



# Petroleum Underground Storage Tank Release Compensation Board

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**MINUTES OF THE 207th MEETING OF THE  
PETROLEUM UNDERGROUND STORAGE TANK  
RELEASE COMPENSATION BOARD  
January 8, 2025 – 10:00 a.m.**

**BOARD MEMBERS IN ATTENDANCE**

Jim Rocco  
Steve Bergman  
Jessica Biggs  
Larry Burks  
Scott Fleming  
John Gordon  
Ben Miller

**EX-OFFICIO MEMBERS IN ATTENDANCE**

Jason Anthony, representing Director Sheryl Creed Maxfield, Ohio Department of Commerce  
Harold Anderson, representing Robert Sprague, State Treasurer of Ohio

**OTHERS IN ATTENDANCE**

Starr Richmond	Executive Director, PUSTRCB
Jonathan Maneval	Assistant Director, PUSTRCB
Vijetha Deshineni	Chief Fiscal Officer, PUSTRCB
Cindy Stauffer	Compliance Supervisor, PUSTRCB
Hannah Brame	Claims Supervisor, PUSTRCB
Scott Helkowski	Assistant Attorney General
Howard Silver	Hearing Officer
Christine Pyscher	Bureau of UST Regulations
Scott Adams	State Treasurer's Office
Dan Adams	Atlas Technical Consultants

Minutes submitted by:

  
Jonathan Maneval  
Assistant Director

**Call to Order:**

Chairman Rocco convened the two hundred-seventh meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, January 8, 2025.

The following members were in attendance: Jim Rocco; Steve Bergman; Jessica Biggs; Larry Burks; Scott Fleming; John Gordon; Ben Miller; Jason Anthony, representing Director Sheryl Creed Maxfield, Ohio Department of Commerce; and Harold Anderson, representing Robert Sprague, State Treasurer of Ohio.

The following members were not in attendance: Dan Ridi and Donna Waggener, representing Director Anne Vogel, Ohio Environmental Protection Agency.

Chairman Rocco announced that Ben Miller and Jessica Biggs were recently appointed to the Board and asked them to introduce themselves. Mr. Miller said he grew up in Columbus, Ohio and attended The Ohio State University where he obtained his engineering degree. He said he has been doing private site development for about 19 years and his oil and gas experience includes the upstream side with well pad design and midstream, and also C-stores and gas stations. Ms. Biggs said she also grew up in Columbus but currently lives in Sylvania, Ohio. She said she went to Ohio University and West Virginia University for environmental science, and she has been in the environmental insurance industry for the past 30 years.

**Minutes:**

Chairman Rocco asked if there were any comments or questions regarding the minutes from the November 20, 2024 Board meeting and there were none. Mr. Bergman moved to approve the minutes and Vice-Chairman Burks seconded. A vote was taken, and all were in favor. The minutes were approved as presented.

**BUSTR Report:**

Chairman Rocco called upon Jason Anthony, Bureau Chief, to present the Bureau of Underground Storage Tank Regulations' (BUSTR) report.

Mr. Anthony announced that Scott Sigler is BUSTR's new Assistant Chief. He said Mr. Sigler had been a Corrective Action Supervisor and his former position will be posted soon and will likely be filled by an internal applicant. He said an Environmental Specialist 2 (ES2), Tanya Nell, had resigned due to personal reasons. He noted there may be two ES2 positions open depending on who is hired to fill the Corrective Action Supervisor position. He said they had regained an inspector position for the Toledo region that had been lost about 10 years ago. He said the position was posted and there were four applicants. He noted it has been a struggle to fill the position because of its pay range.

Mr. Anthony said responsible party searches are ongoing. He explained that when the owner or party responsible for a release or a closure is unknown, a responsible party search is done. He said a lot of them come up during road widening projects.

Mr. Anthony reported that BUSTR's staff is continuing to work a hybrid schedule. He said 27 no further actions (NFAs) were issued in November 2024, and 70 NFAs had been issued for fiscal year 2025, which started on October 1, 2024. He said 171 compliance inspections were conducted in November 2024, and 5,520 inspections had been completed since the beginning of the inspection cycle. He explained that the operation compliance cycle started on August 1, 2022, and goes until July 31, 2025. He said they are three quarters of the way through the work and the final list of sites is being sent out to the inspectors.

Mr. Anthony said the grant funding for the corrective action side of the program was allocated through fiscal year 2026. He said a new grant request will be submitted to the U.S. Environmental Protection Agency (U.S. EPA) in April 2025 for the release prevention side. He said UST Installer and Certified UST Inspector courses will be provided in April and May 2025. He said Fire Safety Inspector training will be done in April and September 2025.

Mr. Anthony said BUSTR's database known as OTTER is being rebuilt and will be called OTTER Engage. He said it will be forward facing with many of the old permits and corrective action information being available online, which will, hopefully, cut down on the number of public records requests. He said the new database will go live on August 1, 2025.

Mr. Anthony reported there are 21,217 registered underground storage tanks (USTs) and 3,337 owners of 6,915 registered UST facilities. He noted that the number of registered USTs increased by about 100 over the last three years.

Mr. Anthony pointed out the compliance inspection information is provided at the end of the report. He said about 9,500 inspections were done in the last three years, which includes new federal inspections and re-inspections. Chairman Rocco asked if progress is being seen with compliance inspections. Mr. Anthony said he thinks release prevention is working and mentioned that the U.S. EPA Office of Underground Storage Tank Director commented that the lowest number of releases in the history of the program were reported last year. Mr. Anthony said BUSTR is not having compliance problems with the mid-level and bigger companies. He said they continue to see the same issues with the mom-and-pops because of the costs. He said the compliance rate was fairly good until the 2015 federal rule changes. He said it costs about \$4,000 to replace a spill bucket, and if three of them need to be replaced, it can be cost prohibitive. He said meeting the maintenance requirements is costing more.

Mr. Anthony stated that BUSTR will be publishing a fact sheet concerning fuel conditioning systems and corrosion controls on its website. He explained that these systems are primarily used for diesel USTs to circulate the fuel, polish the fuel, and remove water. He said the fact sheet will provide guidance concerning the containment, sensors, and leak detection requirements. He said restrictions are being put in because some systems were installed without BUSTR being notified. He explained that fuel conditioning systems are part of the UST system and require permits when they are installed, because they can compromise the UST system. Chairman Rocco said if there were to be a release from that part of the UST system, the Fund would cover it, but if it was installed without a permit, it could be argued that it was not in compliance with the regulatory requirements. He said people need to

understand there is a high probability that eligibility would be denied if there was a release from a part of a UST system that was installed without a required permit.

Vice-Chairman Burks asked if the permitting, monitoring, and reporting requirements are different between commercial USTs and USTs owned by a township. Mr. Anthony said all USTs are subject to the same regulatory requirements, regardless of the type of facility. He noted that federally owned USTs, such as those at Wright-Patterson Air Force Base and the Fighter Wing in Toledo, are installed under a higher federal fire code, but BUSTR does the compliance inspections at those bases through an agreement with the U.S. EPA.

Chairman Rocco asked whether BUSTR considers a compartment tank as multiple tanks or a single tank. Mr. Anthony said each compartment is a separate tank and must be registered as a separate tank. The Chairman said that makes sense and from the Fund's perspective, there could be a release from a single compartment.

Mr. Gordon said BUSTR inspectors are giving advance notice of the compliance inspections, which gives the owner/operator time to gather the paperwork. He commented that this is very beneficial and said it has been a significant improvement in the number of re-inspections. Chairman Rocco said the prior notice is particularly beneficial for the larger companies who do not necessarily store all the records at the retail site. He also noted the importance of record keeping and said the records need to be available in case there were to be a release, and the records are needed to demonstrate compliance with the various requirements.

### **Financial Reports:**

Chairman Rocco called upon Vijetha Deshineni, Chief Fiscal Officer, to present the financial reports.

### ***Audit Update***

Ms. Deshineni said as was mentioned at the November Board meeting, the auditors, Rea & Associates, submitted a modification agreement to the Auditor of State to extend the due date for the submission of the fiscal year 2024 audit from December 31, 2024 to January 31, 2025. She said the auditors are scheduled to be in-house during the week of January 13, 2025. Chairman Rocco asked if the Auditor of State was agreeable to the extension and Ms. Deshineni indicated that it was.

Ms. Deshineni said, at the November meeting, Mr. Ridi questioned why there was a significant decrease in the interest earned in the month of September 2024. She said, because of this question, the staff looked at how the information is presented and have changed the spreadsheet so that the amounts presented more accurately reflect the actual interest earned during the month as well as the increase/decrease on the investments during the month. She said the updated spreadsheet reflects the actual interest earnings in the STAR Ohio (State Treasury Asset Reserve of Ohio) accounts, which include the obligated, unobligated, and unclaimed monies trust accounts. She explained that the increase or decrease on investments includes the change in the market value of the investments as well as the unearned gain/loss on those investments. She said this is not realized until the instruments mature. She explained that, in changing the presentation, there is less fluctuation in the interest earned and the total effect of changes in the market is shown as an increase or decrease on investments. She

said the total interest income remains unchanged.

Chairman Rocco said for the benefit of the new members, the Board operates on a fiscal year that begins on July 1st, which is why July is seen throughout the reports. He said each year the Board obligates money for claim reimbursements and unobligated funds are available, but not specifically obligated. Mr. Miller asked what the miscellaneous income represents. Ms. Deshineni said it is typically cash back on credit card purchases. She pointed out that the miscellaneous income is usually very small. Mr. Bergman said it looks like we will be reaching the budgeted amount for temp services and asked if there was an issue with going over. Chairman Rocco said temporary employees are used to fill open positions and, in some cases, the temp services offset salaries.

### ***November Financials***

Ms. Deshineni directed members to the November 2024 financial report provided in the meeting materials.

Ms. Deshineni reported that, as of January 8, 2025, the unobligated account balance was \$20.63 million. She said this amount includes \$5.09 million in STAR Ohio, \$190,000 in a non-interest-bearing custodial account, and \$15.35 million invested in U.S. treasuries and U.S. agency callable bonds. She said the obligated account balance for the payment of claims is \$5.54 million.

Ms. Deshineni explained that total tank revenue is comprised of fees received directly by this office plus amounts collected by the Attorney General's Office on behalf of the Board, minus fee refunds, and minus any collection costs paid by the owner. She reported that approximately 98% of budgeted total tank revenue has been received, as of November 30, 2024. She said more information about refunds and collections would be presented as part of the Compliance and Fee Assessment Report.

Ms. Deshineni stated that interest income includes interest earned on monies held in Star Ohio accounts, including the obligated, unobligated, and unclaimed monies trust accounts, and interest on delinquent accounts collected by the Attorney General's Office plus or minus the increase or decrease in the U.S. treasuries and callable bond investments. She noted that investments are held by the Treasurer of State. She reported that, as of November 30, 2024, we are approximately 42% into the fiscal year and about 40% of the projected interest income for the fiscal year has been received.

Ms. Deshineni said claims expenses are payments made to responsible persons for the reimbursement of costs incurred for the cleanup of petroleum releases in Ohio and it is the largest expense of the Fund. She noted that \$8 - \$9 million is obligated for the payment of claims every year. She said the claims expense for November 2024 was \$687,000, and the total claims expense from July 1 to November 30, 2024, was \$2.08 million. She said this is 26% of the \$8 million obligated for claim payments for fiscal year 2025. Ms. Biggs asked if the \$8 million is usually spent, if there is a delay, or if it means the staff is behind. The Claims Supervisor, Hannah Brame, responded explaining that the claims summary report provides the total amounts paid out each year, and said \$7.4 million was paid out last year, which is close to the amount obligated. Chairman Rocco said one challenge in processing the claims is a staffing issue. He said the other part is working through the paperwork. He said there are some contractors that do a lot of work who know what can and cannot be claimed. He said then there are claims with all sorts of interesting things thrown in and it becomes a challenge to weed through all the

documentation. He said the claims reimbursement will generally get close to \$8 million by the end of the year.

Mr. Gordon said it seems vendors are increasing prices 3-5% for things like landfill costs and asked if there is an annual increase in the costs the Fund will reimburse. Ms. Brame explained that when claims are reviewed, data of the actual costs being seen is collected and that data is periodically evaluated to adjust typical costs, as necessary. Mr. Gordon questioned if it is something that is done yearly or every other year and Ms. Brame said there is no set schedule to rerun the statistics. Chairman Rocco explained that there is not a fixed reimbursement amount. He said \$110 a ton may be a typical value that would expect to be seen for soil disposal, and questions are going to be asked if somebody has a \$200 a ton number versus a \$110 a ton number.

Ms. Deshineni said temp services includes expenses to utilize temporary employees to fill vacant positions until the positions are filled. She commented that there are currently no temporary employees being used. She said the rent line item is for the office lease agreement, which was renewed in October 2023 and was extended through October 2029. She said the office supplies expense includes the offsite storage costs, folders, binders, and other day-to-day office supplies. She said printing and copying includes printing supplies such as cartridges, paper, and printer maintenance.

Ms. Deshineni said, after salaries, legal and professional expenses are a major expense item. She said this line item includes payments for the Assistant Attorney General and hearing officer services, payments to the Attorney General's Office for the collections of delinquent fees, IT support charges, and the annual audit and claim liability actuarial study. She explained that travel expenses include the per diem for board members, employee expenses include drug testing for the new employees and refreshments for Board meetings. She said telephone expenses include the telephone and internet, and postage expenses include postage and courier costs. She noted that postage expenses were 72% of the amount budgeted. She explained that is due to postage fees for the final quarter of fiscal year 2024 being paid in September 2024. She commented that this includes the annual fee statement mailing, which is sent by certified mail, as required by statute. She reported the total operating expenses for the month of November were [\$166,727]. Mr. Miller asked why there was no rent expense in the month of October, and Ms. Deshineni said rent is typically paid a month in advance, but the November rent was paid on November 1, 2024.

### **Compliance and Fee Assessment Report:**

Chairman Rocco called on Cindy Stauffer, Compliance Supervisor, to present the compliance and fee assessment report.

Ms. Stauffer reported that, as of December 31, 2024, the amount of pending refunds totals \$1,473,720. She explained that refunds are a result of payments received for exempt tanks, non-existent tanks, removed tanks, overpayments, and per-tank difference refunds. She said one dedicated staff member is responsible for processing refunds and noted the position was vacant from November 2023 to July 2024. She said, before issuing a refund, the account is reconciled, which involves reviewing all payments as well as any installation and removal documentation for all tanks owned since 1989. She said if outstanding fees exist on the account, the refund is applied first to the outstanding fees and the

remainder, if any, is refunded. She said once a refund is determined to be due to an owner, the file is forwarded for final review and payment. Ms. Stauffer reported that, as of December 31, 2024, a total of \$26,850 has been refunded to 19 owners this program year, and \$5,350 has been reapplied to accounts to offset outstanding fees.

Ms. Stauffer stated that any uncashed checks that have stale-dated are considered unclaimed monies. She reported that there are currently 30 uncashed refund checks totaling \$45,303. She said, in accordance with state statute, these monies are held in an unclaimed monies trust account for five years. After five years, if the refund remains unclaimed, the monies are returned to the Fund's unobligated account.

Ms. Stauffer said there are currently 15 owners with potential refunds totaling \$80,901 to whom more information request letters have been sent notifying them that additional information is needed before the refund may be issued. She said a second more information request letter will be issued to these owners. She said 39 owners with possible refunds totaling \$63,815 have not responded to the final more information request letters. She said, because these refunds cannot be issued without the additional information, a final review will be conducted and, if possible, a partial refund will be issued to the payer, and the remaining amounts will be reapplied to the owner's account.

Ms. Stauffer explained that annual fees are assessed to tank owners by May 1st each year and as tanks are purchased or installed throughout the year. She said if payment is not received within 30 days of assessment, a Notification of Non-Compliance is issued to let the owner know that payment has not been received and, if payment is not received within another 30 days, late fees will be assessed. She said if the payment is still not received after 30 days, an Order Pursuant to Law is issued, which assesses late payment fees at \$100 per month, per tank for a maximum of \$1,000 per tank. She noted that this Order is appealable, and the tank owner has 30 days in which to file an appeal. She commented that if an appeal is filed, the account can often be settled without a hearing; if the account cannot be settled, a hearing is scheduled. She said if no payment is received and no appeal is filed, an unpaid, delinquent account is certified to the Attorney General's Collections Enforcement section for collection. She said the Attorney General's Office aggressively pursues the responsible person for payment of tank and late fees. She said the Attorney General's Office charges a 10% collection fee for this effort. She noted that collection fees can increase as high as 50% as collection efforts escalate. She noted that responsible persons must pay the collection costs. She said as of December 31, 2024, the fees collected by the Attorney General's Office and Special Counsel less collection costs totaled \$18,795. She reported that no accounts had been sent to the Attorney General's Office for collection since July 1, 2024.

Ms. Stauffer said when all the criteria for the issuance of a Certificate are met, it is issued. She explained that if the criteria are not met, the first step is to issue a Notice of Pending Denial, which outlines the deficiencies and provides instructions on how to obtain a Certificate. She said the tank owner is given 30 days to respond to the notice and if no response is received, a Determination to Deny a Certificate of Coverage is issued. She noted the owner can appeal the Determination, which must be filed within 30 days. She reported that, as of January 2, 2025, Certificates of Coverage had been issued to 2,731 owners for program year 2024. She said there are 42 applications for Certificates of Coverage pending review, 55 owners with unresolved Pending Denials, and 44 owners with unresolved Determinations to Deny a Certificate of Coverage for this program year.

Ms. Stauffer said three Orders Pursuant to Law are currently under appeal and information to support those appeals is expected. She said two Determinations to Deny a Certificate of Coverage are also under appeal and a hearing is scheduled for one of those appeals and information to support the other appeal is expected.

Ms. Stauffer said former tank owners experiencing financial difficulty may request a review of their ability to pay delinquent fees by completing and submitting an Ability to Pay Application with financial information that demonstrates the financial inability to pay the fees. She said if the tanks have been removed and the responsible person demonstrates an inability to pay, the outstanding fees may be written off or significantly reduced. She said there is currently one Ability to Pay Application pending review.

### **Claims Reports:**

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

Ms. Brame announced that a new Administrative Assistant had been hired, and training is going well.

Ms. Brame provided an overview of the claims process. She indicated when a release is suspected, the responsible person must submit an eligibility application. She said the process to review the eligibility application is intensive and requires the evaluation of, among other things, whether the application was timely received, whether a valid Certificate of Coverage existed, if the UST system was operating in compliance with BUSTR's rules, if a release is confirmed, and the appropriate deductible. She said if eligibility is granted, then claim reimbursement applications are submitted. She explained that the applications are evaluated, and determination letters are issued to explain the face value of the costs submitted, and what, if any, costs are disallowed as non-reimbursable. She said corrective action costs, which are costs for performing the environmental investigation and remediation required by BUSTR, are submitted in a series of claim applications as the different program tasks are completed and until the State Fire Marshal indicates that no further action is required. She said the Board's rules outline what costs can and cannot be reimbursed, as well as the claim filing deadlines, which are generally within one year of the completion of a given program task. She said at certain stages of corrective action, a cost estimate and completion schedule is required to be submitted for pre-approval. Failure to seek cost pre-approval when required results in reimbursement being limited to 50% of the usual, customary, and reasonable cost for performing that work. She noted that cost pre-approval may also be sought voluntarily. She stated that both eligibility and claim determinations may be appealed. She said the appeal process generally involves reviewing additional pertinent information and attempting to resolve the issues without a hearing. However, an administrative hearing will be held, if necessary.

Ms. Brame reported, as of January 2, 2025, the total maximum liability of in-house open claims is approximately \$7.13 million. She said using the claim payout ratio of 77%, which is the average ratio over the past five years, the anticipated payout of unpaid in-house claims is about \$5.49 million.

Ms. Brame reported, as of January 2, 2025, a total of 430 claims with face values above the deductible amount were pending review and noted that review of four claims is pending receipt of requested information. She reported that the claims staff are currently reviewing claims received prior to July



2024. She stated that, as of January 2, 2025, seven claim determinations were under appeal. She said additional information provided is under review for five appeals, information to support one appeal is expected, and a hearing was recently held for the remaining appeal. She noted that one new appeal had been received, and three appeals had been closed since the Board's November meeting. Ms. Biggs asked what time period is reflected by the 22,000 closed and settled claims. Ms. Brame said that is over the entire lifespan of the Fund, which began July 1, 1989.

Ms. Brame reported that, as of January 2, 2025, a total of 204 claim applications were received, and 308 claim determinations were issued. She said the average payout per claim application for program year 2024 is \$10,038 and the average claim payout is 52.9% of the net claim value (face value – deductible). She said, as discussed in previous Board Meetings, the staff is monitoring the percentage of the claim face value being disallowed as non-reimbursable. She noted that the month of November 2024 includes a settlement agreement for 37 Ashland claims totaling \$1,440,885 with a percentage of disallowed costs of 100%. She explained that removing these claims results in an average percent disallowed of approximately 23.8%, and an average payout per claim of \$11,595.52 or approximately 70.6% of the net claim value. She said the percentage of disallowed costs is also being pushed up due to the settlement of major oil company claims that were previously held due to litigation.

Chairman Rocco said the costs are being evaluated from a technical perspective and are compared to what typical costs are understood to be for that work. He said one of the challenges is that we are on the back end of the costs.

Ms. Brame reported for program year 2024, a total of 49 eligibility applications were received and 20 eligibility determinations were issued. She said of these eligibility determinations, 17 were approved and three were denied. She said the reasons for denial included one for no release demonstrated, one for lack of a valid Certificate of Coverage, and one for no corrective action required by BUSTR. She said as of January 2, 2025, a total of 154 eligibility applications were open. She noted that 19 of these applications were unreviewable until the necessary reports are received, and more information has been requested for three of these applications. Chairman Rocco pointed out that over half of the denials are associated with no corrective action being required. He said tank owners are encouraged to submit eligibility applications for anything they think might be a release, and that way if it turns out corrective actions are required, they will be able to make a claim. He said if an eligibility application is not submitted and the timeframe expires, they lose the opportunity to do that.

Ms. Pyscher, with BUSTR, asked if the Board has reasonable cost guidelines that can be used in comparing what is eligible for reimbursement. Ms. Brame said, except for hourly labor rates, which were provided to stakeholders, the Board does not publish typical unit rates for any of the costs. She said there are internal guidelines and Mr. Anthony asked if those guidelines could be shared with BUSTR. Starr Richmond, Executive Director, said it is a range, and it depends upon the total overall cost. She explained that there could be high rates for disposal, but if the total overall costs were okay, then the high rates would be paid. Chairman Rocco said evaluating a typical cost for soil disposal is a challenge because it is different based on the location, and Ms. Brame said it would basically require having a typical cost for each individual site, which is dependent on round trip travel time and the disposal facilities that are available within a region. The Chairman said there is a range of values and if the total overall costs are reasonable, disposal costs that are slightly higher than typical are probably

okay. He said he has always advocated not publishing a standard rate list because it ends up with everything going to that number. He said the staff uses common sense to evaluate the costs and most of the denied costs are driven by things like lot paving being submitted in a claim for reimbursement, or the costs being absolutely outrageous. He said there is no document that can be provided, but BUSTR's staff could sit down with the claims staff and go through it all if they wanted. Director Richmond said there is a lot of judgement that goes into the claims process. Ms. Brame mentioned that people are encouraged to get competitive bids, and it goes a long way in demonstrating due diligence if three bids were obtained and the lowest bid was used.

Ms. Brame reported for program year 2024, a total of 68 cost pre-approval requests were received. She said the cost pre-approval requests included seven requests for new remedial action plans (RAPs); 34 requests for annual costs for RAPs or free product recovery; one request for an interim response action (IRA) requiring BUSTR approval; 17 requests for either Tier 3 or monitoring/calibration plans; six cost exceedance notifications; and three voluntary requests for cost pre-approval. She said as of January 2, 2025, a total of 78 cost pre-approval notifications had been issued and 44 cost pre-approval requests were pending review. Chairman Rocco said the preapproval process gives the Board the opportunity to question whether ongoing monitoring needs to continue, and to question whether a RAP is doing anything anymore.

Ms. Biggs asked how many staff review claims and Ms. Brame said there are three Claims Analysts, and she also reviews claims as the Claims Supervisor.

**New Business:**

***Administrative Appeal***

Chairman Rocco called upon Howard Silver, the Board's hearing officer, to present his Report and Recommendation regarding the administrative appeal.

**Claim Number: 24264-0001/03/27/20-D, Owner – Blanchester Point, LLC  
Blanchester Point, 310 W. Main Street, Blanchester**

Mr. Silver said the case being presented to the Board concerns an application for reimbursement for corrective action costs in the amount of \$6,198 filed by Blanchester Point on March 28, 2024. He said an Environmental Claims Analyst employed by the Board reviewed the claim and directed written correspondence to Blanchester Point, which explained that the claim was received but it was incomplete. He said the missing information included some signatures, documentation to show the costs being claimed, and proof the costs were actually paid. He said the Environmental Claims Analyst issued the letter on May 3, 2024, which directed Blanchester Point to provide the missing information within 90 days. Mr. Silver explained that the 90-day deadline comes from two rules adopted by the Board and pointed out that 90 days from May 3, 2024, is August 1, 2024. He said Blanchester Point issued a response on June 5, 2024, which included the missing signatures. However, documentation to show the corrective actions costs being claimed was not included and no additional response was received.

Mr. Silver said on August 30, 2024, Director Richmond issued a claim determination letter to

Blanchester Point, which denied reimbursement on the basis that requested information was not provided by the August 1, 2024 deadline. He said Blanchester Point filed an appeal requesting a hearing on September 19, 2024, and then on September 27, 2024, Blanchester Point provided the requested information; 57 days after the deadline. He said a hearing was held on November 13, 2024, and the attorney representing Blanchester Point argued that when information was sent in, the Claims Reimbursement Analyst should have sent another notice indicating the claim was still incomplete. Mr. Silver pointed out that there is no law or rule that says a second notice is to be sent if incomplete information is submitted. He said the Board has adopted two rules under its statutory authority that he cited in the report. He said the first rule is Ohio Administrative Code (O.A.C.) 3737-1-09 (A)(14), which states “[n]othing in this chapter shall be construed to authorize reimbursement for \*\*\* [u]ndocumented corrective action costs, unless the responsible person submits documentation to support the corrective action costs within ninety days from the date that the director or the director’s designee requests such documentation in writing pursuant to rule 3737-1-13 of the Administrative Code.” He said the other rule is O.A.C. 3737-1-13 (C), which states “[a]ny additional information or documentation requested to complete the application shall be submitted within ninety days from the date requested by the director or the director’s designee. All costs of corrective action that are not documented within ninety days after requested by the director or the director’s designee shall not be reimbursed regardless of whether documentation is later provided.” He said he applied these two rules, and found the information was not received within the 90 days as required, which was the basis of Director Richmond’s denial. He said the denial by Director Richmond is supported by the facts and the law, and by the two rules enacted by the Board. He said his recommendation to the Board is to dismiss the appeal from Blanchester Point and affirm the denial by Director Richmond.

Vice-Chairman Burks asked if Blanchester Point called or inquired to find out if they provided the correct information or if anything else was needed after they resubmitted the claim. Mr. Silver said there was nothing in the record to indicate anything like that. Chairman Rocco asked what reason they gave for submitting the information in September as opposed to August 1, 2024, or prior to that deadline. Mr. Silver said no reason was given for why they did not submit it on June 5, 2024, which would have avoided the problem. He said they just said they should have received a second notice, and that they would have met the deadline if they had received a second notice. Mr. Anthony questioned if the 90 days started from the date of the letter, and Director Richmond confirmed that it did. Chairman Rocco pointed out that they were almost two months past the deadline.

Chairman Rocco asked if there were any other questions. Hearing none, he then requested a motion to adopt the findings of facts, conclusions of law, and the recommendation of the hearing officer that the August 30, 2024 claim determination issued by the Director of the Financial Assurance Fund to Blanchester Point, LLC comprises valid state action as a matter of fact and law and that it be upheld. Vice-Chairman Burks so moved, and Mr. Anderson seconded. A roll call was taken, and the following members voted in the affirmative: Messrs. Rocco, Bergman, Burks, Fleming, Gordon, Miller, Anthony, Anderson, and Ms. Biggs. There were no nays. The motion passed.

### ***Hardship Application***

Chairman Rocco called upon Vijetha Deshineni, Chief Fiscal Officer, to present the hardship application.

**Claim # 22685-0001/10/30/23, Owner – Alt’s Gas Station, LLC**

Ms. Deshineni said Alt’s Gas Station, LLC is the responsible person for a release that was discovered in program year 2023 at 207 South High Street in Columbus Grove. She noted this is the LLC’s first request for hardship status.

Ms. Deshineni reported that the first claim with a face value of \$23,000 was received November 12, 2024, and had not yet been evaluated. She said the cost of corrective action work expected to be conducted over the next 24 months is estimated to be \$25,000.

Ms. Deshineni explained that Alt’s Gas Station, LLC purchased the facility in August 2012 and is responsible for the clean-up of the 2023 release. She said the 2021, 2022, and 2023 IRS tax forms submitted with the application reported net income of \$52,000 for fiscal year 2021 and \$61,000 for fiscal years 2022 and 2023. She said, based on the information provided in the hardship application and the 2021 through 2023 tax forms, the ABEL model estimates a more than 99% probability that the LLC can afford \$25,000 in corrective action costs estimated to be incurred over the next two years. Therefore, the director is recommending to the Board that the request for hardship status from Alt’s Gas Station LLC be denied.

Mr. Gordon asked if the income was reported to be positive, and Ms. Deshineni said the income was reported to be \$52,000, \$61,000, and \$61,000 for the last three years. Mr. Anthony asked what is meant by hardship status and Ms. Deshineni explained that claim applications are moved to the front of the line if they demonstrate they cannot afford the work. Chairman Rocco said the program is designed for small tank owners who are having difficulty paying or they need the cash flow. He said the concept is to accelerate payment by reviewing their applications quickly. Mr. Anthony questioned if corrective action work will stop if hardship is denied. The Chairman explained that the denial of hardship status does not deny the claim, it just means the claim application will be put into the queue for review the same as any other application. The Chairman then requested a motion to deny the application for hardship status. Mr. Anderson so moved, and Mr. Bergman seconded. A vote was taken, and all members voted in the affirmative. The motion passed.

**Certificates of Coverage – Ratifications:**

Chairman Rocco called on Cindy Stauffer, Compliance Supervisor, to present the lists of owners who have been issued or denied a Certificate of Coverage for ratification by the Board.

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

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

Ms. Stauffer requested the Board ratify the Director's actions with respect to the issuance of the program year 2023 Certificates of Coverage for the three owners of the three facilities included on the program year 2023 Certificates issued list.

Mr. Bergman moved to ratify the issuance of the 2023 Certificates of Coverage for the facilities listed. Mr. Fleming seconded. A vote was taken, and all members were in favor. The motion passed.

Ms. Stauffer requested the Board ratify the Director's actions with respect to the denial of the program year 2023 Certificates of Coverage for the seven USTs located at the two facilities included on the program year 2023 Certificates denied list.

Mr. Bergman moved to ratify the denial of the 2023 Certificates of Coverage that were listed. Vice-Chairman Burks seconded. A vote was taken, and all members were in favor. The motion passed.

Ms. Stauffer requested the Board ratify the Director's actions with respect to the issuance of the program year 2024 Certificates of Coverage for the 95 owners of the 332 facilities included on the program year 2024 Certificates issued list.

Vice-Chairman Burks moved to ratify the issuance of the 2024 Certificates of Coverage for the facilities listed. Mr. Fleming seconded. A vote was taken, and all members were in favor. The motion passed.

Ms. Stauffer requested the Board ratify the Director's actions with respect to the denial of the program year 2024 Certificates of Coverage for the 146 USTs located at the 48 facilities included on the program year 2024 Certificates denied list.

Mr. Anderson moved to ratify the denial of the 2024 Certificates of Coverage that were listed, and Mr. Fleming seconded. A vote was taken, and all members were in favor. The motion passed.

**Confirm Next Meeting and Adjourn:**

Chairman Rocco said the next Board meeting will be held on Wednesday, March 19, 2025, at 10:00 a.m.

Mr. Bergman made a motion to adjourn the meeting and Mr. Fleming seconded. All members were in favor.

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