	this is in other matters, dealing with		1	MR. ST. ROMAIN:	
2	well, it's not on the agenda, so I probably		2	Right. Only in a bulk plan setting.	
3	should wait until we put it on the agenda.		3	MR. THERIOT:	
4	That'd probably be better. We can talk		4	And that's that, as I I spoke to	
5	informally, but because it's not it's		5	ya'll personally, but that's one of the	
6	a long range thing that I was exposed to at		6	challenges of doing this, is because it's	
7	a conference that I would really like to put		7	going to have to be tightly written. And	
8	on the agenda and discuss at a later time.		8	the reason being is, the RACs, the major	
9	MR. MARCELLO:		9	fuel supplier, they would love to see their	
10	Well, Perry, to to add to what	•	10	above ground tanks covered.	
11	you're talking about, I had two questions		11	MR. ST. ROMAIN:	
12	and or two concerns and one was that		12	Right.	
13	resolution. So a synopsis of what you said		13	MR. THERIOT:	
14	was, we will see		14	And so, we're going to have to work on	
15	MR. THERIOT:		15	this if we're going to get it done. It's	
16	You're going to see a questionnaire.		16	going to have to be done very, very tightly	
17	MR. MARCELLO:		17	drawn is the way I like to put it.	
18	a questionnaire.		18	MR. HILL:	
19	MR. THERIOT:		19	I think it's fair to say they haven't	
20	Yes.		20	paid those million gallon storage tanks	
21	MR. MARCELLO:		21	haven't paid into the trust fund	
22	Okay.		22	MR. THERIOT:	
23	MR. ST. ROMAIN:		23	No, they don't.	
24	Related to those above ground storage	;	24	MR. HILL:	
25	tanks.		25	in respect to what you just said.	
		Page 62	-		Page 64
1	MR. THERIOT:		1	MR. THERIOT:	
2	Yes.		2	That's right. They don't.	
3	MR. ST. ROMAIN:		3	MR. MILAZZO:	
4	I would imagine a good		4	Perry, let me first of all, thank	
5	MR. THERIOT:		5	you guys for any consideration in that.	
6	Related to above ground storage tanks	<b>\</b> .	6	But given the choice and, you know, when l	
7	MR. ST. ROMAIN:	,,	7	hear the word, you know, loan program,	
8	A good portion of those, I would bet		8	making funding available for some when	
9	are no longer being actively used, but coul	ld	9	others, you know, provide their own path	
10	have	. —	10	forward, just something to think about	
11	MR. THERIOT:		11	and I want to be careful because I'm not	
12	That's what we would like to know. V	Ve	12	sure of the position of of our own	
13	don't know that. We have no idea.	=	13	organization. But the thought of building a	
14	MR. ST. ROMAIN:		14	program that takes on environmental	
15	Would it cover contamination that		15	responsibility to clean up something that's	
16	happened here in the past, not just on an		16	different than what we have built this	
17	active site?		17	program to do, simply because there may be	;
18	MR. THERIOT:		18	surplus, I think is the right environmental	
19	We don't know even how many above	; <del></del>	19	responsibility, even with the risks of some	
20	because we've never regulated above grou		20	unknowns versus creating attractive funding	ζ
21	storage tanks, this department doesn't have		21	for those who might need financial support.	•
22	any idea how many there are. We don't ev		22	I I struggle with that. I don't think we	
				<del></del>	
23	know.		23	ever intended in meeting our financial	
23 24	know. MR. MILAZZO:		23	ever intended in meeting our financial responsibility and the purpose of the UST	
			1	ever intended in meeting our financial responsibility and the purpose of the UST Trust Fund was to develop loan programs.	

MOTOR FUELS UNDERGROUND STORAGE TANK TRUST FUND Page 65 Page 67 MR. MILAZZO: That's just Johnny Milazzo speaking. I want 2 to be careful, because I don't know if we've 2 Yes. I -- I'm just saying, those guys got any consensus there yet, when we hear have a responsibility. We all share the 3 3 same responsibly. It's a small percentage loans. But I think of your world and your department. I think what we're trying to do that are asking for that. I don't know how 5 in our responsibility to the environment. I big it is, but --6 6 think it's a much better tone when you start 7 MR. THERIOT: 7 taking on true environmental responsibility It -- it --8 8 and less financial -- making funding 9 MR. MILAZZO: available to those who may destruct them. You know, to be in the business, 10 10 MR. THERIOT: you've got to show up and -- and be 11 11 Well, it -- it may be -- and ya'll prepared. That's all I'm saying. 12 12 will have to discuss this. We don't -- we MR. THERIOT: 13 13 don't have a consensus either. Okay. This There's two -- there's two states 14 14 doing it, so if anybody wants to check into 15 15 it, I always like to tell them there's two MR. MILAZZO: 16 16 Yes. And thank you for including us states that are already doing it. Colorado 17 17 is doing it. And I believe it is North in this kinda discussion. 18 18 MR. THERIOT: Dakota that is doing it. Two western 19 19 But as to those tanks you're talking states. Colorado also recovered the money 20 20 about, we can -- as to the loans, okay, from the major oil dealers and they're using 21 21 those will not be available to closed it to upgrade rural stations. 22 22 stations which --(An off-the-record discussion followed.) 23 23 MR. MILAZZO: MR. FULTON: 24 24 Right. Well, they've got a long way to travel 25 25 Page 66 Page 68 MR. THERIOT: 1 1 between gas stations. These would only -- I imagine there's MR. THERIOT: 2 2 not going to be a big world of these. So I But that -- that's -- our program is 3 -- I think the money we have recovered will 4 not going to be a new program. We're going 4 be more than enough to cover the ones that to take a look at Colorado's program and I we're thinking of. Okay. I -- I'm not sure think North Dakota. There are a couple of 6

7 of that, because it's -- who knows? But I

8 think that the money we've recovered is

9 going to be a lot more than the amount it

10 would take to do the loan program.

11 MR. MILAZZO:

12 My vote would be to think financial --

13 I mean, environmental responsibility. And,

you know, put yourself in the position of a

15 millennial, a whole new world of

16 responsibility.

17 MR. THERIOT:

Well, I think it's easy if you think

19 about it. When you think about it, it is

20 environmental because the whole basis for --

21 MR. MILAZZO:

Well, I guess it is. I don't --

23 MR. THERIOT:

24 -- it is, so that the fund won't have

25 to spend money in the future.

7 other states that are getting ready to do it

8 as well. The idea being, it's better to

9 upgrade them than to have them continue

10 operating where they don't have to

11 spend the money that everybody else is going

12 to spend. Okay. I think that's kinda

13 what's behind it.

14 MR. FULTON:

It's kinda of a prevention.

16 MR. THERIOT:

Yes. And -- and they -- it's not a

18 good idea to having people driving 30 or 40

19 miles to go get their gas, if you can avoid

20 it. And so nationwide, that would become

21 quite a drain on our existing gasoline

22 supplies that wouldn't ordinarily be there

23 because before, they use to just go about

24 five miles and get their gas. So that's the

25 theory behind it.

15

MOA	ember 17, 2016	MOTOK I	UEL	LS UNDERGROUND STORAGE TANK TRUST F	
		Page 69		Pag	je 71
1	MR. MILAZZO:		1	Right.	
2	No. I understand.		2	MR. THERIOT:	
3	MR. THERIOT:		3	So I think it does need to be on the	
4	We will see how it works out, but that		4	agenda and that's why I said, well, we	
5	that's all open and that's all conjecture		5	you know, we'll put it on the next agenda	
6	because we're not going to we don't have		6	for discussion.	
7	regulations yet. And the regulations, we're		7	MR. HILL:	
8	going to bring to you guys before they go		8	That'd be great.	
9	anywhere.		9	MR. THERIOT:	
10	MR. MILAZZO:		10	And that way, you know	
11	Right. And we share your concern as		11	MR. MARCELLO:	
12	well. You're not you're not stepping on		12	Great.	
13	any		13	MR. THERIOT:	
14	MR. HILL:		14	we will be able to	
15	Did you have one last question?		15	MR. HILL:	
16	MR. MARCELLO:		16	That'd be good.	
17	Well, the second - the second part of		17	It think Todd Perry has a question.	
18	my question to you, Perry, was you you		18	MR. PERRY:	
19	alluded to deductibles. And for the sake of	•	19	Thank you, Kerry. Perry, since you	
20	conversation for the group, deductibles, as		20	were talking about Senate Resolution 02,	
21	we speak right now, are?		21	before the department sends the	
22	MR. THERIOT:		22	questionnaire out, I would encourage the	
23	They're five for compliant stations		23	department to take a timeout, bring the oil	
24	and ten for non-compliant.		24	marketers in, because they've got a lot of	
25	MR. MARCELLO:		25	institutional knowledge that can be answered	
•					
	<del></del>	Page 70		Pag	je 72
1	Right And are we considering or can	Page 70	1		je 72
1 2	Right. And are we considering or can we consider changing those deductibles?	Page 70	1 2	and help shape the questionnaire. So I	je 72
2	we consider changing those deductibles?	Page 70	2	and help shape the questionnaire. So I would highly recommend posthaste that you	je 72
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	TOX TOLLES ON DERONOUND STORAGE TA			Page 75	7
ł		Page 73		Page 75	١
1	assistance to be even better as it's sent		1	because they're taking them in sequence in	ł
2	out.		2	order to not - you know, it would cost a	
3	MR. THERIOT:		3	lot more to hire a lot more attorneys to do	1
4	I don't have any it's a		4	them all at the same time. So they're	ŀ
5	questionnaire to gather information. If you		5	they're currently in a hold where they're	
6	have information, we'd be happy to take it.		6	working through discovery on one. The other	1
7	MR. PERRY:		7	one has come to the table and is it is at	
8	I think they have a lot of information		8	the table, but it I don't know where it	İ
9	they could share.		9	will go from there. But there's there's	
10	MR. MILAZZO:		10	still more to come. And we have more than	
11	I have one last question for		11	recovered enough money to make it worth the	ì
12	MR. BAKER:		12	while. And that's not in question.	
13	Can I ask one quick question?		13	MR. MILAZZO:	
14	MR. MILAZZO:		14	Okay. That's all I have.	1
15	Oh, I'm sorry.		15	MR. HILL:	
16	MR. BAKER:		16	Okay. Does anybody have anymore	
17	Todd, who is our contact?		17	questions or discussions?	
18	MR. PERRY:		18	MR. BAKER:	
19	Natalie.		19	Under other business, we need to	
20	MS. ISAACKS:		20	consider the tentative dates for next year's	
21	Me. I was going to ask to send it,		21	board meetings. If you will look at your	
22	but when you said it hadn't been circulated		22	agenda, you'll see we've got February 23rd,	l
ſ	internally, I didn't want to cross -		23	May 18th, August 17th and November 16th.	
23	MR. BAKER:				
	We will be in contact with you in the		24 25	We'd like to present those potential meeting times.	
25	we will be in contact with you in the		25	times.	
		Page 74		Page 76	1
	near future	Page 74	-	·	
1	near future.	Page 74	1	MR. HILL:	
2	MS. ISAACKS:	Page 74	2	MR. HILL: Okay. So these are already scheduled	
2	MS. ISAACKS: Okay.	Page 74	2	MR. HILL: Okay. So these are already scheduled dates and or	
2 3 4	MS. ISAACKS: Okay. MR. MILAZZO:	Page 74	2 3 4	MR. HILL: Okay. So these are already scheduled dates and or MR. BAKER:	
2	MS. ISAACKS: Okay. MR. MILAZZO: Perry, you had mentioned the success	Page 74	2 3 4 5	MR. HILL: Okay. So these are already scheduled dates and or MR. BAKER: This is up to ya'll.	
2 3 4 5 6	MS. ISAACKS: Okay.  MR. MILAZZO: Perry, you had mentioned the success of the lawsuit. I'm not looking at the	Page 74	2 3 4 5 6	MR. HILL: Okay. So these are already scheduled dates and or MR. BAKER: This is up to ya'll. MR. HILL:	
2 3 4 5 6 7	MS. ISAACKS: Okay.  MR. MILAZZO: Perry, you had mentioned the success of the lawsuit. I'm not looking at the exact numbers, but let's assume, you know	Page 74	2 3 4 5 6 7	MR. HILL: Okay. So these are already scheduled dates and or MR. BAKER: This is up to ya'll. MR. HILL: This is up for discussion.	
2 3 4 5 6 7 8	MS. ISAACKS: Okay.  MR. MILAZZO: Perry, you had mentioned the success of the lawsuit. I'm not looking at the exact numbers, but let's assume, you know two and a half million dollars in the first	Page 74	2 3 4 5 6 7 8	MR. HILL: Okay. So these are already scheduled dates and or MR. BAKER: This is up to ya'll. MR. HILL: This is up for discussion. MR. MARCELLO:	
2 3 4 5 6 7 8 9	MS. ISAACKS: Okay.  MR. MILAZZO: Perry, you had mentioned the success of the lawsuit. I'm not looking at the exact numbers, but let's assume, you know two and a half million dollars in the first two years of this. That that's what the	Page 74	2 3 4 5 6 7 8 9	MR. HILL: Okay. So these are already scheduled dates and or MR. BAKER: This is up to ya'll. MR. HILL: This is up for discussion. MR. MARCELLO: And I think he's conversed with	
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Page 77 1 1 MR. HILL: 2 Okay. Well, do we need to vote on 2 that, or we're okay with it? 3 MR. BAKER: 4 We're probably good. 5 MR. HILL: 6 Is there any other business that 7 8 anybody would like to discuss at this time, before we close? The table is open. 9 (No response.) 10 MR. HILL: 11 12 Well, I would say, I need a motion to 12 13 adjourn. 13 MR. MARCELLO: 14 14 So moved, Mr. Chairman. 15 15 MR. HILL: 16 Do I hear a second? 17 17 18 MR. MILAZZO: 18 Second. 19 19 20 MR. HILL: 20 All in favor? 21 21 (All indicated "aye".) 22 23 MR. HILL: 23 Thank ya'll. 24 24 THE MEETING ADJOURNED AT 2:19 P.M. 25

Page 78

## REPORTER'S PAGE I, Lori B. Overland, Certified Court 3 Reporter, in and for the State of Louisiana, the 4 officer, as defined in Rule 28 of the Federal 5 Rules of Civil Procedure and/or Article 1434(b) 6 of the Louisiana code of Civil Procedure, before 7 whom this sworn testimony was taken, do hereby 8 state on the Record That due to the interaction in the 10 spontaneous discourse of this proceeding, dashes 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; That any words and/or names which could not be verified through reference material have been denoted with the phrase "(inaudible)." 20 Lori Overland, C.C.R. 21

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

Lori Overland C.C.R.

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Pages 77 - 79 (20)

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	63:10	43:1	27:4	37:18;38:20
	I .		l .	
\$	Absolutely (2)	afford (2)	and/or (3)	attempted (1)
	28:11;57:4	48:18,20	78:5,12,17	56:12
\$1,728,185 (1)	accept (5)	afternoon (1)	annual (3)	attention (1)
30:21	35:19;36:21,23;37:1,	6:14	34:11,17;57:25	33:19
	3	AG (1)	annuals (1)	attorneys (1)
\$10 (1)	access (1)	41:21	34:21	75:3
40:14			l .	
\$10,000 (2)	56:15	Again (1)	answered (1)	attractive (1)
51:19;58:8	account (1)	31:1	71:25	64:20
\$119,723.30 (1)	24:14	against (6)	anticipate (1)	Audit (13)
9:1	accountability (3)	31:13;34:3;36:5;	38:12	5:14;6:11,16;9:2;
	57:4,5;59:1	37:22;38:20;41:9	anymore (7)	10:7;33:20;51:23;52:6,
\$12,847,679 (1)	accounting (6)	age (2)	10:6;28:23;47:2;	19;55:2;56:16;57:2;
29:25				
\$13,749.69 (1)	24:24;25:3,5,9,14;	42:12,19	48:1;55:10;60:7;75:16	59:6
7:15	35:1	agencies (1)	appears (2)	auditing (1)
\$15,724,270 (1)	accounts (1)	24:9	22:14;23:1	46:14
29:21	25:15	agency (2)	applications (8)	audits (1)
	accurate (1)	24:11;56:25	29:21,23,24,25;	6:25
\$18,624,277 (1)	34:1	agenda (10)	30:20,21,24;32:11	August (3)
32:21	1	10:15;37:12;39:8;		44:22,23;75:23
\$180 (3)	accurately (1)		apply (1)	
51:16,25;58:7	28:6	61:2,3,8;70:22;71:4,5;		authorizes (1)
\$2,632,951 (1)	act (7)	75:22	applying (2)	23:7
30:23	39:21;40:2;43:13;	agent (1)	32:5,13	available (7)
\$25,714,755 (1)	44:13;49:7,13;54:5	52:4	approaching (1)	11:17;25:2;35:4;
	action (5)	ago (1)	74:12	46:6;64:8;65:10,22
31:19	16:2;31:15,16,24;	36:8	appropriate (1)	average (17)
\$250.00 (1)				
8:4	57:12	agree (2)	16:21	12:15;13:3,14,15,24;
\$3,186,100 (1)	actions (1)	57:8;59:8	approval (1)	14:12;15:12,22;16:16,
32:11	43:25	agreed (1)	36:12	17;32:4,6,13,22,25;
\$3,200 (1)	activate (1)	17:11	approved (2)	34:16,16
7:4	31:8	AG's (2)	32:2;33:24	averages (1)
	active (7)	41:12;74:10	approximately (1)	27:25
\$300,000 (1)		-	7:4	1
14:13	15:14;18:5;20:17;	ahead (1)		avoid (1)
\$31,363,325 (1)	22:2,5;27:4;62:17	25:21	arbitrarily (1)	68:19
32:3	actively (1)	alarm (1)	26:21	awaiting (1)
\$47.61 (1)	62:9	42:7	areas (2)	6:21
6:20	activities (2)	alleged (1)	49:18,20	aware (1)
	30:4,16	41:4	around (7)	41:2
\$579.61 (1)	actually (9)	allow (3)	7:7;11:19;14:13;	away (1)
6:23				
\$59 (1)	15:1;24:20;27:6;	43:1;49:22;56:14	21:14;28:24;72:16,17	49:17
48:7	28:7;44:5;56:1,14,19;	allowed (1)	arrangement (1)	awfully (1)
\$60 (1)	59:23	43:13	24:13	52:11
51:22	adapted (1)	allows (1)	Article (1)	aye (2)
	50:25	49:8	78:5	37:9;77:22
\$634.74 (1)	add (1)	alluded (1)	aside (1)	
6:24	61:10	69:19		В
\$65 (1)			24:22	В
48:7	added (1)	almost (1)	assessed (1)	
\$79,224,055 (1)	7:11	42:23	7:15	back (14)
30:14	additional (2)	along (3)	assessment (2)	14:20;20:14;21:19,
\$81,888,457 (1)	14:1;35:8	41:12;43:1;49:5	7:5;19:7	25;35:9;38:18;40:13;
	adjourn (1)	always (3)	assessments (2)	44:1;48:22;51:14;52:3,
33:4	77:13			
		23:6;45:4;67:16	6:24,25	9;56:16;60:23
A	ADJOURNED (1)	amended (1)	assistance (1)	backup (1)
	77:25	44:13	73:1	36:9
abandon (1)	administrative (2)	amendment (1)	associated (1)	BAKER (39)
43:20	22:11;24:1	46:3	21:12	4:15,16;12:9,16,20,
	administratively (1)	amount (12)	Associates (1)	
abandoned (1)				24;13:4,12,21;14:11,
43:11	21:13	8:4,25;19:9;21:24;	4:20	17,25;15:19,25;16:7,
		25:1;33:3;38:13;40:10;	assume (3)	11;17:2,7,15,19;19:4;
able (5)	administrator (1)			
	administrator (1)	41:15;48:18;59:8;66:9	4:5;50:5;74:7	25:18,22;26:15,25;
21:3;39:17;43:24;	39:3	41:15;48:18;59:8;66:9	4:5;50:5;74:7	25:18,22;26:15,25;
21:3;39:17;43:24; 48:20;71:14	39:3 adoption (1)	41:15;48:18;59:8;66:9 amounts (2)	4:5;50:5;74:7 <b>AST's (1)</b>	25:18,22;26:15,25; 27:14;28:3,10;29:11;
21:3;39:17;43:24;	39:3	41:15;48:18;59:8;66:9	4:5;50:5;74:7	25:18,22;26:15,25;

November 17, 2016		MOTOR FUELS UP	NDERGROUND STORAG	GE TANK TRÛST FUND
76:4;77:4	10:17,19	26:3;40:21;43:6,20;	changes (3)	collection (4)
balance (11)	Boy (1)	44:2;48:18;49:10;	39:9;54:14;78:11	23:15;40:12;41:18;
10:24;11:2,8,14;	56:22	50:25;52:13;53:24;		52:4
12:3;14:9;40:10,13;	brain (1)	55:2;58:16,18;59:13;	changing (2) 47:22;70:2	collections (1)
52:1,9;53:6	21:14	60:16;61:4;65:21;		8:8
based (1)			chasing (1) 58:8	collects (2)
15:15	breakout (1) 33:13	68:19;70:1,16;71:25;	CHATELAIN (17)	
basically (2)		72:10,25;73:13		52:4;56:4 Colorado (2)
19:6;48:4	BRIGHT (2)	canceling (1) 46:21	5:10,11;10:13;11:25;	67:17,20
basis (2)	4:21,22 bring (4)	CAP (6)	12:7,22;19:20;22:15, 21;25:11,16,20;26:11;	Colorado's (1)
34:17;66:20		31:19;32:3,7;40:9,		68:5
•	6:11;37:14;69:8; 71:23		28:17;35:2;36:2;48:9	
become (1) 68:20		19;46:5	check (3)	comfortable (1) 36:16
began (3)	bringing (1)	caps (2) 40:9;45:23	53:6;54:6;67:15	
25:8;33:9;41:13	57:22		checks (2)	coming (10)
· · ·	brings (1)	care (2)	54:13;57:16	13:19;15:15;20:24;
begin (1) 33:13	28:13	8:21;43:4	chemically (1) 42:23	21:6;25:25,25;26:10;
	brokers (3)	careful (2)	l .	42:13,19;44:1
begun (1) 59:23	47:3,10,11	64:11;65:2	choice (1) 64:6	commend (1) 53:16
	brought (2)	case (16)		
behind (2)	21:20;33:19	6:18,20;7:6,20,22,	chunk (2)	commercial (1)
68:13,25	BROUSSARD (4)	22;8:1,8,12,12,17;	18:1;27:5	24:13
believes (1) 49:11	5:22,23;54:17;57:24	16:20;37:16,18;44:9;	circulated (3)	common (1)
	budget (3)	46:1	72:15,16;73:22	47:18
BellSouth (1) 37:18	26:24;31:17;32:3	cases (11)	Civil (2)	communications (1)
	budgets (3)	6:17,21;7:1,2,11,12,	78:5,6	37:21
besides (1)	24:15;31:20;32:7	20;8:24;19:5;42:1;	claim (3)	community (2)
14:1	building (3)	49:16	24:19,20;37:13	42:4;45:16
bet (1)	24:10;27:25;64:13	cash (3)	claims (4)	commutative (1)
62:8	buildings (1)	10:24;11:7;12:3	41:6,9;45:25;46:7	30:4
better (13)	24:9	categories (4)	clarify (1)	companies (7)
20:12,13;21:2,4,15;	built (1) 64:16	15:2;30:11,13;33:2	57:25	9:5,19;15:16;24:23;
27:25;29:4;49:15;56:2;		category (1)	clean (5)	41:1,5,10
61:4;65:7;68:8;73:1	bulk (22)	17:20	6:25;7:5,14;45:13; 64:15	company (2)
big (3) 21:5;66:3;67:6	46:12,14,24;47:1,2,4, 5,8,9,12,14;52:18,18,	caused (1) 45:6	•	9:13;24:19
bill (9)	21,24;53:2;59:21;60:5,	CCR (1)	cleaned (1)   27:8	compares (1) 30:7
39:25;40:6;41:23;	6,10;62:25;63:2	78:21	cleaning (2)	comparison (2)
44:21;47:23,24;56:14;	bunch (1)	cent (1)	27:22;60:4	23:20;31:3
57:10;59:19	20:9	51:18	cleanup (4)	comparisons (1)
bio-fuel (3)	burden (1)	certain (2)	15:11;21:8;45:6,9	23:12
42:16,18;43:7	58:14	25:1;49:12	cleanups (1)	complete (1)
bio-fuels (2)	BURNHAM (7)	certainly (2)	20:21	74:13
42:13,24	4:19,20;18:23;19:15;	20:18;72:21	clear (4)	compliant (1)
bit (5)	38:19,24;39:4	certificate (6)	42:11:46:4,9:59:2	69:23
21:21;24:16;42:3;	business (8)	47:7;54:1,7,10;	clearer (1)	component (2)
57:21;60:17	8:1;9:6;46:15,20,23;	57:15,16	42:4	31:12;33:2
board (19)	67:10;75:19;77:7	certificates (4)	close (7)	concern (2)
4:4;20:8,25;23:18;	07.10,73.19,77.7	46:13,18,22;57:14	29:22;43:16;49:15,	20:20;69:11
33:22,23,24,25;36:10,	C	Certified (1)	21;53:12;74:13;77:9	concerned (1)
11,12;39:25;40:7;43:2;		78:2	closed (3)	51:21
59:14;60:24;70:6;	calculation (4)	cessation (2)	7:12;27:7;65:22	concerns (1)
75:21;76:11	14:20;16:8;22:13;	40:11;41:17	closer (1)	61:12
board's (1)	30:9	Chairman (1)	47:2	concludes (1)
33:15	calendar (2)	77:15	closure (10)	9:2
bolting (1)		I .	6:19;8:15;13:15;	conclusion (1)
58:12	33:17;76:24 call (6)	challenge (1) 55:1	14:12;16:16,17;31:18,	59:22
borrow (1)	4:3,5,7,9;15:14;42:8	challenges (1)	21;32:5,13	concurrence (2)
50:20		63:6	1	70:11,17
50:20 both (2)	calls (1)		code (1) 78:6	conference (2)
	20:9	change (4)	1	7:23;61:7
11:20;42:4	came (1)	8:16;45:2;54:23;	collected (2)	conflict (1)
bound (1)	41:5	57:9	6:19;56:3	76:16
48:20 hox (2)	can (28)	changed (2)	collecting (2)	
box (2)	8:23;20:13;23:17,21;	42:25;47:22	41:10;53:11	conjecture (1)
	·	•	•	

69:5	cover (7)	1		·
		decided (1)	7:2;32:4,9,12	documentation (1)
connect (2)	29:16;37:25;38:1,6;	41:22	determines (1)	36:9
52:1;58:9	45:1;62:15;66:5	declare (3)	34:10	dollar (2)
consensus (2)	covered (5)	43:2,20;45:5	determining (1)	14:18,19
65:3,14	23:6;31:5;42:24;	dedicated (1)	34:2	dollars (4)
consider (3)	43:9;63:10	56:9	devalued (2)	21:24;32:23;74:8,12
33:25;70:2;75:20	covering (1)	deduct (1)	38:10,11	done (5)
consideration (1)	60:18	10:25	develop (1)	16:1;45:18;55:23;
64:5	creating (1)	deductible (1)	64:25	63:15,16
considered (2)	64:20	19:8	development (1)	door (1)
41:24;45:14	credit (2)	deductibles (5)	25:7	51:19
considering (1)	6:23;7:4	43:17;69:19,20;70:2,	developments (1)	dots (2)
70:1	credited (1)	22	59:18	52:2;58:9
Consultants (1)	24:11	deeper (1)	DHH (1)	double (2)
5:21	cross (1)	20:12	50:22	22:2;46:2
contact (2)	73:23	defend (1)	dialog (1)	double-dipping (1)
73:17,25	cumulative (1)	38:25	59:12	41:3
contamination (1)	31:8	defer (1)	diesel (2)	double-wall (1)
62:15	current (5)	14:10	18:16,21	20:18
contents (1)	11:1,9;19:8;31:3;	deficiencies (2)	difference (3)	down (1)
42:22	32:6	30:1,25	11:17;35:3;40:14	26:4
continual (1)	currently (7)	defined (1)	differences (1)	downtown (1)
40:20	17:4;44:15;46:13;	78:4	31:6	24:10
continue (2)	49:8;51:6,7;75:5	defines (1)	different (3)	draft (5)
23:5;68:9	cut (1)	38:9	24:16;30:10;64:16	33:9,11;59:24;72:8,
continues (2)	22:3 C:- (5)	definition (6)	directly (2)	15
7:19;8:2	Cy (5)	42:2;43:4;47:9,13,	14:3;41:19	drain (1)
continuing (1)	5:14;6:10;9:4;10:5;	14,15	dirty (1)	68:21
33:6	51:14	delay (1)	29:15	draw (1)
conversation (1) 69:20	D	45:6 deliver (1)	disbursements (2)	43:24
conversed (1)		10:12	10:23;11:6	drawn (1) 63:17
76:9	Dalroto (2)		disconnected (1) 26:24	drinking (1)
conversion (1)	Dakota (2) 67:19;68:6	delivering (1) 54:11	discontinues (1)	50:24
8:19	_	delivery (1)	46:18	drive (1)
corporations (2)	damage (2) 37:20;38:8	49:12	discourse (1)	26:24
• •	dashes (2)	denoted (1)	78:10	driver (1)
corrective (4)	78:10,14	78:19	discovery (2)	57:15
, ,	data (3)	department (16)	7:25;75:6	driving (1)
correlate (1)	27:4,9,22	7:19;14:7;23:13;	discrepancy (1)	68:18
` '	database (1)	33:25;35:5,6;41:12;	76:11	drop (1)
corresponds (1)	60:5	45:4;56:3,13;58:20;	discuss (5)	48:19
	date (11)	59:6;62:21;65:5;71:21,	33:9;61:8;65:13;	dropped (2)
cost (25)	6:11;7:25;11:6;	23	70:21;77:8	23:3,4
13:6;14:2,3;16:4,16,	37:14;42:1,2,6,7,8,10;	department's (1)	discussed (3)	drops (1)
17;20:20;21:6,7,10,11,	47:15	33:19	33:12,22;36:8	57:17
	dates (2)	depending (1)	discussion (9)	due (3)
31:17,21,25;32:5,5,13;	75:20;76:3	12:11	29:7;36:10;39:9;	7:8;23:12;78:9
	day (2)	deposited (1)	57:6;65:18;67:23;70:7;	during (4)
costs (7)	8:5;56:25	41:19	71:6;76:7	29:19;30:22;33:10,
	days (2)	DEQ (14)	discussions (6)	20
32:14;34:17;52:25	54:15,20	4:14,16,18;5:11,14,	10:6;28:24;39:7;	Durwood (1)
	deadlines (1)	16,23;6:3,5,7;21:13;	40:4;70:8;75:17	4:14
59:11	7:25	24:1;40:5;49:10	distributors (2)	duty (1)
country (1)	dealer (7)	destruct (1)	9:20,25	60:14
56:2	47:4,5,8,9,12;52:18,	65:10	district (2)	<del></del>
couple (1)	21	detail (1)	45:20,22	E
	dealers (11)	6:16	divided (1)	
course (5)	46:12,15,24;47:1,2;	determination (2)	22:4	earlier (4)
39:24;40:9;41:13;	52:24;53:2;59:22;60:5,	31:10,12	Division (1)	21:21;34:25;44:10;
52:23;59:17	6;67:21	determine (1)	5:24	60:4
	dealing (2)	19:7	document (4)	ease (1)
court (3)				

November 17, 2016	,	MOTOR FUELS UP	DERGROUND STORAG	JE TANK TRUST FUND
easy (2)	23:3,4	61:6	fine (4)	57:17,18,22;60:14;
50:17;66:18	equipment (1)	01.0	35:20;36:18;72:4;	63:9
	37:21	F	76:22	fueling (1)
economic (1) 49:19		F		49:20
	escalated (1) 22:1	TP 191- (1)	finished (1) 59:25	fuels (5)
economically (1) 45:8		F-18's (1)	first (17)	42:25;43:2,3;47:16;
	escalating (1)	42:18		56:9
effect (2)	21:11	facility (1)	6:15;7:9,22,22;	
26:3;40:3	escalation (1)	47:14	10:18;11:4;27:3;29:16,	full (6)
effective (1)	20:20	fair (9)	18;30:17;33:16;37:23;	6:18;7:16,21;8:13,
44:22	establish (1)	20:11;23:11,19;24:2;	53:8;54:6;64:4;74:8,11	13;9:15
EFFERSON (2)	49:4	26:8;27:24;48:16;	fiscal (15)	FULTON (21)
6:2,3	estate (1)	63:19;74:21	4:4;7:6;10:16,18,21;	4:17,18;18:6,14,20,
efficient (1)	42:10	fairly (1)	13:16;29:15,19,22;	25;19:13,18;26:5;
45:9	estimate (1)	15:17	30:6,12,17,22;31:3,4	27:16,21;28:1,8;35:15,
eight (5)	32:22	familiar (1)	Five (9)	23;36:4,13,20,24;
22:7;26:6;29:8,12;	estimated (3)	38:14	7:1,15;8:24;11:19;	67:24;68:14
51:18	31:17,21;32:25	fashioned (1)	32:17;33:1;53:20;	Fund (59)
either (1)	ETF (2)	47:3	68:24;69:23	4:14,16;5:16;6:3,5,7;
65:14	35:9,9	fast (1)	fix (1)	11:16,21;12:3;17:8;
eligibility (5)	even (16)	11:3	40:5	21:25;22:4;23:6;29:8,
17:22;18:3;19:10;	17:14;19:9;20:8;	favor (2)	fixed (1)	20,22;30:5,19;31:10,
24:25;32:15	41:7;42:21;43:17;	37:8;77:21	38:7	13;32:1,6,8,9,16,17,19,
eligible (3)	44:12;55:10;60:1,6;	February (1)	flip (2)	20,21,24,24;33:6;34:3,
17:11;32:10;45:5	62:19,22;64:19;72:16,	75:22	31:1,7	11,12;36:5;38:3;40:12;
else (5)	24;73:1	federal (2)	flood (2)	41:5,9,11,20;43:21,23;
10:5;19:21;21:1;	events (1)	49:14;78:4	7:8;8:20	44:2,5;45:23;46:3;
60:24;68:11	38:6	fee (10)	fluctuate (3)	49:23,24;51:7,20;
email (1)	eventual (1)	47:16,24;51:20;	26:2;34:22,24	52:16;56:10;59:22;
28:14	25:2	52:17,20;53:1,25;56:3;	fluctuated (1)	63:21;64:25;66:24;
enable (1)	everybody (1)	58:1;60:10	12:12	74:10
49:25	68:11	feedback (1)	flying (1)	funding (3)
encompasses (1)	everyone (4)	21:4	42:18	64:8,20;65:9
15:2	39:20;40:1;47:10;	feel (1)	folks (3)	funds (4)
encourage (1)	49:19	50:1	23:16;52:3;55:5	24:22;25:1,24;43:24
71:22	evidence (1)	fees (10)	followed (1)	further (2)
end (10)	58:6	48:5,6,15,16,17;	67:23	29:6;39:7
10:18,24;11:3;13:16;	exact (2)	49:2;51:6;57:11,13,23	force (1)	future (5)
29:15;30:12,18;31:14,	42:6;74:7	few (6)	57:10	8:22;38:13;58:13;
18;56:25	exaggeration (1)	19:14;40:24;41:23,	forecast (1)	66:25;74:1
ending (1)	27:12	24;44:24;46:25	15:10	
10:16	example (2)	field (1)	formed (1)	$\mathbf{G}$
Energy (3)	13:11;51:14	21:12	33:13	
49:7,13;54:5	excise (2)	fifth (2)	forms (1)	gallon (1)
Engineering (1)	56:4,15	7:20;8:16	56:6	63:20
4:20	exempt (2)	figured (1)	forward (4)	gallons (3)
enough (3)	49:9,10	14:8	11:3;15:13;34:4;	53:8;55:9;59:8
59:19;66:5;75:11	exist (2)	figures (2)	64:10	Gary (1)
ensure (1)	47:4;60:6	56:15;59:7	four (4)	4:18
49:12	existing (1)	file (1)	7:20;8:24;9:19;	gas (6)
entire (1)	68:21	8:17	45:11	18:17,22;54:8;68:1,
42:17	expect (2)	filed (5)	fourth (1)	19,24
entitled (2)	16:3;44:24	37:17,21;38:20;41:6,	8:12	gasoline (1)
30:16;31:8	expenditures (4)	9	Frank (1)	68:21
environment (1)	1 •	fill (4)	5:5	gather (2)
65:6	11:18;35:5,6,7	47:20;56:6,11;60:9	FRANKLIN (2)	57:3;73:5
Environmental (13)	expenses (2)		4:13,14	generating (1)
	22:12;23:5	Final (3)		23:14
4:22;6:1;11:16,21;	experiencing (1)	10:21;33:15;39:22	free (1)	1
15:16;32:21,24;34:12;	43:10	Financial (10)	60:14	gets (3)
64:14,18;65:8;66:13,	explain (2)	5:11;10:11,19;28:24;	fuel (22)	24:21;30:9;38:16
20	23:17;26:19	29:7;50:6;64:21,23;	6:16;9:20,25;31:9;	gigantic (1)
EPA (1)	explaining (1)	65:9;66:12	32:18,20,23;34:11;	56:25
26:1	29:2	find (3)	41:20;47:11;48:14,19;	given (1)
EPA's (2)	exposed (1)	42:9;46:15,19	49:1,3,12;52:16;54:11;	64:6
	<del>-</del>	<u> </u>		

·		T	1	
gives (3)	26:19	25:8	internally (1)	41:7
31:2;58:4;59:2	head (2)	impossible (1)	73:23	knocking (1)
giving (1)	12:17;52:23	74:25	interrogation (2)	51:19
11:14	headed (1)	inaudible (3)	20:6;29:3	knowledge (4)
glad (1)	20:23	47:21;54:15;78:19	into (14)	9:13,21;15:11;71:25
40:6	hear (3)	incidents (3)	14:8;25:6;41:6,19;	knows (3)
goes (4)	64:7;65:3;77:17	18:2,5,16	44:1,5,13;48:19;51:7,	39:20;49:19;66:7
42:7;54:3;57:16;	heard (1)	inclined (1)	20;59:22;60:10;63:21;	
60:9	54:25	50:2	67:15	L
Good (13)	held (2)	include (4)	investigation (5)	
6:14;15:8;20:16;	8:18,19	17:21;22:17,24;	16:13;44:11,18,24;	land (1)
23:20;26:18;36:10;	help (5)	47:10	45:17	38:1
39:21;62:4,8;68:18;	23:21,23;72:1,4,10	included (3)	investigations (4)	language (1)
71:16;76:25;77:5	helped (1)	22:12,25;41:24	44:7,15,25;45:1	72:3
grant (1)	40:7	includes (3)	invoices (2)	large (2)
49:5	hereby (1)	14:14;26:1;31:19	47:19;52:8	27:5;53:9
grants (2)	78:7	including (2)	involving (1)	last (14)
26:1;49:6	high (3)	15:2;65:17	37:18	7:10;8:3;9:9;12:13;
great (5)	14:18;20:17;33:11	incorporate (1)	ISAACKS (6)	
21:20;55:21;56:23;		25:24		17:24;22:6;27:17;30:5;
	higher (2)		5:17,18;73:20;74:2;	34:14;42:15;45:21;
71:8,12	21:18;45:7	incorporated (1)	76:17,23	46:5;69:15;73:11
greater (1)	highly (1)	25:5	issues (1)	later (1)
21:3	72:2	increase (1)	33:12	61:8
ground (4)	HILL (41)	43:10	item (4)	law (2)
61:24;62:6,20;63:10	4:2,8,23,24;6:8;10:4,	indicate (1)	10:10,15;37:12;39:8	46:17;49:14
group (6)	9;18:10,18;19:11,22;	78:11	_	lawsuit (2)
17:13;35:1;50:19,22;	20:1;28:22;29:5;34:6;	indicated (3)	J	38:17;74:6
58:11;69:20	35:13;36:17,22;37:2,7,	37:9;77:22;78:15		LDEQ (1)
groups (1)	10;39:6,13;50:4,13;	industry (1)	Jason (1)	4:12
33:13	63:18,24;69:14;71:7,	52:15	6:3	least (2)
guess (11)	15;75:15;76:1,6,13,21;	informally (1)	Jeff (8)	60:17;74:17
12:21;20:15;21:22;	77:1,6,11,16,20,23	61:5	4:16;12:8;15:9;	leaves (1)
27:24;35:17,19;47:19;	hire (1)	information (13)	21:15;29:9;34:7;44:10;	11:10
52:7;53:5,8;66:22	75:3	10:17,19;15:15;19:2;	72:14	left (3)
guidance (1)	historical (1)	20:14;28:15;56:18;	job (2)	11:1;74:14;78:16
33:7	15:13	58:4;59:3;60:16;73:5,	21:2;55:21	lefthand (1)
guy (4)	hold (2)	6,8	Johnny (5)	10:17
47:24;51:21,24;	46:12;75:5	infrastructure (1)	5:2;20:3;30:10;	Legal (4)
53:18	holders (1)	47:6	31:22;65:1	4:12;8:4,19,24
guys (21)	46:13	initiate (1)		
17:11;23:17;24:3;	1	8:6	Jones (2)	legally (2) 7:20;52:25
	home (1)		4:22;6:1	
43:6;48:16,17;50:11;	55:5	inspection (1)	judgment (1)	legislation (1)
53:15,16,20;55:9,17;	hope (3)	55:7	45:20	70:19
57:3;60:15,23;64:5;	33:14;57:2,15	inspector (1)	jump (1)	legislative (2)
67:2;69:8;70:24,24;	house (1)	54:3	22:14	39:9;59:18
72:3	44:21	inspectors (1)		legislatively (1)
		55:12	K	58:12
H	Į I	instance (1)		Lending (1)
		53:7	Karyn (1)	57:1
half (3)	idea (5)	instances (1)	28:14	less (3)
33:16;74:8,11	17:18;62:13,22;68:8,	42:6	keeps (1)	19:8;22:7;65:9
hand (3)	18	institutional (1)	21:17	letter (1)
58:7,25,25	identical (1)	71:25	KEMP (2)	44:15
handle (1)	42:23	insurance (3)	6:4,5	letters (1)
19:14	illness (1)	24:19,22;41:10	Kerry (2)	46:21
hands (5)	7:8	intended (1)	4:24;71:19	level (1)
47:22,22;54:14,23;	imagine (3)	64:23		33:11
47.22,22,34.14,23; 57:1	14:9;62:4;66:2	interaction (1)	kinda (11)	
happened (1)			12:11;15:22;16:13;	liability (8)
MALIFICUCU L I I		78:9	29:13,14;30:3,8;40:17;	10:25;11:9;12:4;
	immediately (1)	intowert (2)	ZE.10,Z0.10.15	76,7,71,17,44,10,47,0
62:16	41:17	interest (2)	65:18;68:12,15	25:2;31:16;44:12;46:2,
62:16 happy (1)	41:17 importantly (1)	33:5,18	KING (2)	8
62:16 happy (1) 73:6	41:17 importantly (1) 51:17	33:5,18 interests (1)	KING (2) 5:25;6:1	8 liable (1)
62:16 happy (1)	41:17 importantly (1)	33:5,18	KING (2)	8

November 17, 2016		MOTOR FUELS OF	DERGROUND STORAG	SE TANK TRUST FUND
liked (1)	76:10;78:3,6	mechanism (1)	45:13;49:23,24;50:23;	64:21;70:9;71:3;75:19;
44:8	love (2)	51:23	51:2,5;66:4,8,25;	77:2,12
likely (1)	59:6;63:9	meet (2)	67:20;68:11;75:11	needed (1)
37:23	low (3)	43:3;47:8	month (2)	42:19
limit (1)	14:18;22:16,19	meeting (12)	37:17;55:9	needs (1)
44:14	,==,	4:4,10;7:10;9:9;	monthly (2)	70:22
limited (1)	M	20:7;33:10,23;36:11;	8:2;31:9	net (2)
43:22		45:21;64:23;75:24;	more (15)	11:8;34:1
line (1)	maintains (1)	77:25	21:22;23:2;25:8;	new (15)
59:23	14:8	meetings (2)	28:6;44:24;45:13;	7:10;36:6;37:3,16;
list (5)	major (7)	75:21;76:12	58:10;59:12;60:17;	44:16;47:13,13,14,15,
7:11,13,21;31:11;	41:1,4;45:2;63:8;	Melissa (1)	66:5,9;75:3,3,10,10	20,20;48:21;54:20;
48:14	67:21;74:16,18	5:16	MORIN (7)	66:15;68:4
listed (1)	makes (1)	members (1)	5:13,14;6:10,13;9:7,	news (2)
47:24	57:17	33:11	12,18	20:16;42:15
litigation (1)	making (5)	mention (1)	Most (5)	next (9)
9:21	50:18,19;57:5;64:8;	54:25	39:20;44:4;45:8;	30:2,8,15,15;31:7;
little (8)	65:9	mentioned (1)	51:17;56:2	32:1;33:17;71:5;75:20
21:21;24:15,15;42:3;	•	74:5	motion (8)	NFA'd (1)
	manhole (5)		1 ,	27:6
51:25;56:1;57:21;	37:19,25;38:1,6,16	met (1)	35:18;36:21,23,25;	
60:17	many (13)	33:8	37:3;45:19;50:6;77:12	nice (1)
load (1)	12:6;18:5;41:1,3,3,4;	method (7)	motor (14)	58:22
48:19	47:1;54:22,22,22;	25:14;34:1;35:18,19,	6:16;9:20,25;31:9;	Nick (2)
loan (10)	55:24;62:19,22	20;36:6;78:13	32:18,20,23;34:11;	5:8;21:20
49:4,25;50:2,18,19,	MARCELLO (30)	middle (1)	41:19;42:25;43:2;	night (1)
21;51:2;64:7,25;66:10	5:4,5,11:23;12:2,14,	51:13	47:15;52:16;56:9	42:15
loans (4)	18;13:2,7,18,23;14:4,	might (5)	move (2)	nightmare (1)
49:7;50:23;65:4,21	15,23;15:5;19:24;	16:23;22:10;49:18;	29:8;37:12	40:18
location (2)	28:12,19;61:9,17,21;	51:25;64:21	moved (2)	nine (2)
51:16;52:10	69:16,25;70:10,15,25;	MILAZZO (54)	37:11;77:15	37:13;39:8
long (4)	71:11;76:8,15,19;	5:1,2;9:3,10,16;10:2;	moving (2)	non-compliant (1)
48:23;57:5;61:6;	77:14	15:7,23;16:5,9,19;17:5,	24:7;34:3	69:24
67:25	march (1)	9,17;18:8;20:4;23:8;	much (6)	nor (1)
longer (4)	15:13	26:7,17;27:11,19,23;	20:12;24:12,18;	37:25
9:24;20:8;46:23;	margin (1)	28:25;35:21;36:15;	48:21,60:13,65:7	North (2)
62:9	49:21	37:5;51:8,12;53:3;	multiple (1)	67:18;68:6
look (23)	Marketers (8)	54:24;55:14,20;56:21;	19:1	notes (2)
14:21;15:9;20:15,16,	4:25;5:3,6,9,19;	58:2,17,23;59:10;	multiplied (1)	39:18,23
21;21:21;22:4;23:10,	71:24;72:10;76:10	62:24;64:3;65:1,16,24;	53:11	notice (2)
13,23;26:23;29:18;	marketer's (1)	66:11,21;67:1,9;69:1,	multiplies (1)	8:5;29:19
30:11;50:20,24;52:7,8;	72:25	10;73:10,14;74:4,20;	32:25	November (6)
54:11;55:10,12;60:20;	matching (1)	75:13;77:18	multiply (1)	7:24;8:3,11,14;33:8;
68:5;75:21	58:7	miles (2)	34:18	75:23
looked (1)	material (1)	68:19,24		number (23)
17:25	78:18	millennial (1)	N	10:10;13:14;15:2,13,
looking (6)	math (2)	66:15		18;16:6,15,20,22;
11:7;16:24;21:6;	13:9;51:17	million (24)	names (1)	17:14,18;18:15;21:16;
46:19;53:17;74:6	matters (1)	10:22,23,24;11:2,6,7,	78:17	22:2,5;27:2;29:8;
looks (2)	61:1	8,10,10,20;12:4,5;13:9,		33:12;37:12;39:8;
21:16;26:20	may (8)	10;35:7;40:14;45:24,	5:18;73:19;76:22	46:11;53:10,12
Lori (2)	9:4;17:18;20:22;	24;46:5,6,8;63:20;	nationwide (1)	numbers (8)
78:2,21	53:19;64:17;65:10,12;	74:8,12	68:20	11:13;12:12;17:25;
lose (1)	75:23	mind (3)	Navy (2)	34:25;52:9;58:16,18;
26:8	maybe (8)	7:17;38:3;52:13	42:15,17	74:7
loss (1)	23:21;25:7;52:8;	minor (1)	near (2)	
45:19	53:13;55:15;58:11;	38:12	8:22;74:1	0
lot (16)	59:12;74:22	misconception (1)	nearby (1)	
20:19,20,23;23:16;	mean (8)	52:15	37:20	obligated (1)
24:7;28:9;42:9;43:14,	13:14;23:3;26:18;	moment (1)	necessary (1)	14:9
18;46:11;47:17;66:9;		44:13	49:12	obligation (11)
71:24;73:8;75:3,3	53:14,17;57:2;66:13; 70:16	I .	need (14)	14:19;17:21;30:13;
11:24; 75:8; 75:3,3 Louisiana (9)	meaning (1)	money (21) 23:3,4;34:15;35:9;	4:5,7;21:1;29:4;	31:10;32:1,8,18;33:3,
	т шехино (ТТ	1 43.3.4.34.13.33.9.	1 4.3,7,21.1,23.4,	J 1.10,32.1,0,10,33.3,
4:24;5:2,5,8,18,23;	38:6	41:14,16,19;43:16,25;	36:18;43:5;45:17;49:6;	21;36:1,3

MOTOR FUELS UNDER	RGROUND STORAGE I	ANK IRUSI FUND		November 17, 2010
obligations (5)	optics (1)	29:13	4:12;5:20,21;15:3;	7:5
12:5;13:10;31:13;	23:10	page (13)	37:14;38:20;39:14;	powers (1)
34:3;36:5	oral (1)	7:7,17;8:23;10:20;	50:5;53:5;61:10;64:4;	70:23
Obviously (1)	39:19	11:12;29:18;30:2,3,8,	69:18;71:17,18,19;	PPM (1)
31:4	order (2)	16;31:1,7;56:8	72:9,18,23;73:7,18;	5:21
occupies (1)	49:24;75:2	pages (1)	74:5	precise (1)
24:12	ordinarily (1)	6:15	personally (2)	15:17
October (1)	68:22	paid (11)	20:25;63:5	predicting (1)
8:9	organization (1)	6:18;7:16,21;8:13,	phase (3)	15:10
ODR (5)	64:13	13;9:14;24:9;51:25;	7:3;16:13;31:15	preliminary (1)
8:6,8,10,18,20	originally (2)	63:20,21;74:10	phrase (1)	50:16
off (5)	22:11;39:16	pardon (2)	78:19	prepared (6)
12:17;40:16,21,22;	orphan (2)	55:4;57:5	phrases (1)	6:19;8:4,14;56:14;
42:7	44:3,4	part (10)	78:15	67:12;72:14
office (2)	orphaned (1)	16:8;20:24;21:5;	picture (1)	preparing (1)
41:12;74:10	43:11	24:1;25:23;54:12;55:7;	22:25	59:24
officer (1)	others (1)	57:12,19;69:17	piece (1)	present (1)
78:4	64:9	,	70:19	75:24
		party (3)	1	
officially (2)	otherwise (1)	37:13;45:25;46:7	pipelines (1) 46:25	presentation (1) 39:19
33:24;36:14	43:3	pass (2)	•	
offline (2)	out (34)	52:24,25	places (1)	presented (1)
55:16;58:11	10:25;11:8;18:4;	passed (2)	53:18	33:22
off-the-record (1)	36:9;41:22,23;42:9;	46:4;59:19	placing (1)	presumably (1)
67:23	43:7,7;44:3,16;46:15,	past (4)	43:8	44:2
Oil (12)	19;47:20,23;48:17;	27:2;37:17;40:23;	plan (4)	pretty (2)
4:24;5:2,5,8,18;41:1,	49:10;51:2;52:19;54:3;	62:16	31:17,25;62:25;63:2	40:16;48:2
5;67:21;71:23;72:10,	55:3,6;56:6,11;57:6,	path (2)	planned (1)	prevention (1)
25;76:10	13;60:8,9;69:4;71:22;	59:2;64:9	39:16	68:15
old (1)	72:22;73:2;74:10;	pauses (1)	plans (1)	previous (3)
47:3	78:16	78:11	16:2	30:7;31:4;33:23
once (2)	outstanding (2)	pay (11)	players (1)	price (2)
54:4,5	8:25;31:16	25:2;44:2,5;47:25;	74:14	45:6;48:20
One (49)	over (4)	48:5,15;49:2;50:2;	please (1)	principles (2)
6:18,22;7:3,5,6,14;	30:5;33:21;50:22;	51:21;53:25;57:23	29:10	25:3,5
8:18;9:14;19:1;21:7,	74:22	paying (5)	plume (1)	prior (1)
11;22:9;34:10;37:16,	overall (1)	48:2,16,17;57:11;	45:12	41:8
22,24;38:12;40:18,24,	22:25	59:2	PM (1)	probably (9)
25;42:21;43:12;44:5,7,	overhead (1)	payment (3)	77:25	21:1;45:13;55:4,16;
20;47:21;53:10;54:16;	22:22	8:3;29:24;30:22	point (4)	56:1;59:18;61:2,4;77:5
56:8,12,24;57:9;60:3,	Overland (2)	payments (4)	21:21;33:18;53:5;	problem (2)
10,25;61:12;63:5;	78:2,21	8:2,6,10;24:11	58:9	41:3;47:18
69:15;70:5,6,8,23;	overs (1)	pays (1)	points (1)	problems (5)
73:11,13;74:16,18,18;	78:12	60:10	33:5	40:4,24;43:15,19;
75:6,7	overview (1)	pending (2)	populations (1)	44:6
ones (2)	30:4	29:23;30:19	49:13	Procedure (2)
17:22;66:5	owe (3)	people (9)	portion (2)	78:5,6
ongoing (2)	52:16,20;53:1	24:8;41:16;43:15;	31:5;62:8	proceeding (3)
9:22;20:10	owed (3)	45:3;48:3;50:1;53:1;	position (2)	44:7;78:10,14
only (12)	52:17,17,21	57:22;68:18	64:12;66:14	process (8)
31:4;39:24;40:14;	own (7)	per (7)	possibility (1)	17:12;21:8;33:10,21;
49:22,23;51:5;53:1;	37:25;38:1,10;47:6;	13:3,20;14:2;21:16;	44:19	41:13;46:14;50:16;
56:8;58:7;62:25;63:2;	48:1;64:9,12	22:6;23:25;48:12	possible (1)	53:7
66:2	owned (1)	percent (2)	46:2	processed (2)
open (4)	41:1	26:6;42:16	posted (1)	29:24;30:22
6:16;9:14;69:5;77:9	owner (6)	percentage (1)	54:2	program (14)
operating (3)	38:23;39:2;47:20,25;	67:4	posthaste (1)	11:14,18,18;35:4,10;
9:20,25;68:10	52:3,16	permanent (1)	72:2	49:5,25;64:7,14,17;
operation (1)	52.5,10	38:7	postponed (1)	66:10;68:3,4,5
62:25	P	permanently (1)	7:7	programs (1)
		38:10	potential (7)	64:25
annortunity (1)		J0.10		
	nooket (1)	normicsion (1)	6.77 72 75.7.4.	nrogross (2)
56:23	packet (1)	permission (1)	6:22,23,25;7:4;	progress (2)
opportunity (1) 56:23 opposed (1) 56:20	packet (1) 56:5 packets (1)	permission (1) 56:12 Perry (21)	6:22,23,25;7:4; 31:13;34:2;75:24 potentially (1)	progress (2) 7:1;20:19 projected (2)

73:5 reconciliation (1) 45:17;47:15 responsibility (11) 62:3,7,14;6 releases (3) 23:15,18;50:6;64:15, Rule (1)	
projecting (1) 11:19 projects (1) 33:14 proper (1) 6:7 range (1) 6:6:7 range (1) 6:6:6 8:6,17 range (1) 2:10;13:16;14:12 ratcheting (1) 2:11:17 reach (1) 2:11:17 reach (1) 2:11:17 reach (1) 2:11:17 reach (1) 2:11:17 reach (1) 38:4 receive (2) 42:11;59:9 35:22 reporter (1) 78:13 13,17,822 reporting (1) 78:13 78:13 13,17,822 reporting (1) 78:13 78:13 13,17,822 reporting (1) 78:13 13,17,822 reporting (1) 78:13 13,17,822 reporting (1) 78:13 13,17,822 reporting (1) 78:13 13,17,822 reporting (1) 78:13 13,17,822 reporting (1) 78:13 13,17,822 reporting (1) 78:13 13,17,822 reporting (1) 78:13 13,17,822 reporting (1) 78:13 13,17,822 reporting (1) 71:22,31,818,302 reporting (1) 78:13 13,17,822 repo	
Targe (1)	1
Projects (1)   33:14   range (1)   61:6   8:6,17   Reporters's (1)   25:26:9:35   78:13   13,17;852   78:13   13,17;852   78:18   78:13   13,17;852   78:13   13,17;35   78:13   13,17;35   78:13   13,17;35   78:13   78:13   7	
Tange (1)	
Proper (1)   78:16   78:61   78:61   78:13	
78:13 property (2) 38:8,9 protective (1) 56:18 provide (4) 20:13,21:3;60:16; 64:9 provide (4) 31:17 ready (5) 64:9 provision (1) 49:8 pull (1) 43:18 purpose (2) 53:9;64:24 purpose (1) 56:17,23;59:13;61:7; 72:4 purpose (1) 56:17,23;59:13;61:7; 73:5 quadrupled (1) 22:11;57:79:70:7 quadrupled (1) 22:6 quadrupled (2) quadrupled (3) 33:3 questionnaire (10) 59:25;60:7,12;61:16, 18:13;57:18 quarrer (6) 44:11:8;11:4; 17:25;29:17;30:17 quarrerly (1) 59:25;60:7,12;61:16, 18:7;23;29:17;30:17 quarrerly (1) 59:25;60:7,12;61:16, 18:7;12:27;21,5,14; 70:5 reconsilation (1) 76:10 24:18;28:6 reflect (2) 24:18;28:6 reflect (2) 24:18;28:6 reflect (1) 24:18;28:6 reflect (2) 24:18;28:6 reflect (1) 24:18;28:6 reflect (1) 24:18;28:6 reflect (1) 24:18;28:6 reflect (1) 24:18;28:6 reflect (2) 24:18;28:6 reflect (1) 25:16:25 reform (1) 8:25:16:25 regarding (1) 33:25 requesting (1) 33:25 requesting (1) 15:22:23 requesting (1) 15:28:15 16:24;24;56:5 17:33:22 requesting (1) 15:28:15 16:24;24;56:5 17:20 17:22,23;18;33:30:20; 37:11;39:5 requesting (1) 28:15 18:24;24:24 required (4) 24:23;46:24;54:5; 70:4 required (4) 24:23;46:24;54:5; 70:4 required (4) 24:23;46:24;54:5; 70:4 required (4) 24:23;46:24;54:5; 70:4 required (4) 24:23;46:24;54:5; 70:20 required (4) 24:23	
Table   Tabl	
38.8.9 protective (1) 56:18 provide (4) 31:17 reach (1) 32:12 reform (1) 45:15 reforms (1) 47:25 represents (1) 17:3 represents (1) 17:3 represents (1) 17:3 represents (1) 17:4 regarding (1) 33:25 represents (1) 17:22,23;18:3;30:20; right (31) 33:25 represents (2) 10:21;11:5 register (1) 48:6 reason (2) 22:13;63:8 reason (3) 33:23 requested (6) 33:17;64:12,22;42:2; reasons (3) 44:13;48:13;24;52:13; receipts (2) 10:21;11:5 receive (2) 10:21;11:5 receive (3) 10:21;11:5 receive (3) 11:4;33:5:18 quarter (6) 44:4;10:18;11:4; receity (2) 11:4;31:5:19 receipts (2) 11:4;31:19 11:4;11:4; receipts (2) 12:23;12;32:2 represents (2) 12:24;22;32:16;3 33:3 receive (2) 12:14;23:17;40:14 represents (1) 12:14;31:4; receipts (1) 17:4 reimbursements (1) 17:4 responsibility (11) 18:7:13:5 reposal (2) 26:22 23:12;63:25 ROMAIN (1) 18:7:12:27:1,5,14; recoiliation (1) 18:7:12:27:21,5,14; recoiliation (1) 18:7:12:27:21,5,14; recoiliation (1) 18:7:12:27:21,5,14; recoiliation (1) 18:7:12:27:21,5,14; recoiliation (1) 18:7:12:24:32:11,56:15 reposal (2) 26:22 23:12;63:25 represents (2) 27:10;30:16 represents (2) 27:10;30:16 represents (1) 17:3 request (4) 17:12:25:21:16;16;16;16;16;16;16;16;16;16;16;16;16;1	20;59:7
Department (1)   Section (1)   Section (1)   Section (1)   Section (1)   Section (1)   Section (1)   Section (1)   Section (2)	
Teach (1)   Silf (1)   Silf (2)	
provide (4) 20:13;21:3;60:16; 64:9 8:17;33:15;42:20; 49:8 pull (1) 49:8 pull (1) 29:15;38:9;42:9 purpose (2) 23:2 23:2 reforms (1) 49:8 pull (1) 43:18 purpose (2) 9:23;16:25;20:12; 9:23;16:25;20:12; 9:23;16:25;20:12; purpose (1) 43:21 72:4 43:21 72:4 43:21 pursue (1) 7:19 put (15) 39:16;41:22,22;42:2; 44:13;48:13,24;52:13; 61:3;763:17;66:14; 71:5;72:7,13 putting (1) 58:13  Q quadrupled (1) 22:6 quadrupled (1) 22:6 qualified (2) qualified (2) qualified (2) 17:2 quartery (1) 22:6 quatery (6) 44:10:18;11:4; 17:25;29:17;30:17 quartery (1) 33:3 questionnaire (10) 59:25;60:7,12;61:16, 18;71:22;72:1,5,14; 73:5 questionnaire (10) 59:25;60:7,12;61:16, 18;71:22;72:1,5,14; 73:5 quick (2)  81:73  23:2 reforms (1) 45:15 represents (2) regarding (1) 41:25 requires (1) 17:3 request (4) 19:10;24:25;32:16; 33:25 required (1) 17:22,23;18:3;30:20; 37:11;39:5 registered (1) 17:22,23;18:3;30:20; 37:11;39:5 registered (1) 22:6 47:11 17:22,23;18:3;30:20; 37:11;39:5 registered (1) 17:22,23;18:3;30:20; 37:11;39:5 11:7;53:1 registered (1) 22:6:1 47:11 17:22,23;18:3;30:20; 33:14;56:5 53:23 requestion (1) 28:15 64:2,18:6 17:2 22:13;63:8 reasons (3) regularly (1) 24:23;46:24;54:5; 10:20 requirements (1) 25:9 10:20;11:5 17:4 receive (2) 18:13;57:18 25:7;33:20 remibursements (1) 17:12,24;32:11,16 receiving (1) 17:4 related (6) 17:22,24;32:11,16 receiving (1) 17:24;45:19 17:24;45:19 17:24;45:19 17:24;45:19;53:10; 60:17 21:3 33:3 questionnaire (10) 32:2,8 recommend (2) 60:19;72:2 recommend (2) 60:17 7:9 26:22 27:14;45:5 28:15 64:2,18:6 17:22 22:13;63:25 require (1) 24:23;46:24;54:5; 10:20 requirements (1) 25:9 25:9 26:12 27 requirements (1) 24:23;46:24;54:5; 10:20 requirements (1) 25:17 7:24 24:23;46:24;54:5; 10:20 requirements (1) 25:17 7:24 24:23;46:24;54:5; 10:20 requirements (1) 25:17 7:24 11:22 24:23;46:24;54:5; 10:20 12:19 12:33:38:39 12:10 12:11:5 12:33:38:39 12:10 12:11:5 12:33:38:39 12:10 12:11:5 12:33:38:39 12:10:41:11 17:22,23;11;36:25 12:10:41:11 17:22,23;11;36:25 12:10:41:11 17:22,23;11;36:25 12:10:41:11 17:3 17:22,23;11;36:25 12:	)
Technology	
64:9 provision (1)	
provision (1)	l:1;35:17,
Pull (1)	i;37:4
pull (1) 43:18 really (12) 9:23;16:25;20:12; 53:9;64:24 9:22;14;23:7;49:6;52:6; purposes (1) 56:17,23;59:13;61:7; 72:4 72:4 13:48:13,24;52:13; 61:3,7;63:17;66:14; 71:5;72:7,13 putting (1) 10:14;11:5 10:14;11:1	)
pull (1) 43:18 really (12) 9:23;16:25;20:12; 9:23;16:25;20:12; 53:9;64:24 22:14;23:7;49:6;52:6; purposes (1) 56:17,23;59:13;61:7; 7:19 22:13;63:8 7:19 put (15) 39:16;41:22,22;42:2; 44:13;48:13,24;52:13; reasonable (1) 71:57;72:7,13 receipts (2) receipts (2) receipts (2) receive (2) receive (2) receive (3) 48:3;54:1 50:10,18,21;51:3; received (3) receive (3) quadrupled (1) 22:6 quadrupled (1) 22:6 qualified (2) recent (2) recent (2) recent (2) receiving (1) 17:4 receity (2) receiving (1) 17:4 receity (2) receiving (1) 17:4 receive (2) receiving (1) 17:4 receive (2) receiving (1) 17:4 receive (3) 48:3;55:18 25:7;33:20 reimbursement (4) receiving (1) 17:4 related (6) 35:17 respister (1) requested (6) 17:25;29:17;30:17 require (1) 22:11;56:5 requesting (1) 22:11;56:5 51:17;53:1 require (1) 22:13;63:8 require (1) 22:14;56:5 51:17;53:1 require (1) 22:14;65:5 requesting (1) 22:14;65:5 51:17;53:1 require (1) 22:14;65:5 51:17;53:1 require (1) 22:14;66:5 51:17;53:1 require (1) 22:14;66:8 75:22 require (1) 22:14;66:5 70:4 require (4) require (4) requirement (1) 22:5 risks (1) receive (2) regulations (7) retainursement (2) 25:9 risks (1) 48:24 requires (4) 24:17;45:8;50:10; 35:2 recimbursement (4) 7:9 42:17;45:8;50:10; 32:2 resended (6) 10:24;23;46:24;54:5; 70:2 70:4 48:6 53:23 require (4) 70:4 48:6 48:13;54:1 50:10,18,21;51:3; 70:4 48:24 requires (4) 24:17;45:8;50:10; 64:2,18;65 70:4 48:6 53:20 requirement (1) 64:19 48:24 requires (4) 70:4 48:6 70:4 48:6 70:4 48:6 70:4 70:4 70:4 70:4 70:5 70:4 70:4 70:4 70:5 70:4 70:4 70:4 70:4 70:5 70:4 70:4 70:4 70:5 70:4 70:4 70:4 70:4 70:4 70:4 70:5 70:4 70:4 70:4 70:4 70:5 70:4 70:4 70:4 70:4 70:4 70:5 70:4 70:4 70:4 70:4 70:4 70:4 70:4 70:4	•
43:18 purpose (2) 9:23;16:25;20:12; 12:53:9(4:24	
purpose (2)	9:14:5.16:
53:9;64:24   22:14;23:7;49:6;52:6; purposes (1)	
purposes (1) 43:21 72:4 72:4 72:4 72:52:2 registered (1) 55:2 requesting (1) 15;83:33 pursue (1) 76:20 76:30 76:30 76:317;66:14; 71:5;72:7,13 putting (1) 72:6  Q quadrupled (1) 22:6 qualified (2) 18:13;57:18 quarter (6) qualified (2) 18:13;57:18 quarter (6) quarter (6) 18:13;57:18 quarter (6) 18:13;57:18 quarter (1) 18:13;57:18 quarter (2) 18:13;57:18 quarter (3) 18:22,8 18:20 18:2	, ,
Table   Tabl	
pursue (1) 7:19 put (15) 39:16;41:22,22;42:2; 48:6 7:39:16;41:22,22;42:2; 48:6 7:53:23 reasons (3) 7:57:7:7;75;72:7,13 receipts (2) putting (1) 58:13  Q 10:21;11:5 42:44;45:15;62:20 quadrupled (1) 22:6 qualified (2) 18:13;57:18 qualified (2) 18:13;57:18 quarter (6) qualified (2) 18:13;57:18 quarter (6) 18:13;57:18 quarter (6) 18:13;57:18 quarter (6) 17:25;29:17;30:17 quarterly (1) 33:3 questionnaire (10) 59:25;60:7,12;61:16, 18;71:22;72:1,514; quick (2)  17:4  18:13;77:22;72:1,514; 70:4  regularty (1) 54:23 regulated (3) regulations (7) regulations (7) requirements (1) 22:5 70:4 requirement (1) 23:5 requirements (1) 23:5 requirements (1) 64:2,18;65 54:20 regularly (1) 24:23;46:24;54:5; 10:20 risk (1) 24:23;46:24;54:5; 10:20 risk (1) 24:23;46:24;54:5; 10:20 regularly (1) 24:23;46:24;54:5; 10:20 risk (1) 24:21;45:18;62:20 requirements (1) 23:5 requirements (1) 64:19 23:5 requirements (1) 64:2,18;05 54:13 70:4 requirement (1) 23:5 requirements (1) 64:19 23:5 requirements (1) 64:2,18;05 54:14 70:20 70:4 required (4) requirements (1) 23:5 requirements (1) 64:19 23:5 requirements (1) 64:19 23:5 requirements (1) 64:19 23:5 requirements (1) 64:19 23:5 requirements (1) 64:19 23:5 requirements (1) 64:19 23:5 requirements (1) 64:19 23:5 requirements (1) 70:4 48:13;54:1 70:4 70:4 70:4 70:4 70:4 70:4 70:4 70:4	
7:19	
reasonable (1)	
39:16;41:22,22;42:2; 44:13;48:13,24;52:13; 61:3,7;63:17;66:14; 71:5;72:7,13 putting (1)	:1;/2:19,24;
44:13;48:13,24;52:13; 61:3,7;63:17;66:14; 71:5;72:7,13 putting (1)	41
61:3,7;63:17;66:14; 71:5;72:7,13 putting (1) 58:13  Q  quadrupled (2) 18:13;57:18 quarter (6) quarter (6) 17:25;29:17;30:17 quarterly (1) 33:3 questionnaire (10) 59:25;60:7,12;61:16, 18;71:22;72:1,5,14; 73:5 quick (2)  18:13;71:22;72:1,5,14; 73:5 quick (2)  18:13;75:18 question (1) 10:21;11:5 10:21:10 10:21;11:5 10:21;11:5 10:21:10 10:21;11:5 10:21;11:5 10:21:10 10:21;11:5 10:21;11:5 10:21:10 10:21;11:5 10:21:10 10:21;11:5 10:21;11:5 10:21:10 10:21;11:5 10:21;11:5 10:21:10 10:21;11:5 10:21;11:5 10:21:10 10:21;11:5 10:21;11:5 10:21:10 10:21:11:15 10:21:15:13 10:21:11:15 10:21:11:15 10:21:11:15 10:21:11:15 10:21:11:15 10:21:11:15 10:21:11:15 10:21:11:15 10:21:11:15 10:21:11:15 10:21:11 10:21:11:15 10:21:11:15 10:21:11:15 10:21:11:15 10:21:11 10:21:11:15 10:21:11 10:21:11:15 10:21:11 10:21:11:15 10:21:11	(1)
71:5;72:7,13 putting (1)	
putting (1) 58:13  Q 42:4;45:15;62:20 regulations (7) 50:10,18,21;51:3; 8:3,10;29:20 reimbursed (2) 18:13;57:18 quadrupled (2) 18:13;57:18 quarter (6) 4:4;10:18;11:4; 17:25;29:17;30:17 quarterly (1) 32:2,8 quastionnaire (10) 59:25;60:7,12;61:16, 18;71:22;72:1,5,14; 73:5 quick (2)  10:21;11:5 receive (2) receive (2) receive (3) 50:10,18,21;51:3; 50:10,18,21;51:3; 48:24 requirements (1) 64:19 requirements (1) 64:19 requirements (1) 64:19 requirements (1) 64:19 requirements (1) 64:19 requirements (1) 64:19 requirements (1) 64:19 requirements (1) 64:19 requirements (1) 62:3,7,7 reimbursed (2) 14:3;38:5 12:2,7;33:20 reimbursement (4) 17:2,24;32:11,16 reimbursements (1) 17:4 reimbursement (4) 17:2,24;32:11,16 7:9 4:22 research (1) 60:17 research (1) 60:17 resolution (5) roll (4) 4:5,7,9;20: relative (1) 7:26:22 23:12;63:25 ROMAIN (1) 60:17 resolution (5) rolling (1) 21:19 ROMAIN (1) 60:17 response (3) 5:7,8;21:2: 18;71:20;72:1,5,14; 70:5 reconciliation (1) 45:17;47:15 responsibility (11) responsibility (11) 62:3,7,14;6 Rule (1)	
Teceive (2)	
Q         48:13;54:1 received (3)         50:10,18,21;51:3; 54:13;69:7,7 requires (4)         48:24 requires (4)         road (1)           quadrupled (1) qualified (2)         17:4 receiving (1)         14:3;38:5 reimbursement (4)         7:9 4:22 rescheduled (1)         Roger (1)           18:13;57:18 quarter (6)         25:7;33:20 reimbursements (1)         7:9 4:22 rescheduled (1)         7:0 (1)           44:4;10:18;11:4; recognized (2)         7:21;45:19 related (6)         10:6;32:18,19;53:10; 59:20;61:13;70:11, 4:5,7,9;20; 11:33:3         7:21;45:19 related (6)         10:6;32:18,19;53:10; 59:20;61:13;70:11, 4:5,7,9;20; 11:33:3         7:0:6:24;62:6 relative (1) respect (2) respect (2) respect (2) relative (1) respect (2) respect (2) respect (2) respect (2) respect (2) recommendations (1) release (6) response (3) response (4) respon	
Q         received (3)         54:13;69:7,7         requires (4)         53:8           quadrupled (1)         8:3,10;29:20         reimbursed (2)         24:17;45:8;50:10;         ROG (1)           22:6         17:4         reimbursement (4)         rescheduled (1)         Roger (1)           qualified (2)         recent (2)         17:12,24;32:11,16         7:9         4:22           18:13;57:18         25:7;33:20         reimbursements (1)         research (1)         role (1)           quarter (6)         recently (2)         17:4         60:17         21:3           4:4;10:18;11:4;         7:21;45:19         related (6)         resolution (5)         roll (4)           17:25;29:17;30:17         recognized (2)         10:6;32:18,19;53:10;         59:20;61:13;70:11,         4:5,7,9;20:           quarterly (1)         32:2,8         61:24;62:6         18;71:20         rolling (1)           33:3         recommend (2)         relative (1)         respect (2)         21:19           59:25;60:7,12;61:16,         70:5         37:19;42:1,3,21;         10:8;23:9;77:10         35:11;58:1           73:5         reconciliation (1)         45:17;47:15         responsibility (11)         62:3,7,14;           quick (2)         55:7         releases (3)	
quadrupled (1)         8:3,10;29:20         reimbursed (2)         24:17;45:8;50:10;         ROG (1)           22:6         17:4         reimbursement (4)         rescheduled (1)         Roger (1)           qualified (2)         18:13;57:18         25:7;33:20         reimbursements (1)         7:9         4:22           18:13;57:18         25:7;33:20         reimbursements (1)         rescarch (1)         role (1)           quarter (6)         7:21;45:19         related (6)         resolution (5)         roll (4)           17:25;29:17;30:17         recognized (2)         10:6;32:18,19;53:10;         59:20;61:13;70:11,         4:5,7,9;20:           quarterly (1)         32:2,8         61:24;62:6         18;71:20         rolling (1)           33:3         recommend (2)         relative (1)         respect (2)         23:12;63:25         ROMAIN (1)           59:25;60:7,12;61:16,         70:5         37:19;42:1,3,21;         10:8;23:9;77:10         35:11;58:1           73:5         reconciliation (1)         45:17;47:15         responsibility (11)         62:3,7,14;           quick (2)         55:7         releases (3)         23:15,18;50:6;64:15,         Rule (1)	
quadrupled (1)       receiving (1)       14:3;38:5       59:21       32:2         qualified (2)       recent (2)       17:12,24;32:11,16       7:9       4:22         18:13;57:18       25:7;33:20       reimbursements (1)       research (1)       role (1)         quarter (6)       recently (2)       17:4       60:17       21:3         4:4;10:18;11:4;       7:21;45:19       related (6)       resolution (5)       roll (4)         17:25;29:17;30:17       recognized (2)       10:6;32:18,19;53:10;       59:20;61:13;70:11,       4:5,7,9;20:         quarterly (1)       32:2,8       61:24;62:6       18;71:20       rolling (1)         33:3       recommend (2)       relative (1)       respect (2)       21:19         questionnaire (10)       60:19;72:2       26:22       23:12;63:25       ROMAIN (1)         59:25;60:7,12;61:16,       70:5       37:19;42:1,3,21;       10:8;23:9;77:10       35:11;58:1         73:5       reconciliation (1)       45:17;47:15       responsibility (11)       62:3,7,14;6         quick (2)       55:7       releases (3)       23:15,18;50:6;64:15,       Rule (1)	
22:6       17:4       reimbursement (4)       rescheduled (1)       Roger (1)         qualified (2)       18:13;57:18       25:7;33:20       reimbursements (1)       7:9       4:22         18:13;57:18       25:7;33:20       reimbursements (1)       research (1)       role (1)         quarter (6)       recently (2)       17:4       60:17       21:3         4:4;10:18;11:4;       7:21;45:19       related (6)       resolution (5)       roll (4)         17:25;29:17;30:17       recognized (2)       10:6;32:18,19;53:10;       59:20;61:13;70:11,       4:5,7,9;20:         quarterly (1)       32:2,8       61:24;62:6       18;71:20       rolling (1)         33:3       recommend (2)       26:22       23:12;63:25       ROMAIN (1)         59:25;60:7,12;61:16,       60:19;72:2       26:22       23:12;63:25       ROMAIN (1)         18;71:22;72:1,5,14;       70:5       37:19;42:1,3,21;       10:8;23:9;77:10       35:11;58:1         73:5       reconciliation (1)       45:17;47:15       responsibility (11)       62:3,7,14;6         quick (2)       55:7       releases (3)       23:15,18;50:6;64:15,       Rule (1)	
qualified (2)         recent (2)         17:12,24;32:11,16         7:9         4:22           18:13;57:18         25:7;33:20         reimbursements (1)         research (1)         role (1)           quarter (6)         recently (2)         17:4         60:17         21:3           4:4;10:18;11:4;         7:21;45:19         related (6)         resolution (5)         roll (4)           17:25;29:17;30:17         recognized (2)         10:6;32:18,19;53:10;         59:20;61:13;70:11,         4:5,7,9;20:           quarterly (1)         32:2,8         61:24;62:6         18;71:20         rolling (1)           33:3         recommend (2)         relative (1)         respect (2)         21:19           questionnaire (10)         60:19;72:2         26:22         23:12;63:25         ROMAIN (1)           18;71:22;72:1,5,14;         70:5         37:19;42:1,3,21;         10:8;23:9;77:10         35:11;58:1           73:5         reconciliation (1)         45:17;47:15         responsibility (11)         62:3,7,14;6           quick (2)         55:7         releases (3)         23:15,18;50:6;64:15,         Rule (1)	
18:13;57:18       25:7;33:20       reimbursements (1)       research (1)       role (1)         quarter (6)       7:21;45:19       related (6)       resolution (5)       roll (4)         17:25;29:17;30:17       7:21;45:19       10:6;32:18,19;53:10;       59:20;61:13;70:11,       4:5,7,9;20:         quarterly (1)       32:2,8       61:24;62:6       18;71:20       rolling (1)         questionnaire (10)       60:19;72:2       26:22       23:12;63:25       ROMAIN (1)         59:25;60:7,12;61:16,       70:5       70:5       37:19;42:1,3,21;       10:8;23:9;77:10       35:11;58:1         73:5       reconciliation (1)       45:17;47:15       responsibility (11)       62:3,7,14;6         quick (2)       55:7       releases (3)       23:15,18;50:6;64:15,       Rule (1)	
quarter (6)         recently (2)         17:4         60:17         21:3           4:4;10:18;11:4;         7:21;45:19         related (6)         resolution (5)         roll (4)           17:25;29:17;30:17         32:2,8         61:24;62:6         18;71:20         rolling (1)           33:3         recommend (2)         relative (1)         respect (2)         21:19           questionnaire (10)         60:19;72:2         26:22         23:12;63:25         ROMAIN (1)           59:25;60:7,12;61:16,         70:5         37:19;42:1,3,21;         10:8;23:9;77:10         35:11;58:1           73:5         reconciliation (1)         45:17;47:15         responsibility (11)         62:3,7,14;6           quick (2)         55:7         releases (3)         23:15,18;50:6;64:15,         Rule (1)	
4:4;10:18;11:4; 7:21;45:19 related (6) 10:6;32:18,19;53:10; 59:20;61:13;70:11, 4:5,7,9;20:10; 10:6;32:18,19;53:10; 10:6;32:18,19;53:10; 10:6;32:18,19;53:10; 10:6;32:18,19;53:10; 10:6;32:18,19;53:10; 10:6;32:18,19;53:10; 10:6;32:18,19;53:10; 10:6;32:18,19;53:10; 10:6;32:18,19;53:10; 10:6;32:18,19;53:10; 10:6;32:18,19;53:10; 10:6;32:18;71:20 rolling (1) respect (2) 21:19 (20:20) 20:20 (20:20) 20:12;63:25	
17:25;29:17;30:17       recognized (2)       10:6;32:18,19;53:10;       59:20;61:13;70:11,       4:5,7,9;20:         quarterly (1)       32:2,8       61:24;62:6       18;71:20       rolling (1)         questionnaire (10)       60:19;72:2       26:22       23:12;63:25       ROMAIN (1)         59:25;60:7,12;61:16,       70:5       37:19;42:1,3,21;       10:8;23:9;77:10       35:11;58:1         73:5       reconciliation (1)       45:17;47:15       responsibility (11)       62:3,7,14;0         quick (2)       55:7       releases (3)       23:15,18;50:6;64:15,       Rule (1)	
quarterly (1)       32:2,8       61:24;62:6       18;71:20       rolling (1)         33:3       recommend (2)       relative (1)       21:19         questionnaire (10)       60:19;72:2       26:22       23:12;63:25       ROMAIN (1)         59:25;60:7,12;61:16, 18;71:22;72:1,5,14; 70:5       70:5       37:19;42:1,3,21; 10:8;23:9;77:10       10:8;23:9;77:10       35:11;58:1         73:5       reconciliation (1)       45:17;47:15       responsibility (11)       62:3,7,14;0         quick (2)       55:7       releases (3)       23:15,18;50:6;64:15,       Rule (1)	-10
33:3 questionnaire (10) 59:25;60:7,12;61:16, 18;71:22;72:1,5,14; 73:5 quick (2)  recommend (2) 60:19;72:2 26:22 26:22 26:22 23:12;63:25 ROMAIN (1) 26:22 23:12;63:25 ROMAIN (1) 70:5 37:19;42:1,3,21; 45:17;47:15 reconciliation (1) 55:7  relative (1) 26:22 23:12;63:25 ROMAIN (1) 70:8;23:9;77:10 70:8;23:9	:10
questionnaire (10)       60:19;72:2       26:22       23:12;63:25       ROMAIN (1)         59:25;60:7,12;61:16, 18;71:22;72:1,5,14; 73:5       recommendations (1)       70:5       37:19;42:1,3,21; 10:8;23:9;77:10       10:8;23:9;77:10       35:11;58:1         73:5       reconciliation (1)       45:17;47:15       responsibility (11)       62:3,7,14;6         quick (2)       55:7       releases (3)       23:12;63:25       ROMAIN (1)	
59:25;60:7,12;61:16,       recommendations (1)       release (6)       response (3)       5:7,8;21:2:         18;71:22;72:1,5,14;       70:5       37:19;42:1,3,21;       10:8;23:9;77:10       35:11;58:1         73:5       reconciliation (1)       45:17;47:15       responsibility (11)       62:3,7,14;0         quick (2)       55:7       releases (3)       23:15,18;50:6;64:15,       Rule (1)	
18;71:22;72:1,5,14;       70:5       37:19;42:1,3,21;       10:8;23:9;77:10       35:11;58:1         73:5       reconciliation (1)       45:17;47:15       responsibility (11)       62:3,7,14;6         quick (2)       55:7       releases (3)       23:15,18;50:6;64:15,       Rule (1)	
73:5   reconciliation (1)   45:17;47:15   responsibility (11)   62:3,7,14;6   quick (2)   55:7   releases (3)   23:15,18;50:6;64:15,   Rule (1)	
quick (2) 55:7 releases (3) 23:15,18;50:6;64:15, Rule (1)	5,19;61:23;
	63:1,11
29:15;73:13   Record (1)   41:7,8;44:16   19,24;65:6,8;66:13,16;   78:4	
quickly (2) 78:8 remaining (2) 67:3 ruled (1)	
40:16,22 records (1) 8:24;31:20 responsibly (1) 45:22	
quite (4) 47:25 remains (1) 67:4 Rules (1)	
19:14;46:11,25; recovered (8) 8:7 rest (1) 78:5	•
68:21 41:15;49:23,24;51:5; remediation (6) 16:12 rural (5)	
66:4,8;67:20;75:11 16:23;21:9;38:5; restricted (1) 49:10,18,2	0:50:22:
R recovering (1) 41:11;45:24;46:7 51:4 67:22	, <del></del> ,
41:13   remember (1)   result (2)	
RAC (2) recovery (1) 25:10 result (2) 37:19;44:25 S	
19:6;31:20   43:25   removed (2)   resulted (1)	
RACs (2) red (2) 7:12,14 resulted (1) sake (1)	
raise (1)   redefine (1)   6:12,16;7:3,18;9:2;   7:2   sale (1)   40:19   42:25   10:11;24:4;28:20,24;   return (1)   60:14	
70.17   10.11,24.4,20.20,24,   10.114	

MOTOR FUELS UNDE
Sam (2)
53:24;54:15 same (5)
8:7;67:4;70:17;75:4;
78:12 Samuel (1)
5:23 sand (1)
52:23
saw (1) 42:15
saying (3) 52:14;67:2,12
scales (1) 24:5
scheduled (1)
76:2 scientifically (1)
21:22 screen (2)
39:17;72:8
second (14) 4:3;7:6;8:1;11:12;
37:6,18,22;38:13;
39:23;51:15;69:17,17; 77:17,19
secret (1) 43:12
secretary (5)
39:3;43:1,14,20;49:9 section (4)
14:22;30:15;31:22; 32:1
securing (1) 40:8
seems (1)
21:10 Senate (1)
71:20
send (9) 8:2,5,5;47:19,23;
60:8;72:21,22;73:21 sending (1)
57:13
sends (1) 71:21
sense (1)
21:19 sent (5)
28:14;36:9;44:16; 50:12;73:1
separate (1) 70:19
September (6)
11:5;30:18,18;31:10, 14,18
sequence (1)
75:1 serve (1)
49:18 Services (2)
5:12;10:11 servitude (1)
ser ritude (1)

	RGROUND STORAGE T
	38:2
	session (2)
	39:10;40:1 set (7)
	7:23,24;24:22;45:15;
	49:25;53:22;57:20 setting (2)
	59:13;63:2
	settle (2) 37:23;38:12
	settlement (1)
	74:14
	settling (1) 38:3
	seven (3)
	7:10;10:10,15 several (2)
	30:5;33:13
	shame (1) 56:22
	shape (1)
	72:1 share (4)
	67:3;69:11;72:3;
	73:9 Shawn (1)
	6:1
	sheet (1) 52:9
	sheets (1)
	24:24
	show (3) 33:2;53:19;67:11
	showing (1)
	27:10 shows (1)
	30:6
	side (1) 10:20
	significant (1)
	41:15 similar (1)
	48:22
١	simply (1) 64:17
	single (1)
	34:18 sit (2)
	23:18;45:10
	site (20)
	13:3,20;14:2;15:12, 21;16:14;19:1;21:16;
	22:6;23:25;31:23;32:5,
	13;45:5,10,10;52:2,2; 58:5;62:17
	sites (34)
	11:1,9;12:6;13:10, 14,15;14:14,18,19;
	15:9,15;16:1,18,22,25;
	17:3;18:1,2;20:17,17; 22:3,5;26:23,24;27:2,4,
	5,13;31:14;32:2,6,9,14;
	47:17
-	

	ANK TRUST FUND
	sits (1)
	38:2 sitting (1)
	44:21
;	six (3)
	6:15;7:11;53:20 small (3)
	50:23;56:8;67:4
	smaller (1)
	54:22 softened (1)
	21:10
	sometime (2)
	33:16;74:22 Sometimes (1)
	44:9
	somewhere (2)
	12:25;13:1 sorry (5)
	13:9;31:9;32:19;
	73:15;76:18
	sound (2) 20:6;29:3
	source (1)
	26:9
	speak (3) 9:23;21:1;69:21
	speaking (3)
	20:25;53:1;65:1
	specific (4) 15:21;16:14;31:23;
	52:10
	speed (1) 44:9
	spend (5)
	28:9;45:13;66:25;
	68:11,12 spent (2)
	27:17;35:9
	spill (2)
	18:16,17 spills (2)
	18:22,22
	split (1)
	29:13 spoke (1)
	63:4
	spontaneous (1)
	78:10 spreading (1)
	45:12
	ST (14)
5,	5:7,8;21:23;34:9,19; 35:11;58:15,19;61:23;
,	62:3,7,14;63:1,11
	Staff (1)
	4:12 stakeholders (1)
;;	33:8
	standards (2)
; !,	21:9,18 standpoint (1)
,	51:24

	start (1) 65:7
	started (1) 27:3
	state (7) 10:1;24:8;43:12;
	49:9;55:25;78:3,8
	States (9) 42:17;55:24;56:7;
	60:20,21;67:14,17,20; 68:7
	station (7)
	38:21,25;49:10,11; 54:2,12,14
	stations (10) 41:2;43:16;49:18,20;
	52:20;54:22;65:23;
	67:22;68:1;69:23 status (6)
	6:11;7:23;8:7;9:23; 29:8;37:13
	statute (10)
	23:7;24:17,18;37:24; 38:4,8;40:9;45:4,7;
	50:9 stepping (1)
	69:12
	Steve (1) 4:20
	sticks (1) 59:15
	still (12)
	7:1;9:5,14,21;16:12; 21:10;27:9;40:21;
	46:15,20;74:16;75:10 stop (2)
	8:6;23:22
	storage (5) 56:10;61:24;62:6,21;
	63:20 stored (1)
	42:14
	structure (1) 47:17
	struggle (1) 64:22
	stuck (1)
	58:5 study (3)
	59:21;60:22,23 stuff (3)
į	9:22;26:20;59:14
	STUMP (2) 6:6,7
	subject (1) 48:3
	submitted (2)
	32:10,15 submitting (1)
	52:5 success (1)
1	040000 (1)

_	1.0.011001 17,201
	43:6
	suit (3)
	37:21;38:13,20
١	sum (1)
	39:21
	summary (1)
	45:19
	summer (1)
	74:23
	supplier (1)
	63:9
	supplies (1)
١	68:22
	support (2)
	57:4;64:21
	suppose (2)
	54:2,21
	sure (12)
1	46:1;47:5;51:11;
ı	52:6;57:17,20,22;59:7
ı	60:1;64:12;66:6;76:10
ı	surface (1)
	20:15
ı	surplus (1)
ı	64:18
ı	surprising (1) 56:24
I	sustained (1)
I	37:20
I	switch (4)
I	40:16,20,21,22
١	sworn (1)
ı	78:7
I	synopsis (1)
1	61:13
	system (5)
I	27:6,9;53:22,23;
	57:19
	systems (3)
	20:18;27:22;50:23
	T
ŀ	

74:5 sudden (1)

110vember 17, 2010	<del>, _</del> -	MOTOR POELS OF	DERGROUND STORA	SE TANK TROOT FOND
38:23;39:2;42:22;	thought (3)	70.14	10.22.25.2.20.0.	49:20
	thought (3)	78:14	10:22;25:3;39:8;	
43:20,20;48:12,25;	13:13;64:13;78:12	transfer (8)	45:3;75:19	viable (2)
51:16;52:15;53:25;	three (13)	11:15,21;22:4;25:23;	underground (1)	24:21;34:1
56:10;60:10	7:18;22:3;27:18;	34:11,16;42:10;47:18	56:9	VIZINAT (2)
tanks (19)	32:4,12,22;34:14,16;	transferred (3)	unique (1)	5:15,16
43:11,18;44:3,4;	44:20;45:11;51:16;	21:25;32:23;35:8	55:25	vote (2)
45:2;46:25;48:5,18,19;	54:4,5	transfers (4)	United (1)	66:12;77:2
49:1;50:1,3;60:15;	three-year (1)	15:3;32:19;34:15,21	42:17	voted (2)
61:25;62:6,21;63:10,	55:6	travel (1)	unknowns (1)	36:12,14
				30.12,14
20;65:20	throughout (1)	67:25	64:20	**/
tax (1)	40:16	Trey (1)	unobligated (3)	W
56:15	throw (1)	6:5	11:2,11;40:10	
taxes (1)	59:14	trial (1)	unusual (1)	wait (1)
56:4	tightened (1)	7:25	48:3	61:3
team (1)	47:16	trigger (1)	up (37)	waited (1)
15:17	tightening (1)	40:11	6:11;8:18,19;13:19;	41:5
telling (2)	57:21	triggered (1)	16:16;21:6,17,20;23:1;	wants (1)
16:14;44:17	tightly (2)	41:17	27:8,10,22;28:13;	67:15
•				
ten (2)	63:7,16	triggering (1)	29:14;34:17,20;37:14;	water (2)
22:7;69:24	timely (1)	40:15	39:21,22,23;43:17;	50:22,24
tentative (1)	45:9	triggers (1)	44:9;45:14;47:16,18;	way (9)
75:20	timeout (1)	34:21	49:25;53:22;57:20,21;	19:2;24:4;45:7,9;
tenths (1)	71:23	trouble (2)	58:7;60:4;64:15;67:11;	48:21;54:8;63:17;
51:18	times (3)	41:25;46:10	72:7,13;76:5,7	67:25;71:10
testimony (1)	34:18;42:9;75:25	true (1)	upgrade (7)	western (1)
78:7	today (7)	65:8	48:24,25;49:15;50:1,	67:19
thanks (1)	20:10,17;21:7;22:1;	truly (4)	2;67:22;68:9	whatnot (1)
29:1	26:21;27:25;40:3	23:2;24:18;25:15;	upon (2)	26:1
That'd (3)	today's (1)	_ 29:2	12:11;52:18	what's (3)
61:4;71:8,16	4:9	Trust (34)	use (10)	28:6;48:7;68:13
that'll (1)	Todd (3)	4:14,16;5:16;6:3,5,7;	24:14,16;25:14;43:3;	whole (4)
11:15	5:21;71:17;73:17	11:16,21;17:8;29:8,20,	44:2;45:8;49:22;51:1,	17:13;56:11;66:15,
theirs (1)	together (3)	22;30:5,19;31:9,13;	13;68:23	20
50:25	40:3;58:13;72:3	32:6,9,18,20,21,24,24;		who's (6)
theory (1)	told (3)	33:5;34:3,11,12;41:20;	7:24;46:24;47:4;	46:15,16,19;47:24;
68:25	8:18;16:3;45:21	43:22;52:16;56:10;	50:22;62:9;78:11	53:24;55:9
				1
Theresa (5)	ton (1)	63:21;64:25;74:10	user (1)	willing (1)
5:11;10:12;14:10;	60:5	try (3)	57:18	57:23
22:9;25:7	tone (1)	38:17;50:20;57:20	uses (2)	withdrawal (1)
THERIOT (64)	65:7	trying (2)	32:22;42:16	52:18
4:6,11,12;13:25;	took (1)	21:14;65:5	using (3)	within (3)
14:6;22:8,18,23;24:6;	52:6	tune (1)	32:4,12;67:21	37:17;43:11;58:11
25:13;26:13;28:5;	tool (1)	72:4	UST (4)	without (4)
37:15;38:22;39:1,11,	34:2	turn (4)	5:23;37:20;53:10;	23:19;32:2,6;58:13
15;48:11;50:8,15;	top (2)	6:15;7:17;10:14;	64:24	wondering (1)
51:10;52:12;53:21;		11:12	UST's (2)	28:16
	12:17;31:11	1		
54:19;55:11,18,22;	total (15)	tweaked (1)	42:14;43:8	word (1)
57:7;58:21;59:5,16;	7:15;8:25;10:23;	72:25	usually (1)	64:7
61:15,19;62:1,5,11,18;	11:5,6;16:22;18:15;	Twenty-four (1)	38:2	words (2)
63:3,13,22;64:1;65:11,	21:2;22:22,25;30:12;	6:21	<del></del>	78:15,17
19;66:1,17,23;67:7,13;	31:19;33:2;35:5;53:8	two (25)	$\mathbf{v}$	work (6)
68:2,16;69:3,22;70:3,	totaling (6)	6:15,23;7:2;18:21,		17:10;19:6;33:6;
12,20;71:2,9,13;72:6,	6:24;12:5;29:21,24;	21,22;19:16;21:11;	value (2)	50:7;63:14;72:12
11,20;73:3;74:15,24	30:21,23	40:15;44:10,14,17,22;	15:10;34:18	worked (2)
			•	
thick (1)	track (1)	45:10,18,23;58:9;	varies (1)	39:25;41:21
56:7	19:2	61:11,12;67:14,14,16,	17:20	workgroup (1)
thinking (2)	tracking (1)	19;74:8,9	various (2)	33:7
21:18;66:6	51:22		31:12;33:14	working (4)
third (4)	trail (2)	U	verified (1)	33:14;60:7;74:18;
8:8;37:13;45:25;	51:23;55:2		78:18	75:6
46:6	transcript (1)	un- (1)	versus (3)	works (1)
though (3)	78:16	38:4	22:1;23:24;64:20	69:4
	4	i	, ,	worksheet (1)
20:8;41:7;42:22	transcription (1)	under (5)	viability (1)	WOLKSHEEL (1)
· · · · · · · · · · · · · · · · · · ·	A	·	<u> </u>	

31:11	55:8	1 .	
world (5)	1000 (1)	26 (1) 10:22	_
48:25;60:1;65:4;	29:20	270 (1)	7
66:3,15	13,000 (1)	12:10	
worried (1)	23:25		7.5 (1)
53:14		28 (1)	35:7
	13.7 (1)	78:4	715 (1)
worry (1)	10:23	280 (8)	20:17
53:13	138 (1)	12:25,25;13:10;15:9,	79 (2)
worth (1)	29:23	14;16:21,24;20:17	12:5;13:9
75:11	14 (2)	280,000 (1)	
Wow (1)	8:9;11:2	13:3	8
18:9	143 (1)	285 (1)	
wrap (1)	30:19	12:23	82 (1)
21:14	1434b (1)	28th (1)	11:9
write (1)	78:5	7:24	8th (1)
50:17	16th (1)	290 (1)	8:11
writing (1)	75:23	12:25	0.11
7:3	17 (1)		9
written (1)	7:6	3	,
63:7	17th (1)		0(1)
	75:23	3 (1)	9 (1)
Y	186 (1)	46:8	11:10
	30:21	3,000 (1)	90 (1)
ya'll (13)	18th (1)	23:24	54:15
6:9;10:14;11:22;	75:23	30 (3)	91 (1)
29:12;35:20;45:21;	1998 (1)		11:8
59:20;63:5;65:12;70:4;	48:22	54:18,20;68:18	912 (1)
		300 (1)	29:23
72:22;76:5;77:24	1st (2)	12:10	93 (3)
year (34)	44:22,23	30th (2)	10:24;12:3;13:9
4:4;7:6,9;10:16,18,	2	11:5;31:11	97083 (1)
22,25;12:13;13:16;	2	32 (1)	78:22
26:2,2;29:16,20,22;	Date was	6:16	9th (2)
30:6,12,17,23;31:3,4,5;		332,000 (1)	8:3,14
32:4,12,17,22;33:17;	35:7	13:20	0.5,11
36:8;40:17;44:14;46:5;	2.9 (1)	37 (1)	
51:16,20;52:1;74:11	11:7	30:23	
years (22)	2:19 (1)	50-5-1003-00-00-1	1
19:16;22:7,7,16,19;	77:25	4	
27:2,7,7,18;30:5,7;	20 (1)		-
33:1;34:15;44:10,18,	18:1	4.9 (1)	
20,23;45:11,18;54:4,6;	2005 (1)	35:8	
74:9	24:3	40 (2)	
year's (1)	2006 (1)		
75:20	24:3	42:16;68:18	
		400 (2)	
vesterday (1) 20:7	2007 (1)	18:7,7	
20.7	24:2		
0	2008 (1)	5	
U	24:3	= 0 (t)	
2 (1)	2015 (1)	5.8 (1)	
22 (1)	8:9	11:6	
71:20	2016 (11)	500 (1)	
08 (1)	10:16,22;29:16,20;	18:7	
21:25	30:6,12,19;31:14,18;	521 (4)	
9 (1)	33:8;39:9	40:2,18;42:21;43:13	
22:1	2017 (7)		
	4:4;10:18;11:4,13,	6	
1	20;29:17;30:17		
	2018 (2)	60 (2)	
(3)	11:14,20	8:5;48:10	
33:8;45:24,24	21 (1)	67 (1)	
	6:24	20.25	
.5 (2)	6:24 23rd (1)	29:25	
.5 (2) 46:4,6	23rd (1)	29:25	
.5 (2)		29:25	