



# Petroleum Underground Storage Tank Release Compensation Board

P.O. Box 163188 • Columbus, Ohio 43216-3188  
Phone: (614) 752-8963 • Fax: (614) 752-8397  
www.petroboard.com

## MINUTES OF THE 131st MEETING OF THE PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD March 10, 2010

### BOARD MEMBERS IN ATTENDANCE

Jim Rocco  
John Hull  
Duane Cable  
Brian Epperson  
Stephen Hightower  
Cheryl Hilvert  
Don Kuchta  
Tom Kmiec  
Tom Stephenson

### EX-OFFICIO MEMBERS IN ATTENDANCE

George Horvath, representing Director Kimberly Zurz, Ohio Department of Commerce  
Jake Wozniak, representing Kevin L. Boyce, Ohio Treasurer of State  
Chris Geyer, representing Director Chris Korleski, Ohio Environmental Protection Agency

### OTHERS IN ATTENDANCE

Starr Richmond	Executive Director, PUSTRCB
Don Leasor	Chief Fiscal Officer, PUSTRCB
Cindy Duann	Environmental Claims Supervisor, PUSTRCB
Ellen Mitton	Administrative Coordinator, PUSTRCB
Rita Arnold	Office Assistant, PUSTRCB
Jonathan Maneval	Accounts Receivable Analyst, PUSTRCB
Michael Grube	Environmental Claims Analyst, PUSTRCB
Cheryl Hawkinson	Assistant Attorney General
Sally Scheuermann	Speedway SuperAmerica
Daniel Griest	Speedway SuperAmerica
Jennifer Schoenlein	Speedway SuperAmerica
Michael Baker	BJAAM
Jodi Handlin	BJAAM
Doug Darrah	ATC Associates
Christina Polesovsky	OPMCA
Charles Hanrahan	Chuck's Citgo
Michael Berner	Chuck's Citgo
Alan Belasco	Visitor

Minutes submitted by:

Ellen S. Mitton  
Administrative Coordinator

**Call To Order:**

Chairman Rocco convened the one hundred thirty-first meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, March 10, 2010. The following members were in attendance: Jim Rocco; John Hull; Duane Cable; Mayor Don Kuchta; Steve Hightower; Cheryl Hilvert; Brian Epperson; Tom Stephenson; Tom Kmiec; George Horvath, representing Director Kimberly Zurz, Ohio Department of Commerce; Christopher Geyer, representing Director Chris Korleski, Ohio Environmental Protection Agency; and, Jake Wozniak, representing Kevin Boyce, Ohio Treasurer of State.

Chairman Rocco asked if there were any comments, questions, or discussion regarding the minutes from the January board meeting and there were none. Mr. Hull moved to approve the minutes. Ms. Hilvert seconded the motion. A vote was taken and eleven members voted in the affirmative; Mr. Wozniak abstained. The motion carried.

**Financial Report:**

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

Mr. Leasor introduced Mr. Robert Newman, Director of Investments, Ohio Treasurer of State's Office. Mr. Leasor stated that during the development of the Board's investment policy, Ms. Richmond met with representatives of the Ohio Treasurer's Office. On February 25, 2010, Ms. Richmond, Mr. Leasor, and Mr. Hickey met with Mr. Newman to discuss StarOhio and alternative investments and an invitation was extended at that time to Mr. Newman to speak with the members of the Board.

Mr. Newman briefly summarized the duties of the Investments Division. He stated the division manages short-term investments (30-days and under), investments in agencies and treasury notes out to five years, the StarOhio account, and the lottery's annuity funds.

Mr. Newman summarized factors contributing to and resulting from the financial crisis and the recession that followed. He also summarized actions taken by the Treasurer of State's Office to minimize the impact on its investments and announced that the Treasurer's Office did not lose any funds in any of its investments during the financial crisis. He stated the Treasurer's Office anticipates a slow recovery, but expects interest rates to rise in the third or fourth quarter.

Mr. Newman provided a handout illustrating the yields currently available on several investment instruments and spoke on the different types of investment instruments and on the benefits and drawbacks of these instruments. In response to Chairman Rocco's request for a recommendation, Mr. Newman stated a portion of the Board's funds could be invested for a longer term, but in the current economic environment, the Board may want to consider keeping the majority of funds in short-term instruments since it is anticipated interest rates will rise.

Mr. Wozniak responded to Chairman Rocco's question regarding the management of investments by stating the Board's options include utilizing StarOhio, an external investment advisor, or the Treasurer of State's Office to manage the portfolio. Mr. Newman stated that the primary difference between these options would be that an external investment advisor charges a fee for the services provided.

Ms. Richmond stated that Mr. Newman's participation at the Board meeting was an initial introduction to what is available to the Board through the Treasurer's Office and to get the Board members thinking about what could be done in the future to increase investment income.

### ***Audit Update***

Mr. Leasor noted a copy of the fiscal year 2009 audit final draft was provided to the Board members with the meeting materials. He said the independent auditors, Schneider Downs, submitted the audit to the State Auditor's Office by the January 31<sup>st</sup> extended deadline. Mr. Leasor said the audit is subject to review and acceptance by the Auditor of State and it has not yet been released.

### ***December and January Financials***

Mr. Leasor stated the December and January financials were emailed to each member. He asked if there were any questions or concerns regarding these reports. Hearing none, Mr. Leasor began with the January financials.

Mr. Leasor said as of January 31, 2010, there was a little over \$6.97 million in the obligated account, which is set aside for fiscal year 2010 claim settlement payments. He said the current unobligated balance is a little over \$11.02 million, and another \$6.74 million is held in the debt service account.

Mr. Leasor said as of January 31, 2010, tank revenue was at 99.65% of the 2009-budgeted revenue, totaling approximately \$14.6 million. He said that this amount is net of approximately \$88,000 in refunded tank fees.

Mr. Leasor explained that in December the investment income decreased \$3,397.30 primarily due to a decrease in the market values of the investments held in the debt service fund. He stated that this is an unrealized loss and when these investments mature, the Board will receive par value and a loss will not be realized on those investments.

He noted that the claims expense for January was approximately \$379,000 and the claims expense for December was almost \$408,000. He stated that approximately \$3.5 million had been paid in claims from July 1, 2009, to date. Mr. Leasor stated a \$1.2 million lump sum settlement offer was made to a major oil company in December and to date, the agreement was not finalized.

Mr. Leasor noted that the legal and professional line item for December and January was higher than prior months. He said the December expenses were primarily related to the 2009 audit and the January expenses were related to the second quarter payment for the services of the Assistant Attorney General.

Mr. Leasor said that the temporary service line item is at 85% of the budget, however, as mentioned at the January meeting, this cost was incurred during the first half of the year as anticipated. He said now that the assurability analyst position had been filled, this line item would fall within the budgeted amount.

Mr. Leasor noted that the office expense line item is now about 110% of the amount budgeted. He said this was due to the replacement monitors purchased during the current fiscal year. These monitors were expensed in accordance with the capital assets policy approved by the Board at its November meeting.

Mr. Leasor stated that with the exception of cyclical items such as postage, printing and copying, and the bond trustee expense, all other expense line items are on target through the end of January.

In response to Mr. Hightower's question regarding the auditors report stating significant deficiencies relative to internal reporting, Mr. Leasor stated a procedure had been developed regarding the estimate of uncollectible accounts; however, it needed to be discussed with the auditors prior to implementation. Chairman Rocco noted the Board had been dealing with this issue for a few years. He said part of this was due to the change in the software for our tracking system and how accounts receivable are tracked.

In response to Mr. Hull's concern regarding the investment income received to date, Mr. Leasor said the investment income budget had been based on one-half percent and after the budget was developed, interest rates continued to fall and today the StarOhio yield rate is .06%.

Chairman Rocco stated the Finance Committee would meet before the June meeting to discuss the options of refinancing the bonds, paying off the bonds early, or a variety of combinations of those, as well as whether the Board should issue additional bonds. He said all of these decisions are tied to the market and with the market being as volatile as it is now, if the Board is to issue new bonds, the goal would be to act quickly so that bonds could be issued at the lowest rate available. He asked the committee members to peruse the Sources & Uses of Funds options prepared by Public Financial Management, Inc., and, assuming viable opportunities are available, the committee would make a recommendation to the members at the June Board meeting.

Ms. Richmond expressed her appreciation to Mr. Jake Wozniak of the Treasurer's Office, as he was instrumental in the process of analyzing whether it would be beneficial to refinance the Board's bonds.

#### **BUSTR Report:**

Chairman Rocco called upon George Horvath, Bureau Chief, to present the BUSTR report.

Mr. Horvath stated that BUSTR continues to work toward completing one of the requirements of the Energy Act, which mandates the on-site inspection of each underground storage tank (UST) in Ohio every three years. He said 5,114 or 65.11% of the facilities had been inspected through the end of January, leaving 2,740 to be completed this cycle. Mr. Horvath noted that due to the hiring freeze, grant money initially intended for new hires is being used to fund an overtime project to address this requirement, which is due by August 8, 2010. He said while BUSTR is not as far along as planned, he expects a noticeable jump in numbers before the next meeting.

Mr. Horvath noted that in addition to the inspections, the BUSTR administrative rules are being reviewed as required by the five-year rule review, while concurrently drafting new rules to conform to the requirements of the Energy Act of 2005. Noting the rule review process, he said there should be a report released soon regarding the 2,000+ petitions received during the request for petitions timeframe.

In response to Chairman Rocco's question regarding the anticipated timeline for completion of the rule review, Mr. Horvath said once the report on petitions is available, the regulated community would have a designated timeline to review and comment. He said management would like to have the rules to the Joint Committee on Agency Rule Review (JCARR) by early summer.

Following Chairman Rocco's suggestion to review one rule at a time, Mr. Horvath stated that had been considered but determined it would not be feasible as many of the rules are interconnected.

Chairman Rocco said the Board is interested in the progress of rule 1301:7-9-05, Financial Responsibility Requirements. Mr. Horvath said an extension had been granted for this specific rule review and possibly would be submitted as a “No Change Rule” during this review process.

Mr. Horvath said BUSTR was one of few states to receive grant monies from the ARRA (American Reinvestment and Recovery Act) to assess and cleanup contamination from abandoned tanks in Ohio. He said the bureau is preparing purchase orders and working with U.S. EPA for the final site selection. Mr. Horvath said the Department of Administrative Services recently announced the vendor selection.

Mr. Horvath said the bureau is working to upgrade the BUSTR tank tracking software program and the ultimate goal for this project is to have all records on-line as soon as possible. He also requested Board members to contact him if anyone was familiar with the Tumbleweed software. He reported that through the ARRA program the Tumbleweed software is to be installed and Mr. Horvath said it sounded as if it would be an excellent way for larger operators to obtain any documentation they required by using Tumbleweed, rather than making a records request to BUSTR. He said login accounts would be required for those interested in the Tumbleweed program and once it is in place, more information will be made available on the BUSTR website.

Mr. Horvath reported there are 22,804 USTs registered with BUSTR and 3,125 active releases as of the end of February.

#### **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 \$28.9 million. She said using the historical claim payout ratio of 65%, the actual anticipated claim liability of unpaid in-house claims is about \$19 million. She said 1,803 fund eligible sites had received an NFA and the average cleanup cost is \$123,798 per NFA site. Ms. Duann said for the 158 NFA sites cleaned up exclusively under BUSTR’s 1999 and/or 2005 risk based corrective action (RBCA) rules, the average cleanup cost is \$67,677 per site.

Ms. Duann said there are currently only 20 claims under appeal.

Ms. Duann said in January and February, the claims staff received a total of 143 claims and settled or closed 145 claims offering \$1.9 million. Ms. Duann said of the 391 claims settled this program year, approximately 28.7% of the claim face value was disallowed, or about 63.5% of the net value was reimbursed with a total settlement offer of \$3.9 million. She said with four more months to go in this program year, and including the \$1.2 million lump sum payment to a major oil company, it is projected that the total claim settlement offer in this program year will be approximately \$8 million.

Ms. Duann said currently there are only 12 open eligibility applications to be determined, which includes two applications requiring more information be submitted prior to the determination. Ms. Duann said in the past eight months, the Board received 51 eligibility applications and in that same time period, approved 60 eligibility applications and denied 14 applications. She pointed out that 50% of the total denials were made in January and February, as these were complicated applications, which took longer to evaluate and to make final determinations.

Ms. Duann said that in the last two months the staff had focused on claim settlements and during that time the Board received 26 cost pre-approval applications and responded to 16 requests. She said for this program year, the Board received 128 requests for cost pre-approval and responded to 145 requests.

### **New Business**

Chairman Rocco called upon Ms. Richmond to present two hardship applications. Ms. Richmond stated when hardship applications are granted, owner/operators granted hardship status will have their claims reviewed within 30-days of receipt and thereby, reduce the financial burden on companies. A hardship status is granted for one year and can be renewed annually by submitting another application accompanied with updated financial information.

### ***Hardship Applications***

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

Ms. Richmond stated this application is from Gary Glessner, owner #18344, doing business as Red Stripe Associates in St. Clairsville, Ohio. This is Mr. Glessner's tenth request for hardship status. Previous hardship applications expired in 2001, 2002, 2003, 2005, 2006, 2008, and 2009. Ms. Richmond stated that Mr. Glessner's applications for hardship status were denied in August 2006 and November 2008.

Ms. Richmond said she talked with Mr. Glessner last year and, as verified by the company's tax records submitted with the application, the property and business were sold at a loss in November 2008. Red Stripe's only cash receipts currently are from the new owner's monthly payment. The majority of these funds are used to make Red Stripe's payments on the original loans to acquire the property.

Ms. Richmond said to date the Fund had reimbursed Mr. Glessner a little over \$179,000 in corrective action costs. She said the most recent claim from Red Stripe had been received in February 2010 and totaled almost \$11,000. In addition to the review of the hardship application, a U.S. Environmental Protection Agency (EPA) financial capacity test was used to determine if Mr. Glessner's company had the ability to carry debt. 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. Mr. Hull moved to approve the application. Mayor Kuchta seconded and a vote was taken. Eleven members voted in the affirmative and Mr. Horvath abstained. The motion carried.

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

Ms. Richmond stated this application is from Charles Hanrahan, owner #18752, doing business as Chuck's Citgo in Springfield, Ohio. This is Mr. Hanrahan's first request for hardship status.

Ms. Richmond stated Mr. Hanrahan is requesting hardship status for the cleanup of a release that was discovered in 2008 when the tanks were removed from 3718 Lawrenceville Drive in Springfield. She said he currently leases the property to an auto service and repair center. She said to date, one claim package totaling just under \$25,000 had been received and is pending review.

Ms. Richmond said based on information provided with the application, Mr. Hanrahan's household gross income slightly exceeds his reported annual household living expenses and debt payments. She added that his cash on-hand and 401(k) investments total less than \$20,000.

Ms. Richmond said in addition to the review of the hardship application, a U.S. Environmental Protection Agency (EPA) financial capacity test was used to determine if Mr. Hanrahan had the ability to carry additional debt in order to pay corrective action costs. Ms. Richmond said a family member paid the \$25,000 in costs submitted for reimbursement on Mr. Hanrahan's behalf.

Ms. Richmond recommended that the Board approve this application and grant hardship status to Charles Hanrahan. Mr. Hull moved to approve the application. Mr. Hightower seconded and a vote was taken. Eleven members voted in the affirmative and Mr. Horvath abstained. The motion carried.

### ***Certificate 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 explained that behind Tab 7 there are two lists of owners. The first is a listing of owners who had been issued a program year 2008 Certificate of Coverage; and, behind the blue divider page, a listing of owners who had been denied a program year 2008 Certificate of Coverage. She said behind Tab 8 there is a listing of owners who had been issued a program year 2009 Certificate of Coverage, and behind the blue divider page, a listing of owners who had been denied a program year 2009 Certificate of Coverage since the January Board meeting.

Ms. Richmond said the process used to review the fee applications and issue or deny a 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 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 owners to correct the fee statement record and/or refers the owner 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 that the Board ratify her actions with respect to the 13 owners of 16 facilities receiving 2008 Certificates of Coverage.

Mr. Hull moved to ratify the list of 2008 Certificates of Coverage that were granted. Mr. Epperson seconded. A vote was taken and all were in favor. The motion passed.

Ms. Richmond stated all of the processes as stated in the Board's rules and the Revised Code were followed in making the determinations for denying Certificates of Coverage. Ms. Richmond asked that the Board ratify her actions with respect to the 44 facilities that were denied a Certificate of Coverage for program year 2008.

Mr. Hull moved to ratify the list of 2008 Certificates of Coverage that were denied. Mr. Epperson seconded. A vote was taken and all were in favor. The motion passed.

Ms. Richmond asked that the Board ratify her actions with respect to the 91 owners of 305 facilities receiving 2009 Certificates of Coverage.

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

Ms. Richmond asked that the Board ratify her actions with respect to the 38 facilities that were denied a Certificate of Coverage for program year 2009.

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

***Confirm Next Meeting***

Mr. Kmiec made a motion to adjourn the meeting. Mr. Epperson seconded. All were in favor. The next board meeting will be Wednesday, June 9, 2010, beginning at 10:00 a.m.