



Petroleum Underground Storage Tank Release Compensation Board

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**MINUTES OF THE 206th MEETING OF THE
PETROLEUM UNDERGROUND STORAGE TANK
RELEASE COMPENSATION BOARD
November 20, 2024 – 10:00 a.m.**

BOARD MEMBERS IN ATTENDANCE

Jim Rocco
Steve Bergman
Larry Burks
Scott Fleming
John Gordon
Dan Ridi

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
Beth Fligner	Assistant Attorney General
Dave Israel	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-sixth meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, November 20, 2024.

The following members were in attendance: Jim Rocco; Steve Bergman; Larry Burks; Scott Fleming; John Gordon; Dan Ridi; 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: Jessica Biggs; Ben Miller; and Donna Waggener, representing Director Anne Vogel, Ohio Environmental Protection Agency.

Chairman Rocco announced that John Gordon was recently appointed to the Board as a representative of petroleum marketers and asked Mr. Gordon to introduce himself. Mr. Gordon said he has worked at the Englefield Oil Company for the last 40 years and has worked in construction and environmental for 30 of those years. Chairman Rocco said it is great to have Mr. Gordon's many years of experience on the Board. The Chairman stated that Jessica Biggs was appointed to the Board to represent the insurance industry and Ben Miller was appointed as a professional engineer representing the interests of the public. He said the positions were recently filled and unfortunately, they were unable to make the meeting given the short notice. He said there is one opening on the Board, the representative of local governments. Vice-Chairman Burks offered to reach out to the OCMA (Ohio City & County Management Association) members to help fill the position.

Minutes:

Chairman Rocco asked if there were any comments or questions regarding the minutes from the September 11, 2024 Board meeting and there were none. Mr. Anderson moved to approve the minutes and Mr. Fleming 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 reported that the Assistant BUSTR Chief position is currently open. He said the job was posted on Monday and would remain up for another week. He said they expect there to be a lot of interest in the position.

Mr. Anthony said three vendors were approved to perform responsible party searches, and 60 site files were sent out. He reported that one search had been completed. The responsible party searches identify owners and operators that are responsible for the investigation and cleanup of releases from petroleum underground storage tanks (USTs).

Mr. Anthony said because of federal government mandates, the corrective action information is reported annually. He said 399 no further actions (NFAs) had been issued for the fiscal year, which

was recently reported to the U.S. Environmental Protection Agency. He said the compliance inspection side of the program does a three-year inspection cycle, which ends July 31, 2025, and noted they are on track to complete the inspections. He pointed out the tank count information was on Page 3 of the report and mentioned a slight increase in the number of registered tank systems is being seen.

Mr. Anthony said BUSTR is doing some revisions to the registration rule 1301:7-9-04, permit rule 1301:7-9-10, and installer training rule 1301:7-9-11. He said rule 1301:7-9-20 concerning the revolving loan fund is being rescinded. He explained that the rule package was filed with the Common Sense Initiative Office (CSI Office) for review and comment, and the comment period would end November 29, 2024. He said once the CSI Office approves filing the rules, they will go to JCARR (Joint Committee on Agency Rule Review). He indicated the hope is for the rules to be effective April 1, 2025.

Mr. Anthony said BUSTR's database is being rebuilt and commented that it was last reconfigured in 2012. He said the new version is going to be called Auto Engage and will be forward facing to allow any historical records for a facility to be viewed. He said all the records in their archives will be imported into the new database and it will hopefully cut down on the number of public information requests. He stated that the annual registration renewal goes out around the 1st of April and explained that the new database will go live after registration is over, which may be around August 1, 2025.

Mr. Anthony said the proposed rule changes add a penalty fee for any fee paid late through the registration process. He said the UST installer's license renewal is being changed from one year to two years, and the fee is being doubled to \$350. He said the permit fee is being increased to \$100 per tank. He said they decided to go with the \$100 per-tank fee after receiving comments from stakeholders indicating they want a fee structure that was easy to calculate. He said the revolving loan fund rule is being rescinded because it is defunct.

Vice-Chairman Burks asked if BUSTR has a full staff of inspectors. Mr. Anthony said they have nine inspectors but would like to go back to having 10 inspectors. Mr. Ridi asked if BUSTR requires hard copies to be mailed in. Mr. Anthony said he wants to sunset the submission of paper records and he hopes to send an email around the first of the year to all owners, installers, and inspectors indicating they will no longer accept paper submissions.

Financial Reports:

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

Audit Update

Ms. Deshineni said the auditors have not started the in-house portion of the audit and it is anticipated they will start the week after Thanksgiving. She commented that the audited financial statements are due to the Auditor of State by December 31, 2024, and it is likely an extension request will be needed. She said a decision whether to request an extension will be made after the first week of December 2024.

Ms. Deshineni said the biennial budget was submitted and is under review with the Office of Budget and Management.

August, September, and October Financials

Ms. Deshineni said the August, September, and October financials were provided in the meeting materials and said she would be discussing the October 2024 financial report.

Ms. Deshineni reported that, as of November 19, 2024, the unobligated account balance was \$20.86 million. She said this amount includes \$5.55 million in STAR Ohio (State Treasury Asset Reserve of Ohio) and the custodial account, and \$15.3 million invested in U.S. treasuries and U.S. agency callable bonds. She said the obligated account balance for the payment of claims is \$6.04 million.

Ms. Deshineni said tank revenues would be discussed as part of her fee statement statistics report.

Ms. Deshineni reported that, as of October 31, 2024, expenses should be about 33% of the budgeted amount. She said interest income is at 44.4% of the budgeted amount, which is ahead of projections. She reported the claims expense for the month of October was \$270,000, and, to date, \$1.39 million has been paid for claims for fiscal year 2025. She pointed out that this equates to 17.43% of the \$8 million obligated by the Board for the payment of claims for the fiscal year.

Ms. Deshineni reported that, as of October 31, 2024, 14 of the 16 permanent positions are filled, and noted the Collections Specialist and Claims Administrative Assistant positions are still vacant. She said postage expenses were 56% of the amount budgeted. She said this is due to postage fees for the final quarter of fiscal year 2024 being paid in September. She reported the total operating expenses for the month of October were \$165,000. Mr. Ridi asked why interest earnings dropped in September and Ms. Deshineni said it was likely due to a decrease in the value of the investments and stated she would check into it and explain the decrease at the next Board meeting. She noted there was a bond maturity in October.

Fee Statement Statistics

Ms. Deshineni said as of October 31, 2024, the per-tank fees collected for the current 2024 program year were \$8.14 million, which represents 98% of the billed amount. She said between July 1 and October 31, 2024, approximately \$85,000 was collected for prior years' fees, net of refunds of \$7,050. She said for the same period in the previous fiscal year, \$8.07 million in tank fees for program year 2023 were collected, and \$77,200 in prior year fees were collected.

Ms. Deshineni said between the fee statement mailing in April 2023 and October 31, 2024, \$8.35 million was collected for program year 2023 fees and approximately \$177,000 was collected for prior year fees net of refunds paid of \$83,000. She said, for program year 2024, a total of 15,592 tanks were billed at the standard deductible (\$55,000) per-tank fee and 5,166 tanks were billed at the reduced deductible (\$11,000) per-tank fee. Ms. Deshineni said as of October 31, 2024, fees had been paid at the standard deductible rate for 14,871 tanks and at the reduced deductible rate for 5,110 tanks. She said fees for a total of 19,981 tanks had been paid by 2,872 owners. She said this compares to fees being paid for 19,917 tanks by 2,872 owners for the same prior year period.

Ms. Deshineni reported, for the program year 2023, fees had been paid for a total of 20,378 tanks by 2,954 owners.

Compliance and Fee Assessment Report:

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

Ms. Stauffer stated that she has been with the Board for 14 years and in October 2023, she was promoted to Compliance Supervisor and took over the supervision and oversight of the fee assessment, Certificate of Coverage, and refund processes. She explained that this caused some position changes and openings that required hiring and training. She said the position responsible for processing refunds of fees was vacant from November 2023 to July 2024, and the position responsible for certifying accounts for collection has been vacant since December 2023. She stated the hope is to fill the collections position soon.

Ms. Stauffer reported that as of October 31, 2024, the amount of pending refunds totals \$1,462,282. 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 oversees the refund process and reconciling large accounts and other staff members assist, when possible, by reconciling accounts for the purpose of issuing refunds. She explained that the process of reconciling an account involves reviewing all the payments received and the installation and removal documentation for any tanks owned since 1989. 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 October 31, 2024, a total of \$7,650 has been refunded to four owners this program year.

Ms. Stauffer said as accounts are reconciled outstanding fees are identified. Any pending refund is applied first to the outstanding fees and the remainder, if any, is refunded. She said no refunds had been used to offset outstanding tank and late fees this program year.

Ms. Stauffer stated that any uncashed checks that have stale-dated are considered unclaimed monies. She reported that there are currently 33 uncashed refund checks totaling \$55,403. 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 fee charges. 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 since July 1, 2024, the fees collected by the Attorney General's Office and Special Counsel less collection costs totaled \$17,827. She reported that no accounts had been sent to the Attorney General's Office for collection since July 1, 2024.

Ms. Stauffer said another appealable letter is the Determination to Deny a Certificate of Coverage. She said the denial of a Certificate of Coverage is a two-step process consisting of a Notice of Pending Denial and a Determination to Deny a Certificate of Coverage. She 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. She said as of [November 12, 2024], there are 76 owners with unresolved Pending Denials. She said if no response is received, a Determination to Deny a Certificate of Coverage is issued, which the tank owner has 30 days to appeal. She reported as of [November 12, 2024], there are 25 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 four Determinations to Deny a Certificate of Coverage are also under appeal and information to support two of those appeals is expected and the other two appeals were recently closed.

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.

Ms. Stauffer reported that, as of [November 12, 2024], Certificates of Coverage had been issued to 2,620 owners for program year 2024. She said there are 139 applications for Certificates of Coverage pending review.

Claims Reports:

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

Ms. Brame announced that interviews for the Claims Administrative Assistant position had concluded, and someone would be hired for the position soon.

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 November 1, 2024, the total maximum liability of in-house open claims is approximately \$8.74 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 \$6.73 million.

Ms. Brame reported, as of November 1, 2024, a total of 461 claims with face values above the deductible amount were pending review and noted that review of three claims is pending receipt of requested information. She reported that the claims staff are currently reviewing claims received prior to May 2024, as well as some claims that had previously been held due to pending litigation. She stated that, as of November 1, 2024, nine claim determinations were under appeal. She explained that these appeals pertain to only seven release sites. She said additional information provided is under review for eight appeals and a hearing was recently held for the remaining appeal. She noted that five new appeals had been received since the Board's September meeting and one appeal was closed.

Ms. Brame reported that, as of November 1, 2024, a total of 145 claim applications were received, and 196 claim determinations were issued. She said the average payout per claim application for program year 2024 is [\$10,218] and the average claim payout is 68.4% of the net claim value (face value – deductible). She said the average percentage of the claim face value that was disallowed was 24.6%. She explained that at the September 2024 Board meeting, it was noted that the average percent disallowed is higher than what has been seen historically, and that an evaluation of the observed increase would be presented to explain the increase.

Ms. Brame pointed out that for program year 2024, the face value that was disallowed was 24.6% compared to an average of 18.8% for the prior five program years, which is an increase of about 5.8%. She said, based on her evaluation, she believes three factors are impacting the number. She said over the past five years, claims from BP, Sunoco, and Premcor were reintroduced in the queue for review

after being held due to pending litigation. She said once they were reintroduced into the queue, they were settled either by an invoice-by-invoice review or through negotiated settlement agreements. She said for the past five years the percentage disallowed for claims from these major oil companies was 34.7% and is 54.6% for the current program year. She said overall the claims that were the subject of litigation have a higher percentage disallowed than other claims. She said if the claims associated with those major oil companies that were the subject of litigation are removed from the totals, the adjusted percentage of disallowed costs is only 19.8%. She said that compares to an adjusted average of 17.5% for the prior five years, for a difference of only 2.3% as opposed to the 5.8% increase shown in the report. She said her conclusion is reintroducing the claims that have previously been held due to litigation is one of the main driving factors in this observed increase in the percent of disallowed costs. She said several of the releases related to the litigation have been granted NFA status by BUSTR and she anticipates the impact will lessen as review of the related claims is finished.

Ms. Brame said the second reason the disallowed percentage is being impacted is a change in the proportion of claims from certain consultants. She said from 2019 to 2023, approximately two-thirds to three-quarters of the settled claims had costs from two consultants that do a fair amount of work with the Board and are well versed in the Board's processes and rules. She said for program year 2024, the proportion of claims being settled from these two consultants is less than half. She said the average percentage of disallowed costs for the claims from these two consultants over the last five years is about 12%, which is less than the average. She said as consultants with less Fund experience become more familiar with the claim and cost pre-approval process and the Board's rules, the percentage of disallowed costs is expected to decrease.

Ms. Brame said the third reason the disallowed costs could be increasing may be due to inflation and other external factors. She said the staff will continue to collect typical cost data from costs being submitted in claims and adjust the typical costs as appropriate. She added that she would continue to monitor the percentage of disallowed costs.

Chairman Rocco said it makes a lot of sense that settlement of the various cases is impacting the percentage. He said if there are a lot of new consultants entering, higher disallowed costs will be seen. Mr. Ridi said inflation has been around 2.5% to 3%, and asked how often adjustments are made to consider inflation. Ms. Brame said in her experience, an evaluation is done every couple of years. She said the last evaluation was done in 2022, so it might be a good time to consider doing another evaluation. He asked if the evaluation would include the current labor market. She said when overall costs are evaluated, they collect the actual unit rates and labor rates submitted in the claims and a statistical analysis is done of all the actual cost data. The Chairman said something to keep in mind is the actual expenditure precedes the claim submission and review. He said inflation today cannot be looked at as the basis for claims being paid today because the dollars were probably spent about a year earlier. He said the Board has stayed away from setting reimbursable dollar amounts. He said the staff recognizes there can be a range of costs depending on circumstances and it provides some flexibility.

Ms. Brame reported for program year 2024, a total of 31 eligibility applications were received and 16 eligibility determinations were issued. She said of these eligibility determinations, 13 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 November 1, 2024, a total of 141 eligibility applications were open. She noted that 21 of these applications were unreviewable until the necessary reports are received, and more information has been requested for three of these applications. She also noted that, as of November 1, 2024, eight eligibility determinations were under appeal. She said additional information is expected for two appeals, information for five appeals has been received and is under review, and discussions and information exchange are underway for the remaining appeal. She said no new appeals had been received and two appeals had been closed since the September Board meeting. She said two additional eligibility determinations were issued since November 1, 2024.

Ms. Brame reported for program year 2024, a total of 48 cost pre-approval requests were received. She said the cost pre-approval requests included four requests for new remedial action plans (RAPs); 23 requests for annual costs for RAPs or free product recovery; 14 requests for either Tier 3 or monitoring/calibration plans; four cost exceedance notifications; and three voluntary requests for cost pre-approval. She said as of November 1, 2024, a total of 57 cost pre-approval notifications had been issued and 43 cost pre-approval requests were pending review.

Finance Committee Report:

Chairman Rocco said prior to the Board meeting, the Finance Committee met to review the fee and deductible amounts and to determine whether any changes are needed. He said the Committee also reviewed several policy statements.

Chairman Rocco then directed members to a Pro-Forma Operating Statement, which was distributed to the members. He noted that the assumptions used for the purposes of doing the pro-forma were shown on the first page. He then pointed members to the second page and stated that by fiscal year 2029 the unobligated account balance will essentially match the estimated claim liability if the fees are left as they currently are. He said the projection is an account balance of about \$22.5 million and a claim liability of about \$22.4 million. He said the recommendation from the Finance Committee is not to make any changes to the fees as they feel comfortable where things are at this point and there is no driving need to make changes to the fees. The Chairman asked if there were any questions and Mr. Bergman asked if there was a need to increase fees based on the discussion about the ages of tanks or any other outside influences. The Chairman said the majority of tanks were replaced in the mid-90s and are getting very close to 30 years old. He said at some point a lot of tanks will be taken out of the ground. He said rather than trying to raise the fees to anticipate that, he thinks it is something the Board will need to just watch and deal with going forward. He noted the per-tank fees are currently \$350 and \$550, and they have not changed in six years. He then requested a motion to adopt the recommendation of the Finance Committee to make no changes to the deductible amounts or per-tank fee amounts for program year 2025. Vice-Chairman Burks so moved, and Mr. Bergman seconded. A vote was taken, and all were in favor. The motion passed.

Chairman Rocco said there are four policies the committee reviews annually. He reminded members that the Board had adopted a Warrant Requisition Policy in the previous year after check writing was moved from the Treasurer's Office to in-house. He said the committee reviewed the policy and there were no recommendations to change the policy. He said the Collection Policy was reviewed. He stated the policy has been in place for several years and there were no recommended changes to that policy.

He said the third policy the committee reviewed is the Investment Policy. He said the policy was established to allow for investments outside of STAR Ohio. He said this policy has been in effect for quite some time and the committee is not recommending any changes to that policy either. He said the fourth policy is the Asset Management Policy. He said the committee is recommending some minor changes to the policy and directed members to a copy of the proposed policy. He said the committee is proposing a few editorial changes and said the first primary change is to increase the timeframe for tagging assets, which he explained are primarily furniture and computer equipment. He said the policy as it is currently written requires assets to be tagged on the day they are received and the timeframe proposed allows a grace period to tag the assets. He said the second policy change is in the section titled Disposing Personal Property and the suggested revision is to be consistent with the DAS (Department of Administrative Services) policy for turning over equipment for disposal. He said the committee reviewed the policy and agrees with the proposed changes. He then requested a motion to accept the Finance Committee's recommended changes to the Asset Management Policy. Mr. Ridi so moved, and Mr. Fleming seconded. A vote was taken, and all were in favor. The motion passed.

Unfinished Business:

Adoption of Rules

Chairman Rocco called upon Jonathan Maneval, Assistant Director, to provide an update concerning the rules.

Mr. Maneval said a hearing concerning the Board's proposed rule amendments was held by JCARR. He noted the rules were placed on the consent agenda and there were no comments or testimony at that hearing. He said at this point the Board needed to adopt the rules and set a date for them to become effective, which is proposed to be January 1, 2025.

Chairman Rocco pointed out that copies of the rules were in the members notebooks and asked if there any questions. Hearing none, he requested a motion to adopt the proposed amendments to rules 3737-1-03, 3737-1-06, 3737-1-07, 3737-1-09, 3737-1-12.1, 3737-1-16, and 3737-1-23 of the Ohio Administrative Code as presented at the public hearing of the Board on September 11, 2024, with an effective date of January 1, 2025. Mr. Anderson so moved, and Mr. Fleming seconded. A roll call was taken, and the following members voted in the affirmative: Messrs. Rocco; Bergman; Burks; Fleming; Gordon; Ridi; Anthony; and Anderson. There were no nays. The motion passed.

Ashland LLC Settlement Agreement and Release

Chairman Rocco said a settlement was finalized for the Ashland LLC case and he called on Beth Fligner, the Assistant Attorney General assigned to the Board to provide an overview of the agreement.

Ms. Fligner said the settlement agreement was a result of investigations into major oil companies that started over a decade ago when it was discovered that companies had received payments from their insurance companies as well as from the Fund. She said Ashland LLC was one of the companies the Board alleged of double dipping and ultimately two court cases were filed, and they were combined for one appeal case in the 10th District Court in Franklin County. She said the Board and Attorney General were represented by outside counsel to handle the matter. She said the parties participated in

court-sponsored mediation and came to a resolution. She said for a number of years while the matter was pending, the Board stayed review and payment of claims submitted by the Ashland companies. She said as part of the settlement, the Board would not pay out any claims that were held over the last several years and the Board would not get repaid. Chairman Rocco said on one hand the Board did not get paid any money, but on the other hand, there were lot of claims in house that were all closed without any payout and any future claims associated with those particular eligibility applications will not be paid. Mr. Bergman asked what the dollar amount was for the claims that were closed and Starr Richmond, Executive Director, said it was about \$1.7 million. Mr. Ridi asked if the language that the Board was worried might set a precedent was fixed. Ms. Fligner said there was an unfavorable judge's decision that had some written language that could have affected the Board and other Boards as well. She said the decision as written was unworkable because it required every determination to be voted on and it was not the way the law is written or intended. She said as part of the settlement both parties agreed that it would be sent back, and the language removed from that decision. Chairman Rocco said it was probably the most important issue in settling the case and it ended in a very good resolution for the Board. Mr. Bergman asked how many cases are still pending and the Chairman said there is just one case remaining.

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 six owners of the six facilities included on the program year 2023 Certificates issued list.

Mr. Ridi 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 32 USTs located at the 13 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. Mr. Anderson 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 225 owners of the 1,756 facilities included on the program year 2024 Certificates issued list.

Mr. Fleming moved to ratify the issuance of the 2024 Certificates of Coverage for the facilities 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 denial of the program year 2024 Certificates of Coverage for the 108 USTs located at the 40 facilities included on the program year 2024 Certificates denied list.

Mr. Ridi moved to ratify the denial of the 2024 Certificates of Coverage that were listed, and Mr. Anderson seconded. Mr. Ridi asked why the Certificates were being denied and Ms. Stauffer said there could be a number of reasons for the denials. She said it could be because paperwork was not done, a signature was missing, financial responsibility was not demonstrated, or the requirements of rule 3737-1-04.1 were not met, when no Certificate existed in one of the prior two years. Director Richmond said it could also be denied for outstanding fees. The Chairman asked if there were any other questions. Hearing none, a vote was taken, and all were in favor. The motion passed.

Confirm Next Meeting and Adjourn:

Chairman Rocco said the next Board meeting will be held on Wednesday, January 8, 2025, at 10:00 a.m. He said the meeting that had been tentatively scheduled for February 12, 2025, was cancelled.

Mr. Bergman made a motion to adjourn the meeting and Mr. Anderson 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.