MINUTES OF THE 137th MEETING OF THE
PETROLEUM UNDERGROUND STORAGE TANK
RELEASE COMPENSATION BOARD
June 8, 2011

BOARD MEMBERS IN ATTENDANCE

Jim Rocco
Duane Cable
Steve Hightower
Don Kuchta
Tom Stephenson

EX-OFFICIO MEMBERS IN ATTENDANCE

Verne Ord, representing Director David Goodman, Ohio Department of Commerce
Chris Geyer, representing Director Scott J. Nally, Ohio Environmental Protection Agency
Bill Bishilany, representing Josh Mandel,Treasurer, State of Ohio

OTHERS IN ATTENDANCE

Starr Richmond	Executive Director, PUSTRCB
Don Leasor	Chief Fiscal Officer, PUSTRCB
Madelin Esquivel	Assistant Director, PUSTRCB
Cindy Duann	Environmental Claims Supervisor, PUSTRCB
Ellen Mitton	Administrative Coordinator, PUSTRCB
Mary Jo McKenzie	Claims Coordinator, PUSTRCB
Jonathan Maneval	Accounts Receivable Analyst, PUSTRCB
John Hickey	Fiscal Specialist, PUSTRCB
Cheryl Hawkinson	Assistant Attorney General
Ben Marcum	Assistant Attorney General Extern
Shenelle Fabio	Assistant Attorney General Intern
Sally Scheuermann	Speedway, LLC
Michael Baker	BJAAM Environmental, Inc.
Mike Byrne	Sunoco, Inc.
Yvonne Monti	Sunoco, Inc.
Christie Kuhlmann	Stantec

Minutes submitted by:

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Ellen S. Mitton
Administrative Coordinator

Call To Order:
Chairman Rocco convened the one hundred thirty-seventh meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, June 8, 2011. The following members were in attendance: Jim Rocco; Duane Cable; Steve Hightower; Mayor Don Kuchta; Tom Stephenson; Verne Ord, representing Director David Goodman, Ohio Department of Commerce; Bill Bishilany, representing Ohio Treasurer Josh Mandel; and, Christopher Geyer, representing Director Scott J. Nally, Ohio Environmental Protection Agency.

Chairman Rocco asked if there were any comments, questions, or discussion regarding the minutes from the March board meeting and there were none. Mr. Hightower moved to approve the minutes. Mr. Geyer seconded. A vote was taken and seven members voted in the affirmative. Mr. Stephenson abstained. The motion carried.

BUSTR Report:
Chairman Rocco called upon Verne Ord, Acting Bureau Chief, to present the BUSTR report.

Mr. Ord said the Domenici-Barton Energy Policy Act of 2005 ("Energy Policy Act") requires states with authorized UST programs to promulgate rules addressing, among other things, UST-release prevention (secondary containment), prohibitions on delivery of petroleum products to UST systems in violation of UST laws, and training to owners and operators of UST systems. He said BUSTR has taken action on the following rules to meet these requirements:

- **OAC 1301:7-9-06** - Design, construction, installation, operation and maintenance for UST systems (rescind old and file new) - **New rule effective May 16, 2011**;
- **OAC 1301:7-9-07** - Release detection methods and requirements for UST systems (rescind old and file new) - **New rule effective May 16, 2011**;
- **OAC 1301:7-9-08** - Operating requirements for UST systems (rescind old rule and incorporate requirements into new rules OAC 1301:7-9-06 & -07) - **Rule rescinded May 16, 2011**;
- **OAC 1301:7-9-18** - Delivery prohibition – **New rule effective May 16, 2011**;
- **OAC 1301:7-9-19** - Underground storage tank operator training **– New rule scheduled to be filed June 17, 2011 with an effective date of September 1, 2011**.

Mr. Ord said after the September 1st effective date of OAC 1301:7-9-19, BUSTR plans to hold a series of training sessions during September to briefly address the new rules regarding secondary containment, delivery prohibition, and operator training. He said these 2-3 hour sessions would be presented in Cleveland, Toledo, Cincinnati, and Columbus. Mr. Ord said when all BUSTR rules are filed as a complete package, meeting the five-year rule review requirement, BUSTR anticipates holding all day seminars during the month of November to address all rule changes in Cleveland, Toledo, Cincinnati, and Columbus. He said the Petroleum UST Compensation Board would also participate to present rule changes that have occurred as a result of the BUSTR rule changes.

Chairman Rocco said getting information to the UST owners regarding the requirements for operator training is critical because there are three classes of operators and all operator training must be completed by August 10, 2012. He stated the BUSTR rules were available to review and download from the BUSTR website.

Mr. Ord stated that once Rule 19 becomes effective on September 1, 2011, BUSTR will have met all the requirements set forth in the Domenici-Barton Energy Policy Act of 2005.

Mr. Ord said that on June 3, 2011, BUSTR met with stakeholders to commence addressing OAC 1301:7-9-12 (Closure assessment of UST Systems). He said the agency continues to meet on a regular basis with stakeholders to bring the remaining set of rules to final form. Mr. Ord said once all rules are finalized they will be filed together with the Joint Committee on Agency Rule Review (JCARR). He said it is the goal of BUSTR to have all rules finalized and filed by Fall 2011. Mr. Ord said the following list of administrative rules currently are being addressed:

- OAC 1301:7-9-01 - Applicability
- OAC 1301:7-9-02 - Definitions
- OAC 1301:7-9-03 - Reporting requirements for hazardous substances and list of hazardous substances
- OAC 1301:7-9-04 - Registration of UST systems
- OAC 1301:7-9-09 - Sensitive Areas
- OAC 1301:7-9-10 - Permits for UST systems
- OAC 1301:7-9-11 - Underground storage tank installer certification and training
- OAC 1301:7-9-12 - Out-of-service, closure-in-place, permanent removal, change-in-service, and closure assessment of UST systems
- OAC 1301:7-9-13 - Petroleum UST corrective action
- OAC 1301:7-9-14 - Voluntary corrective action
- OAC 1301:7-9-15 - Delegation of authority to inspect UST systems
- OAC 1301:7-9-16 - Petroleum contaminated soils
- OAC 1301:7-9-17 - Sampling and analysis of excavated soil for the purpose of treatment and disposal

Mr. Ord said Jason Anthony and Steve Parsons filled the two Field Supervisors' positions, leaving two field inspector positions vacant; and, Brain Duzak accepted the Environmental Specialist 2 position at BUSTR.

Mr. Ord said Dale Egner continues to be temporarily assigned as project manager to the American Recovery & Reinvestment Act (ARRA) program leaving his position open. He said Dale would assume his Environmental Specialist 2 duties once the ARRA program is completed.

Mr. Ord stated the Attorney 2 position had been filled by Ms. Ellen Miller and confirmed there are now two attorneys working at BUSTR.

Mr. Ord said on behalf of, and in consultation with the Ohio Department of Commerce (ODOC), BUSTR is implementing the activities under ARRA. In the fall of 2009, ODOC made application for and received $8.08 million to investigate and, if necessary, clean up "shovel ready" sites where petroleum contamination was known to exist. He said currently $5.1 million had been spent to perform investigations and clean ups at 34 sites, which were identified for assessment and, if necessary, clean up. He said a total of 13 sites had been cleaned up with 15 more sites to be cleaned up before the end of the grant period. Mr. Ord said most of the sites are currently undergoing active remediation, but activities had been terminated at 8 of the 34 sites due to the anticipated time frames for project completion going well beyond the end of the grant.

Mr. Ord stated 22,386 USTs currently are registered with BUSTR and noted the number continues to gradually decrease. He said at this time there are 3,935 owners of registered facilities.

Mr. Ord said there had been 26,177 no further actions (NFAs) related to clean-ups issued within the BUSTR program.

Financial Report:

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

February, March, and April Financials

Mr. Leasor stated the February, March, and April financials were emailed to each member. He asked if there were any questions or concerns regarding these reports. Mr. Leasor said since the fiscal year 2011 annualized revenue and expenses would be discussed as part of the operating budget, he would not discuss the financials.

Operating Budget

Mr. Leasor said 2011 tank revenue is just under $14.8 million, approximately $300,000 more than the $14.5 million budgeted. Mr. Leasor said the recommended budget for fiscal year 2012 is just under $14.25 million, based on an estimated 21,100 USTs and the assumption that 25% of the tanks would be assured at the reduced deductible. Mr. Leasor said per tank fees will remain the same in 2012 at $600 for the standard deductible and $800 for the reduced deductible.

Mr. Leasor said property transfer fees are projected at $81,000 for fiscal year 2012. He said a portion of the fees had been assessed this year, but the money would be received in the 2012 fiscal year. He stated the prior years' fees to be collected in fiscal year 2012 less refunded amounts are projected to be $450,000.

Mr. Leasor said that interest income is approximately $19,000, a negative variance of 71% due to the use of a significant portion of the unobligated funds to pay off the bonds in August 2010. Additionally, the fiscal year 2011 budget was based on a .15% interest rate. He stated the rate had decreased since November 2010 to .05% in May 2011. Mr. Leasor said the fiscal year 2012 recommended budget of $12,000 for interest income is based on a .10% interest rate.

Mr. Leasor said that miscellaneous income is projected to remain at $1,000 for fiscal year 2012.

Mr. Leasor stated that both the seminar revenue and seminar expense line items are being held at $18,000. He explained that the Board did not hold seminars during the 2011 fiscal year, but anticipates the need to hold seminars in conjunction with BUSTR in the upcoming fiscal year in response to BUSTRs' five-year rule review, which likely will affect the Board's rules. He said the Board anticipates participating in four seminars this year, which are planned to be held in Cleveland, Toledo, Cincinnati, and Columbus.

Mr. Leasor explained the actual total income of approximately $14.8 million for fiscal year 2011 is 1.5% above the budgeted $14,575,000, noting a positive variance of approximately $226,000. He said the positive variance in tank revenue was offset by the unfavorable variances in interest income and seminar revenues.

Mr. Leasor said the claims expense budgeted in fiscal year 2011 was $9 million, however, a total of $8 million was obligated. He said the actual claims expense is anticipated to be approximately $7.42 million. He stated the proposed fiscal year 2012 claims expense budget is being held at $9 million.

Mr. Leasor said that the salary line item budgeted for fiscal year 2011 was $1,140,000 and actual expenditures were approximately $1.1 million, resulting in a favorable variance of 3.4% due to short term vacancies in three positions. He recommended the fiscal year 2012 budget for salaries be set at $1,174,700. Mr. Leasor said the increase from the prior period is attributed to increases in fringe benefit costs and a one time supplemental pay totaling approximately $12,000 to be paid in August 2011. He said the fiscal year 2012 budgeted amount reflects all positions being filled, anticipated leave payout, and fringe costs. Mr. Leasor stated all salaries are frozen at current levels.

Mr. Leasor noted the advertising, staff development, travel, and postage line items are self-explanatory and had been carried over with no changes in the recommended budget amounts.

Mr. Leasor said the temporary services line item budget in 2011 was $10,000 and actual expenditures were approximately $17,500. He said the unfavorable variance of $7,500 was due to the utilization of temporary employees for two staff vacancies during the year. He noted that all staff positions are currently filled; however, anticipating an employee's need to take an extended medical leave, the recommended budget amount for temporary services for fiscal year 2012 is $15,000.

Mr. Leasor stated the rent line item budgeted amount of $103,798 was the amount expended for the fiscal year. He noted the Board is in its final year of the lease, which expires on June 30, 2011. Mr. Leasor said the rent expense for fiscal year 2012 is anticipated to be approximately $110,000. He added the lease option and rent expense would be discussed in-depth at a later time in the meeting.

Mr. Leasor noted that the office supplies line item was budgeted at $13,000 and actual expenditures were $12,600. He said the amount requested for office supplies for fiscal year 2012 is $13,000, which includes purchases of furniture and computer equipment valued under $500.

Mr. Leasor noted that printing and copying was budgeted at $16,500 and actual expenses were approximately $12,800 resulting in a favorable variance of just under $3,700. He recommended the fiscal year 2012 budget be held at $16,500.

Mr. Leasor said the fiscal year 2011 budgeted amount for legal and professional expenditures was $235,000 and actual expenditures were $251,000, resulting in a unfavorable variance of approximately $16,000 due to special counsel collection costs of approximately $65,000. He said the fiscal year 2012 legal and professional expense line item recommended budget is $250,000 and includes expenses for the Assistant Attorney General and Hearing Officer's services contracts, the audit, legal experts, miscellaneous maintenance costs related to the computer network and STARRS' database, Attorney General and Special Counsel collection costs, and other miscellaneous professional services.

Mr. Leasor said employee expenses were budgeted at $16,300 for fiscal year 2011. He said actual expenses were approximately $15,000. Mr. Leasor said the employee expense line item for the fiscal year 2012 budget is recommended at $19,200 and includes an anticipated 14% increase in parking expenses for 16 staff members. He said the current parking contract would expire on June 30, 2011. He said the actual cost of a parking spot in the LeVeque Tower garage is $125 monthly; however, the Board is currently paying $88 per spot monthly. Mr. Leasor anticipates the Board would receive a quantity discount and anticipates the new contract would be approximately $100 per spot monthly.

Mr. Leasor said the telephone line item was budgeted in fiscal year 2011 at $10,200. He said the actual expenditure was $8,900 resulting in a positive variance of approximately $1,300. He said the fiscal

year 2012 proposed budget of $11,100 includes web access, web site hosting, spam filtering, main telephone lines, 1-800 number, and hosting the off-site back-up of the computer network system and files.

Mr. Leasor said the fiscal year 2011 depreciation expense was budgeted at $54,000 and actual depreciation was $52,500. He stated the anticipated depreciation for fiscal year 2012 is budgeted at $35,000. Mr. Leasor stated the lower budget is attributed to several high cost items being fully depreciated as well as the utilization of the 60-month depreciation schedule adopted by the Board at its November 2009 meeting.

Mr. Leasor said the trustee expenses for fiscal year 2011 were budgeted at $1,400. He explained this is the cost charged by the bond trustee and the annual fees from the Huntington Bank. Mr. Leasor said given that the bonds were paid off in August 2010, there were no expenses associated with this line item and there are no anticipated trustee expenses for fiscal year 2012.

Mr. Leasor stated unemployment compensation costs were not budgeted for fiscal year 2011. He said however, due to an employee no longer on staff filing for unemployment benefits, the actual expenses were approximately $1,600. He said the fiscal year 2012 proposed budget is $14,200 to cover expenses should the individual remain on unemployment for a full year.

Mr. Leasor said interest expense was not budgeted for fiscal year 2011; however, actual expenses were approximately $1,100. He said this expense resulted from interest charges assessed on unpaid OPERS contributions for a previous board member. Mr. Leasor stated there is no anticipated interest expense for fiscal year 2012.

Mr. Leasor stated that overall expenses for fiscal year 2011 were approximately 2.8% below what was budgeted.

Chairman Rocco requested a motion to approve the 2012 Operating Budget as proposed. Mayor Kuchta so moved and Mr. Stephenson seconded. A vote was taken and all members voted in favor. The motion passed.

Chairman Rocco said a motion was needed to obligate monies for claims expense as proposed. Mayor Kuchta moved to obligate $9 million as recommended for fiscal year 2012. Mr. Geyer seconded. A vote was taken and all of the members were in favor. The motion passed.

Capital Budget

Chairman Rocco called upon Mr. Leasor to present the proposed Capital Budget for fiscal year 2012.

Mr. Leasor said the furniture & equipment line item for fiscal year 2011 was budgeted at $7,000 and actual expenditures were approximately $5,500. He said the recommended amount for fiscal year 2012 for the furniture and equipment line item is $3,000.

He said the Data Processing & Electronics budget for computer replacements and other general IT purchases was set at $12,000 in fiscal year 2011. He said actual expenses were approximately $4,200 for the purchase of prepackaged software and the set up of backup hardware and software. He said the recommended 2012 operating budget is $12,000 to purchase prepackaged software and replacement workstations as needed.

Mr. Leasor stated the fiscal year 2011 budget for database out-of-scope and "wouldn't it be nice if" items was $5,000. He stated actual expenditures were $3,900 for software development for reasonable cost tracking. Mr. Leasor said the database out-of-scope and "wouldn't it be nice" line item recommended for fiscal year 2012 is $30,000 for the development of multiple new modules and enhancement of existing modules that will permit tracking joint enforcement actions with BUSTR and subrogation cases, and respond to changes in the BUSTR registration database.

Mr. Leasor noted there had been $5,000 budgeted in fiscal year 2011 for costs to replace water-damaged items that may not have been reimbursed by insurance. He said the insurance company had reimbursed all expenses due to the flood.

Mr. Leasor said the fiscal year 2011 Capital Budget was set at $39,000 and actual expenditures were approximately $22,500. Mr. Leasor recommended a total fiscal year 2012 Capital Budget of $45,000.

Mr. Hightower asked if the use of Minority Business Enterprises was tracked and reported. Mr. Leasor stated he was unable to provide the amount expended with MBEs during fiscal year 2011, but the data is tracked and reported to the State EEO Coordinator. Mr. Hightower requested this information be provided to the members in future meetings.

Mr. Geyer moved to approve the amount of $45,000 recommended for the fiscal year 2012 Capital Budget. Mayor Kuchta seconded the motion. A vote was taken and all of the members were in favor. The motion passed.

Fee Statement Statistics

Mr. Leasor stated to date per tank fees collected for the 2011 program year were $4,717,951 as compared to 2010 program year's fees of $4,399,733 collected for the same period of time last year, realizing a 7% increase over the prior year.

He said between July 1, 2010 and June 8, 2011, $14,030,000 had been collected for program year 2010 fees and $734,000 had been collected for prior year fees net any refunds paid.

Mr. Leasor said as of June 8, 2011, fees had been received for 7,737 tanks paid by 1,275 owners as compared to 6,706 tanks paid by 1,212 owners for the same period last year, which reflects a 15% increase. He said for program year 2010, fees had been collected for 21,177 tanks paid by 3,390 owners. He said this number would continue to increase, as the end of the program year is June 30.

Mr. Leasor said that for the 2012 program year beginning on July 1, 2011, 33% of the $14,246,000 budgeted had been collected. He said to date fees had been paid for 36.7% of the 21,100 tanks anticipated to be covered in the 2011 program year.

Claims Report:

Chairman Rocco called on Ms. Cindy Duann, Environmental Claims Supervisor, to present the claims report.

Ms. Duann said the current total maximum liability of in-house open claims is approximately $27.3 million. She said using the historical claim payout ratio of 70% the actual anticipated claim liability of unpaid claims is approximately $19 million. She said there are currently 1,642 in-house open claims pending review. Ms. Duann said as of June 1st there are only 20 claims under appeal, which is lower than normal.

Ms. Duann said that in April and May the Board received a higher than typical 160 claim packages. She said with one more month to go in this program year, the Board had received a total of 735 claim packages, averaging 67 claim packages per month and the staff had settled or closed a total of 683 claims, averaging 62 claim packages per month. Ms. Duann said there had been no lump sum settlements offered to any major oil companies this year.

Ms. Duann said the settlement amount offered during the past eleven months totaled approximately $6.6 million, making the average claim payout 71% of the net value, which is 5% higher than last year.

Ms. Duann said the Board had received a total of 34 eligibility applications this program year and 66 applications had been determined. She said of those 66 eligibility determinations, 48 of the applications had been approved. Ms. Duann said currently there are only two eligibility applications pending review, which is the lowest monthly number she had seen during her career with the Board.

Ms. Duann said that during the past eleven months the Board received 171 requests for cost pre-approval and issued 196 cost pre-approval notifications. Ms. Duann said due to the mandatory submission deadline, 16 annual FPR cost pre-approvals were received in May; however, she said those pre-approvals would be reviewed by the end of July.

Old Business

Attorney General Certification Process

Chairman Rocco called on Ms. Madelin Esquivel, Assistant Director, to follow up the discussion from the March meeting regarding the certification process and the Attorney General's Collections Enforcement processes.

Ms. Esquivel said there had been a number of recommendations discussed at the March Board meeting regarding the Attorney General's (AG) certification process. She stated that at that meeting, the Board moved to require any decision for an account to go to Special Counsel from the Attorney General's office for collection purposes be approved by the Director. She said the Board members also requested that the Finance Committee, Ms. Richmond, Mr. Leasor, and Ms. Esquivel meet and discuss the pros and cons of the remainder of the recommendations and report the final recommendations at the June meeting.

Ms. Esquivel said Chairman Rocco and Mr. Stephenson met with members of the staff prior to the Board meeting today to discuss the development of a formal policy governing the process and timing for collection of delinquent accounts; the payment of collection costs including the Attorney General's fees, Special Counsel fees, and fees charged by the Value Recovery Group or any third-party vendor; a responsible person's inability to pay fees; and, accounts considered "uncollectible."

Ms. Esquivel explained that the AG's collection costs of 10% of the amount paid are passed to the debtor and that the Board has historically paid Special Counsel and third-party vendor collection costs of 33 1/3% and 50%, respectively. She said as a result of today's meeting, she is recommending the Board authorize the Director or her designee to pass all collection costs onto the debtor.

Ms. Esquivel said an "uncollectible" status could be assigned to delinquent per-tank and late payment fees outstanding on inactive accounts; that is, the tanks that are the subject of the fees have been removed, the subject fees have been outstanding for a minimum of ten years after the date of tank removal, and no liability to the Fund exists for a release that occurred from the subject tanks.

She explained that developing an "inability to pay" process would allow the Director to evaluate a responsible person's financial situation to determine that person's ability to pay delinquent per-tank and late payment fees outstanding on inactive accounts where no liability to the Fund exists for a suspected or confirmed release occurring from the subject tanks during the period of time the responsible person owned and/or operated the subject tanks.

Following a discussion among the members, Chairman Rocco requested Ms. Hawkinson, Assistant Attorney General, to research and report back to the Board whether or not the Board has the discretion to use any third-party for fee collection or must this process go through the Attorney General's office.

Chairman Rocco requested a motion to authorize the director or her designee to pass all collection costs on to the debtor. Mr. Cable so moved. Mayor Kuchta seconded and a vote followed. All members were in favor. The motion passed.

Chairman Rocco stated the "inability to pay" status and the "uncollectible" status would be discussed further and a final process presented at the September meeting.

Office Lease

Chairman Rocco called upon Ms. Richmond to discuss the office space lease. Ms. Richmond stated the current lease would expire on June 30, 2011. She explained she had been working with a broker who had been negotiating with the new owners of the LeVeque but no agreement had been reached at this time. She said she had looked at other properties and requested proposals, with some proposals being as much as 35% higher than what the current owners had offered. Ms. Richmond said there is a property located on Gay Street, which she and Chairman Rocco would walk-through today. She said the landlord of the Gay Street property had offered to "meet or beat any other offer." She stated this property had fewer amenities; i.e., no parking garage, no storage, and the space required extensive "build-out" construction. Answering Mr. Hightower's question, Ms. Richmond stated that the owner of the Gay Street property would pay for the build-out costs.

Ms. Richmond said the new owners of the LeVeque Tower offered a lease that increased the rent approximately 4.5% annually. She said they offered the Board a 2-year lease with two 2-year renewal options. She said at the end of the first 2-year lease, the increase in cost for the first renewal option would be capped at $1 per square foot and at $1.50 per square foot for the second renewal option

Following a discussion, Chairman Rocco requested a motion to authorize the Chairman and the Executive Director to enter into a rental contract for office space not to exceed $110,000 per year or a total of $220,000 for a two-year lease. Mr. Bishilany so moved. Mr. Cable seconded and a vote was taken. All members voted in favor of the motion.

New Business

Hearing Officer Contract

Ms. Richmond said the contract for Howard Silver, the Board's hearing officer, would expire on June 30, 2011. She said she talked with Mr. Silver and he agreed to extend his contract at the same pay rate and terms as previously contracted. She said this contract would be from July 1, 2011 through June 30, 2012. Following a brief discussion regarding Mr. Silver's hourly pay rate, Mr. Stephenson made a motion to authorize the Chairman to enter into a contract with Howard Silver to extend his contract to June 30, 2012. Mr. Cable seconded. A vote was taken and all of the members were in favor. The motion passed.

Assistant Attorney General Memorandum of Understanding
Ms. Richmond said that the Memorandum of Understanding (MOU) between the Board and the Attorney General regarding the legal services provided to the Board by Ms. Cheryl Hawkinson would expire on June 30, 2011. She said the amendment to the existing MOU would be for one year beginning July 1, 2011 and ending June 30, 2012. Ms. Richmond stated due to increased administrative costs within the Attorney General's office, there had been an approximate 2% increase in this contract. She said there had not been an increase in Ms. Hawkinson's hourly rate of pay. Ms. Richmond requested that the Board authorize the Chairman to enter into a Memorandum of Understanding with the Attorney General for the continuation of legal services provided by Ms. Hawkinson for the period of July 1, 2011 to June 30, 2012 in an amount not to exceed $56,000. Mr. Stephenson so moved. Mr. Hightower seconded. A vote was taken and all of the members were in favor. The motion passed.

Database Maintenance
Ms. Richmond said due to the resignation of the previous I.T. consultant, Mark Suttner, a new independent consultant had been hired and a contract signed for database development/maintenance services. She requested a motion to ratify the contract with TPA Solutions for the period of April 1 through June 30, 2011. Chairman Rocco called for the motion. Mr. Cable so moved and Mr. Geyer seconded. A vote was taken and all voted in favor.

Ms. Richmond said she would like the Board to extend the contract with TPA Solutions to continue providing database maintenance services for FY 2012. Chairman Rocco requested a motion to authorize the Chairman to negotiate and to enter into a contract with TPA Solutions for services for fiscal year 2012, from July 1, 2011 through June 30, 2012, in an amount not to exceed $24,000. Ms. Richmond added that this amount is included in the budgeted legal and professional line item. Mr. Geyer so moved. Mayor Kuchta seconded. A vote was taken and all members voted in favor. The motion passed.

Third Party Eligibility Case
Ms. Richmond said the Board is currently involved in a legal issue regarding 100 plaintiffs who had filed suit against a tank owner who was granted third-party eligibility. She said the Board would share legal costs with several other defendants. She is requesting the Board to authorize the Chairman to contract with one or more experts to research, provide advisory services, and provide testimony if needed regarding this third-party eligibility in an amount not to exceed $25,000. Mr. Hightower so moved. Mayor Kuchta seconded. A vote was taken and seven of the members voted in favor of the motion. Mr. Cable abstained. The motion passed.

Hardship Applications
Chairman Rocco called upon Ms. Richmond to present the hardship applications. Ms. Richmond stated when hardship status is granted to an owner that owner's claims are reviewed within 30-days of receipt, thereby reducing the owner's financial burden. She said a hardship status is granted for one year and can be renewed annually by submitting another application accompanied with updated financial information.

1) Claim #20991-0001/10/27/10, Owner- Arvind Patel, dba Manjula One Inc.
Ms. Richmond said Mr. Patel is the responsible person for a 2010 release that occurred at 827 Front Street in Berea. She said this is the first request for hardship status submitted by Manjula One Inc. She said to date one claim package totaling just under $81,000 has been received and is pending review.

Ms. Richmond said in addition to the review of the hardship application, a US Environmental Protection Agency (EPA) financial capacity test was used to evaluate the cash flow of Manjula One Inc. and to determine whether it had the ability to carry debt, in which case it could finance the costs of corrective actions over a period of time. She said based on the information provided in the application, the ABEL model estimates a probability of less than 55% that Manjula One Inc. could afford $100,000 in corrective action costs. Ms. Richmond stated that denying hardship status would pose an overwhelming burden on Manjula One Inc., as it does not have adequate cash flow to self-finance corrective action costs for the current claim.

Ms. Richmond recommended that the Board approve this application and grant hardship status to Manjula One Inc. Mayor Kuchta so moved and Mr. Ord seconded. A vote was taken and all members voted in the affirmative. The motion carried.

2) Claim #18752-0001/06/11/08, Owner-Charles V. Hanrahan, dba Chuck's Citgo.

Ms. Richmond said Mr. Hanrahan is the responsible person for a 2008 release that occurred at 3718 Lawrenceville Drive in Springfield. She said this is the second request for hardship status submitted by Mr. Hanrahan. Ms. Richmond stated there are currently no outstanding claims associated with this release.

Ms. Richmond said based on the information provided by Mr. Hanrahan in the application, his household gross income slightly exceeds his reported annual household living expenses and debt payments. She said Mr. Hanrahan currently receives no income from the facility.

Ms. Richmond said in addition to the review of the hardship application, a US Environmental Protection Agency (EPA) financial capacity test was used to evaluate Mr. Hanrahan's cash flow and to determine whether he had the ability to carry debt, in which case he could finance the costs of corrective actions over a period of time. She said based on the information provided in the application and the financial capacity test, Mr. Hanrahan does not have adequate cash flow or the ability to carry additional debt in order to pay corrective action costs.

Ms. Richmond recommended that the Board approve this application and grant hardship status to Mr. Hanrahan. Mayor Kuchta so moved and Mr. Cable seconded. A vote was taken and all members voted in the affirmative. The motion carried.

3) Claim #18344-0001/10/26/98, Owner-Gary Glessner, dba Red Stripe Associates

Ms. Richmond said Mr. Glessner is the responsible person for a 1998 release that occurred at 50708 National Road in St. Clairsville. She said this is the eleventh request for hardship status submitted by Mr. Glessner. Ms. Richmond said to date the Fund has reimbursed Red Stripe Associates a little over $202,000 and there are currently no in-house unreviewed claims associated with this release.

Ms. Richmond said per a conversation with Mr. Glessner, and as verified by the company's tax records submitted with the application, the property and business were sold to Sober Systems LLC at a loss in November 2008. Red Stripe provided the financing for the new owner and the only cash receipts currently are from the new owner's monthly payment. She said the majority of these funds are used to make Red Stripe's payment on the original loans to acquire the property. Ms. Richmond said Red Stripe Associates is still responsible for and is continuing the corrective actions.

Ms. Richmond said in addition to the review of the hardship application, a US Environmental Protection Agency (EPA) financial capacity test was used to evaluate the cash flow of Red Stripe Associates and to determine whether it had the ability to carry debt, in which case it could finance the

costs of corrective actions. She said based on the information provided in the application, the ABEL model estimates a probability of less than 50% that Red Stripe could afford $20,000 in corrective action costs. Ms. Richmond said according to the ABEL model, Red Stripe is not in a position where it can acquire financing or manage its cash flow to self-finance ongoing corrective action costs.

Ms. Richmond recommended that the Board approve this application and grant hardship status to Red Stripe Associates. Mayor Kuchta so moved and Mr. Stephenson seconded. A vote was taken and all members voted in the affirmative. The motion carried.

4) Claim #20216-0001/06/01/05, Owner-Hanif Ibrahim, dba Star General Enterprises Inc.

Ms. Richmond said Mr. Ibrahim is the responsible person for a 2004 release that occurred at 1404 Maple Avenue in Zanesville. She said this is the fourth request for hardship status submitted by Star General Enterprises Inc. Ms. Richmond said to date the Fund has reimbursed Star General Enterprises Inc. approximately $29,400 and two claims are currently in review for a total of just over $10,500.

Ms. Richmond said in addition to the review of the hardship application, a US Environmental Protection Agency (EPA) financial capacity test was used to evaluate Star General Enterprises Inc. cash flow and to determine whether it had the ability to carry debt, in which case it could finance the costs of corrective actions over a period of time. She said based on the information provided in the application, the ABEL model estimates a probability of less than 50% that Star General Enterprises Inc. could afford $20,000 in corrective action costs. Ms. Richmond stated that denying hardship status would pose an overwhelming burden on Star General Enterprises Inc., as it does not have adequate cash flow to self-finance corrective action costs for the current claim

Ms. Richmond recommended that the Board approve this application and grant hardship status to Star General Enterprises Inc. Mr. Geyer so moved and Mr. Cable seconded. A vote was taken and all members voted in the affirmative. The motion carried.

Certificates of Coverage Ratification

Chairman Rocco called upon Ms. Richmond to present for ratification by the Board the lists of owners who, since the last Board meeting had either been issued or denied a Certificate of Coverage.

Ms. Richmond said that behind Tab 9 there is a listing of facilities issued a program year 2009 Certificate of Coverage. She said no facilities had been denied a program year 2009 Certificate of Coverage since the March Board meeting.

Ms. Richmond said the process used to review the fee applications and issue or deny a 2009 Certificate of Coverage included a review for completeness to determine that full payment had been made, financial responsibility was demonstrated, and BUSTR registration was complete. In a second level of review, BUSTR registration data was considered to determine whether tanks for which coverage is sought are in compliance with BUSTR's rules. Ms. Richmond said if there are no issues, the facility receives a Certificate of Coverage.

Ms. Richmond explained if compliance issues are discovered, notice is provided to owners in accordance with the Board's rules and the Revised Code. Throughout this process the Board's staff works with the owners to correct the fee statement record and/or refers the owners to BUSTR to correct the registration record. She stated the staff often continues to work with owners even after a determination to deny a Certificate of Coverage had been issued. The Board's rules and the Revised Code make provisions for an appeal of the determinations issued within this process.

Ms. Richmond asked the Board to ratify her actions with respect to the three facilities receiving 2009 Certificates of Coverage.

Mr. Hightower moved to ratify the list of 2009 Certificates of Coverage that were granted. Mr. Geyer seconded. A vote was taken and all of the members were in favor. The motion passed.

Ms. Richmond said that behind Tab 10 there is a listing of facilities issued a program year 2010 Certificate of Coverage; and behind the blue divider page, a listing of facilities denied a program year 2010 Certificate of Coverage.

Ms. Richmond stated the process to issue and, if appropriate, deny a Certificate of Coverage changed in November 2009 with amendments to the Board's rules. She said under the new rule, the review of BUSTR registration data to determine compliance with the State Fire Marshal's rules was eliminated.

Ms. Richmond explained that during the review for the 2010 program year Certificates of Coverage, the staff now only ensures full payment has been received; financial responsibility for the deductible is demonstrated; and, the owner has certified with his signature that he is in compliance with the State Fire Marshal's rules. She said if the staff determines all these requirements have been met and if the tanks existed in previous years, a Certificate for the subject tanks was issued to the owner in at least one of the prior two years, then a Certificate of Coverage is issued. Ms. Richmond said if the requirements are not met, the Certificate is denied in accordance with the Board's rules as previously discussed.

She said all processes within the Board's rules and the Revised Code were followed to make the determination to issue the program year 2010 Certificates of Coverage.

Ms. Richmond asked the Board to ratify her actions with respect to the 111 owners of 449 facilities receiving 2010 Certificates of Coverage on the list behind Tab 10.

Mr. Bishilany moved to ratify the list of 2010 Certificates of Coverage that were granted. Mr. Geyer seconded. A vote was taken and all of the members were in favor. The motion passed.

Ms. Richmond said that behind the blue divider page in Tab 10 there is a listing of facilities denied a program year 2010 Certificate of Coverage.

Ms. Richmond asked the Board to ratify her actions with respect to the 89 facilities that were denied a Certificate of Coverage for program year 2010.

Mr. Cable moved to ratify the list of 2010 Certificates of Coverage that were denied. Mr. Geyer seconded. A vote was taken and all of the members were in favor. The motion passed.

Executive Session

Chairman Rocco requested a motion to go into executive session pursuant to O.R.C. 121.22(G)(3) to discuss matters of pending or imminent court action. Mayor Kuchta so moved. Mr. Hightower seconded and a roll call vote followed. The following members voted in the affirmative: Messrs. Cable, Hightower, Kuchta, Stephenson, Ord, Bishilany, and Geyer. Chairman Rocco abstained. There were no nays and the motion passed.

Prior to moving into executive session, Chairman Rocco recused himself from this portion of the meeting. Due to the absence of Vice-Chairman Hull, Chairman Rocco turned the meeting over to Mr. Tom Stephenson.

Reconvene Meeting

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

Confirm Next Meeting

Mr. Ord made a motion to adjourn the meeting and Mr. Cable seconded. All were in favor. The next board meeting will be Wednesday, September 14, 2011, beginning at 10:00 a.m.