COMMONWEALTH OF PENNSYLVANIA

UNDERGROUND STORAGE TANK INDEMNIFICATION BOARD

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IN RE: FOURTH QUARTER 2022 BOARD MEETING

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BEFORE: J. STEPHEN HIEBER, Chair (virtual)
Michael Humphreys, Insurance Commissioner
Richard Burgan, Executive Director
William Buckfelder, Member
J. Andrew Greiner, Member (virtual)
Gauttam Patel, Member (virtual)
Troy Conrad, Member
Nila Manning, Member (virtual)
Greg Perry, Member
Jonathan Lutz, Member (virtual)
Chris Hartman, Member (virtual)

HEARING: Thursday, December 8, 2022
10:06 a.m.

LOCATION: PA Insurance Department
901 North Seventh Street
Harrisburg, PA 17102

Reporter: Sophia Mahoney

A P P E A R A N C E S

PRESTON M. BUCKMAN, ESQUIRE
Pennsylvania Insurance Department
901 North 7th Street
Suite 200
Harrisburg, PA 17102
Counsel for Pennsylvania Insurance Department

Also Present:
Chas Kullman
Andrew Raynes
Amy Forbes-Witt

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EXHIBITS NOT ATTACHED

P R O C E E D I N G S

CHAIR: At this time, I'd like to call the December 8, 2022, Underground Storage Tank Indemnification Board meeting to order.

And it appears the first thing on our agenda is the presentation of the Actuarial Report. Chas, if you're ready.

MR. KULLMAN: Sounds great

Okay. So, the first slide shows our agenda. We just would like to go over the results of our review, if we can flip to the next slide, and the main assumptions, observations that came out of that. We'll start with the actuarial study, the trends in the claims data. Then we'll look at the position at June 30, 2022; both the loss and ALAE estimates at 6/30/22 and what means for the balance sheet at June 30th, '22. Then we'll look at the pro forma estimates and financial statements, statements with a focus on the adequacy of rates and then we'll finish up with the Tank Installers Program.

So, we'll start with the actuarial study. The main part is estimating the loss and expense reserves. These's no change in the actual models we used this year. We looked at multiple models. They're applied separately to loss and expense. And as in prior years we have more information for loss versus expense. We have paid as well as case reserves for the loss component. And the loss component is naturally the bulk of reserves. It's approximately 90 percent of the total.

So as part of our review - we're back one slide. I'm sorry. As part of our review, we looked at - you know, updated the model assumptions based on the June 30th data, and we also were provided with updated exposure information. And the main findings of our review are that the favorable loss experience that we've seen in the recent past has continued. And we attribute that to the active management and the claims and costs that have been in place since 2004.

The next slide outlines these changes as well as the other historical changes. There's really nothing new here. More details for these items are on pages 12 and 13 of the executive summary report. The most recent change is the 2018 regulation changes which require more inspections and testing. And that has led to higher frequency, which we can see on the next slide.

So, since those regulations in '18,

claim frequency has been elevated. You can see in column four here the total number of claims by year. Frequency's been lower since - from 2017 through 2018. We're below 200 claims per year during that period. And then in 2019, the frequency shot up as well as '20. We - we saw more than 200 claims. 2021, interesting, it dipped down. We only had a 172 claims. And we attribute that to year-to-year variability. So, we expect the elevated frequency to continue in the future.

As an example, you can see in column two the first six months of 2022 had 101 claims. If you annualize that it comes out to approximately 196. So, we expect to be above that low 2021 year. So, we expect elevated frequency to continue in the future, and just not quite as elevated as it was right after the regulation change. So, it's helpful to look at - the annual counts between reviews, which is on the next slide. I'm sorry. That is the next slide.

So, this - this shows the frequency between reviews, which is for the period 7/1 to 6/30. You can see the 2022 - '21 and '22 we had a 188, and that can be compared to the projection from our prior review, which was 203. So, as we noted on the prior slide we're - we were a little lower the last two months then expected. Going forward for '22-'23, we're expecting approximately 196 filings, and that's consistent with the four-year average since 2018-'19 year.

The next slide shows a graph of frequency. The red - the red graph there is raw claim counts, and the blue is the frequency rate or rate of claims per tank. You can see that the frequency patterns look the same for raw counts compared to the counts per tank, but that uptick in 2018 due to the regulation changes is a little more pronounced in the - the blue graph of the frequency rate, and that's really because the number of tanks has been slowly declining each year. So, our view on frequency has not changed since last year. We expect frequency to remain elevated. The other data trends that we've noted in prior years have not changed either.

If we flip to the next slide, claims - claims continue to be closed more quickly. You can see that here. The number of open claims has been steadily decreasing despite the higher frequency in recent years. We're down to 871 open claims at June 30, 2022. And each of the years from '18 to '22 we've been seeing like a two and a half percent to five percent drop in the number of open claims. 2022 saw a

3.9 percent drop. So, the claims continue to be closed more quickly, but the claim costs themselves have continued to be favorable.

There's sort of two ways we look at the claim cost. One is looking at closure average. You have to take those with a grain of salt because there's a big lag between when the claim's filed and when it closes. Typically, it takes six to eight years. But that being said, the average cost per closed claim has been improving and that continued during the last 12 months. We actually dipped below 200,000 per closed claim for the second year in a row.

So as an example, the four-year average last year was approximately 220,000. This year it dropped 204,000. So, the average severity appears to be improving.

Another claim cost metric we can look at is how have the reported losses during the last 12 months compare to the projections of our prior review, so the actual versus expected paid losses or the actual versus expected reported losses. For indemnity or losses there was approximately 16 million of less reported than expected and about six million less paid than expected. On the expense side, there was approximately two million less paid expense.

So, what's the impact on the estimates of this favorable experience? This slide compares the ultimate loss in ALAE from our June '21 review to the current review. You can see in the difference column there at the bottom the ultimate loss for June 30th, '21 and prior decreased by approximately 30 million. You can also see in the last column most of the change has occurred in the years since 2008. For 2007 and prior we did have decreases but all - the most any year decreased it was less than a million. So, most of it is in the new or more immature years where we're seeing the decreases, but it is across the board.

You can graph this relative to exposures, which we see on the next slide. This shows the ultimate loss in ALE - ALAE relative to tanks. And we - as a reference we show the results from the last five reviews. You can see here the results have been steadily decreasing. The only exception to that is the 2019 review, which is, if you look at the 2021, it's the top value there or kind of just above the curve above it. And that was really just a reaction to the increased frequency after the regulation changes, but we've since brought that back down.

Just to get a sense of the recent changes. We - we mentioned this year we dropped the ultimate to 30 million, last year we dropped them approximately 20 million and the three years prior to that each year saw approximately a 30 million decrease as well. Okay.

So, we can compare this, the loss estimates to revenue on the next exhibit. And you can see here in the last column that the loss in ALAE to revenue has been well above - well below a hundred since 2005. In fact, the program - we can conclude that the program's adequately funded - has been adequately funded since 2005. And in the sense that when you add in other costs and investment income it covers all the costs. Comparing to last year, you know, we're kind of - we were still making up that ground from the '97 to 2004 period where we were - the rates were too low. The total at the bottom of the last column is 104 percent. Last year that was 111 percent.

Okay. So where are we at 6/30 as far as the balance sheet on the next slide? Currently our undiscounted surplus is at 77 million. Last year that was 95 million, and last year’s projection for this year was 106 million. So, the difference really is that we had the 30 million-plus of savings on the loss component, but the investments more than offset that benefit, which I'm sure Rick will talk about later. So that's 6/30/22. Next, we'll look at the pro forma estimates with the focus on the adequacy of rates.

So, we start with the underwriting assumptions, which are loss, ALAE and revenue. Here we continue to reflect the favorable experience both in severity and frequency. You can see in the first grayed box there that our ultimate loss in ALAE estimate for the period '22-'23 we decreased over eight percent compared to last year. And then the revenue projection for that same period we lowered 1.9 percent, and that's just because the actual revenue during the last 12 months came in a little lower than we have projected. So that's 2022 underwriting assumptions.

We apply trends to these to project the future loss in ALAE and revenue. The next slide shows the underwriting trends we apply. There is really no change here. Frequency we're assuming is level. We're trending loss at two percent and ALAE at three percent. If you put that together it comes out to approximately a 2.1 percent for loss in ALAE because loss is the majority of the dollars.

Throughput revenue trend we're assuming less fuel consumption in the future, so we de-trending at one percent - negative one percent - or trending at negative one percent, pardon me. And then we're assuming a zero percent capacity revenue trend. And again, these are applied to the assumptions we just went over for '22-'23. And the next slide shows the resulting projections.

The red dotted line are this years projections and - and that's ultimate loss in ALAE per tank. And you can see we dropped last year's projection, which is the blue dotted lines, by the 8.4 percent we mentioned previously. The slope of that future projection is unchanged at the 2.1 percent. So, there's no change there. Okay. So, we can look at these same projections relative to revenue as well to get - get a sense of the adequacy of the rates, if we flip to the next slide.

This slide shows the loss in ALAE relative to revenue in the last column, both above the line for the historical values and below the line for the projections. And similar to the period since 2005 we can conclude below the line that those years are adequately funded based on our model throughout that 10-year period. In other words, again, the premium and investment income cover all the expenses and loss - losses. So total income was expected to be greater than zero.

And for underwriting income there was - we expect to get positive underwriting income out through the year 2027-'28. In last year's review we can only say that about the period through '25-'26. So, we added a couple years to that with the favorable loss experienced. So, this is the loss ALAE and revenue. The other pro forma costs or assumptions are on the next slide.

There is really no change here. We lowered the DEP assistant costs estimate. It was - last year it was approximately 10.4. We lowered it to 10. And the claims administration and other expenses are 6.05 million, last year they were 6.4 million. Other than that, there's no changes here. And we look at all this to assess the fees. So, the first - first thing we look at is the board requirement that fees should be set such that we have positive cash and invested assets for at least the next five years. And this slide here shows the 10-year - summary of the 10-year pro forma projections.

Page nine of the Executive Summary shows the breakout of these values by year. And you can see each row here assumes a different investment rate. We vary it from four and a half to five and a half. And the focus here is on the cash and invested assets column. At June 30, 202,2 that value's 387 million. You can see that looking down that column that those actually increased over the period. So, we can conclude that, yeah, cash and invested assets will remain nonnegative during the next five years. In fact, that applies for this 10-year period as well as the full 20-year projection period that we include in our report. And - and it - that's true for all interest rates that we modeled.

The second thing to notice here is the surplus column, undiscounted surplus. It was 77 at June 30, 2022. You can see that that actually grows as well over the period. So, we don't expect surplus to decrease over the next 10 years. And that gets to the more stringent approach to assessing the fees that we look at each year, which is assuming no decrease in surplus during the next 10 years. So, you can see here that satisfied.

And I thought it might be interesting to see what investment rate might give flat surplus over the next 10 years just to sensitivity test this a little more. It turns out if you assume approximately a two-percent return per year with our current assumptions over the 10-year period we would expect surplus to remain flat or at least end up - yeah, end up flat after 10 years. Okay. I'm sorry. We're back one slide. I talked a little more there. So, we just concluded that based on the requirement that surplus not decrease that we would not need a rate change for that. Okay.

So, for the USTIF part of the review it's all good news. The - the reserves have improved. The losses were favorable and the activity. I think the only negative word you could say is the investment income.

Next is the TIIP Program. This exhibit summaries the recent claims experience, and this is for loss only. And, you know, this is a very low volume program. We only get a zero to three claims per year. The only change this year you can see in the bottom row. We received one new claim which is reserved at 500,000. In response to that we made - you know, we only put up a small nominal amount of - for our estimate here for losses we made a small increase to that with that $500,000 claim. We were previously estimating $52,000 of annual loss, now we're assuming 93. That's the loss component. If you add a provision for expenses and compare to the projected revenue, which is on the next exhibit, we're

- we're estimating approximately 151,000 of loss in ALAE for the next 12 months, and the expected revenue is 335. So, we're expecting positive underwriting income during the next 12 months and throughout the next 10 years, in fact.

So, the TIIP Program looks like the rates are certainly adequate. Comparing to last year, I - the underwriting income probably decreased about 30,000 just due to that change in the loss that we made, loss assumptions. So that's the TIIP Program, and I think that's the end of the presentation.

Is there any questions? I'd be happy to answer them.

MR. GREINER: Chas, this is Andy Greiner. Back in the presentation you mentioned that the surplus of the underground storage tank indemnification, not the Tank Installers Program, but the - the main fund, the surplus was 77 million.

Does that reflect the $30 million that the governor took out of the fund, I believe it was last year, that apparently we're not going to be repaid?

MR. KULLMAN: Yeah, that's correct. So that - that assumes that will not be coming back.

MR. GREINER: Okay.

So, your recommendation showed that there's no rate change needed, an increase.

What would a - if - if we generated enough surplus that we can take $30 million out and it does not affect I guess the stability of the program going forward would it be feasible to look at a rate decrease?

MR. KULLMAN: I think that would be a decision for the board. I think we quite possibly could see additional decreases in the upcoming years assuming the experience continues to be favorable. I think that there are risk factors going forward with the aging tank population and the current environment as far as revenue with fuel consumption and the inflationary environment. So, I think there are risks in the future. And again, the aging tank population is the one that always is in the back of my mind. So, I think there's a lot of factors to consider.

AUDIENCE MEMBER: Investment income.

MR. KULLMAN: Yeah. Investment income is a big one as well.

MR. GREINER: Yeah. I - I guess I don't - I don't like the fact that, you know, we generated a surplus and then just $30 million was taken out and like we had no control over that. I don't believe the fees that were paid that generated that $30 million were intended to be used. I guess it went to the - just the general budget - Pennsylvania budget. I don't think that's the intent. So, it's not that I - I would advise that we reduce the rates, but I - I just don't like the idea of the money being used for something that they weren't assessed for per se. And I - I know that's not an actuarial question, but you certainly illustrate the point that, you know, being prudent and - and maybe setting fees that were a little higher than needed to be might have backfired on the use of that money.

So how do we - is there a way to prevent that going forward?

MR. BURGAN: I'll jump in. Short answer, no. You know we're at the mercy. You know, they did it in 2002. It took us 20 years to get it back. You know, that - that's the governor's discretion. Although we are classified as a restricted special fund a mere change in the fiscal code can change that in a heartbeat. So, yeah, I - I get where you're at Andy. You know, my goal was - was when I became director to - to - at some point in time do a decrease in fees. So, I'm with you there. I'm with that mindset.

So yeah, we're subject to - to a raid at any time. I'll circle back to - to Chas' comments again. This is all about return on investment. And you'll see we've done very well despite the general market conditions, and I'll do that later, but yeah, we have no control on who - on - you know, that - that reaching arm that I call it from the legislative. Although, yeah, I run as much interference as I can as well as Laura, as well as the gentleman sitting to my right here, but, you know, that - that's basically beyond our control.

MR. GREINER: Okay. Thank you. I - and I do have another question.

So, the - the fees that are collected from usages on gallons, do we know for a fact that there are less tanks being installed than that are being I guess taken out of service? And if that is the case, is that reflected in the actuarial study?

MR. KULLMAN: We do reflect that. I would defer to Rick on where those numbers -.

MR. BURGAN: Yeah.

MR. KULLMAN: - come from.

MR. BURGAN: You will see in the presentation, Andy, on the projected future revenue that we do feel throughput is going to just drop off just because of -.

MR. GREINER: Okay.

MR. BURGAN: - electric vehicles, things like that. So, you saw minus one percent for future throughput. You saw we held capacity at zero. That's because each year we lose about 400 to 500 tanks. So -.

MR. GREINER: Okay.

MR. BURGAN: We - we project that out. That's why you see that number is at zero and the other number is trending slightly downwards because of just trends in the market.

MR. GREINER: So that - that would reduce our future liabilities as well. And I - I - that's reflected in the report as well?

MR. KULLMAN: The going forward projections assume that the future number of tanks will stay level at the current - you know, today's level. It does not - but similarly the projected revenues match to that. So, if we - if you told me that the tanks would decrease each year going forward we would reduce the revenue accordingly.

MR. GREINER: Okay.

Do we - is the - the monies that are given to the department, the Environmental Protection, for their education and enforcement, is that being increased in these - in these projections?

MR. KULLMAN: Yes. Approximately I believe around one percent per year.

MR. GREINER: Okay. Thank you.

That's all I have. Thank you.

MR. BURGAN: Thanks, Andy. I'll step in as moderator here. I guess - assume we need a vote on, you know, whether to hold the fees steady, decrease fees or increase fees. So, I'll let - I'll defer to you on that.

CHAIR: Okay.

Do we have any further discussion as far as the fees are concerned?

MR. BURGAN: Oh. Hey Steve, I'm going to jump in. I jumped ahead. I see on my notes here we've always had a vote to accept or approve the Actuarial Report by Aon. So, we'll need a vote on that before you get to the fees.

CHAIR: Okay. Let's back up.

Do I have a motion to accept the Actuarial Report?

MR. PERRY: I'll make that motion.

BOARD MEMBER: Second the motion.

MR. GREINER: This is Andy. I second.

<u>CHAIR:</u> All those in favor say aye.
AYES RESPOND
<u>CHAIR:</u> Opposed? Very good. The motion carries. It is accepted. Thank you.
Then do we have any further discussion on the fees?
<u>MR. BURGAN:</u> None here.
<u>CHAIR:</u> Do I have motion?
I would move that the fees stay as stated.
<u>BOARD MEMBER:</u> I'll second.
<u>CHAIR:</u> All those in favor say aye.
AYES RESPOND
<u>CHAIR:</u> Opposed. The motion carries. The fees will remain as is.
Okay. Moving on with the performance review. Andrew?
<u>MR. RAYNES:</u> Okay. Every five years we are required to do a performance review. The review period for this review is from 2017 to 2021. And so it's important to highlight that it is independent from Chas' analysis, which was done in 2022. Could you move to the next slide?
So, on the agenda, we're going to first talk about the - the purpose of the performance

review and then we'll go through some findings, look at the financial statements and annual reports and then we'll - I'll walk through some survey results from the board members and participants. And then I'll - I'll conclude with the overview and conclusions of the performance review.

So, the purpose of the review is to evaluate the performance of the Underground Storage Tank Indemnification Fund over the five-year period between 2017 to '21 as required by the Storage Tank and Spill Prevention Act. The goal is to determine if there's adequate funding for the program, whether or not there's duplication of services, if - to show that there is a demonstrated need for the program, what would happen if there was - if the fund was dissolved; it could be negative impact, and then also that - to ensure the fund is providing the benefits as intended.

So next - sorry. Yeah, we can go to the next slide. Next, we'll go through some of the financial results. You can see that as of June 30, 2021, there were $484 million worth of assets, $388.6 million in liabilities, of which $313.6 were related to loss ALAE. If you take the assets minus the liabilities that gives you about a $95.4 million surplus. Now, if we look at the table in the middle of the deck her you can see that historically we have had an unfunded liability, where the liabilities - you can go up - oh, I'm sorry.

MR. BURGAN: No, it's going off on its own. My hands are over here and it's going -.

MR. RAYNES: Yeah. Every second it's clicking through. Yeah, sorry. So, in the middle here you can see the unfunded liability. Starting in 2017 it was at 67 million and now in 2021 there is no unfunded liability. And the reason for that is the general fund loan was repaid in full in June 30th of 2021 with 86.5 million in principal and interest. So, because of that loan repayment we now have a surplus position.

At the bottom here, as Chas alluded to in his update, the Actuarial Report does look at projection and - for the cash flows because the board's policy requires a minimum of five years of positive cash flows. And in the Actuarial Report as of June 30th of 2021 a deficit position was not expected to occur within the 20-year projection. So - so all good here. We can go to the next slide.

Here we show the history of the fee income, claims payment and DEP allocations. In terms of fee income, you can see from 2017 to '19 it's hovered right around 60 million and then it dips down in 2020. And the reason for that is COVID. The lockdowns, the reduced travel that - that lowered the fee income. And then in 2021 you can see as things started to open up the - the fee income increased back to around 65 million.

Claims payments started out in 2017 - you can go back one slide, started out at about 33.3 million in 2017 and from '18 to '21 have hovered around 30 million. In terms of the DEP allocations, they have increased from '17 to '19 from 8.4 to 11.8 million, and since then have decreased and are now at about 9 million.

And on the next slide we'll look at the split of the DEP allocations. You can see the base allocation, pump and plug, catastrophic relief, investigation and closure costs. In total over the five years the DEP allocations have been about 47.7 million where 42.6 million has been utilized. So, it's about 90 percent utilized over the five years. You can go to the next slide.

I won't spend too much time here. Is there is the hundred million general fund loan. The main takeaway here is that it has been repaid in 2021 for $86.5 million.

Next, we'll go through some of the board member survey results, which you guys all helped compile. And it is important to note that each group represented by the board responded either through a member or through an alternate. Currently the funding is deemed adequate. There were concerns though around increased DEP allocations as well as the $30 million taken out to fund for COVID. There is general confidence that all fees have been collected and most pointed to the new fee billing system as being the reason for that.

One respondent did foresee a need to potentially change the fee structure. Reason cited were switching fossils to alternative energy, the increased use of electric vehicles and reduction in gallons sold. We can go to the next slide.

Almost all of the board said there was no duplication of services. They did note that there was a private insurance option for pollution liability, but it has it limitations and can also lead to some gaps in coverages. Next slide.

In terms of demonstrated need for the program, the majority indicated that there is a need and they did not feel that other methods of demonstrating financially responsibility would work as well as the fund. USTIF provides the necessary coverage at the lowest cost that cannot be matched anywhere in the market. In terms of the private insurance option, strict underwriting requirements as well as preexisting claims exclusions would not provide the same level of insurance as USTIF. Also, small tank owners and operators would often be disadvantaged. It would be difficult for them to provide - prove financial responsibility as well as handle their own cleanups and mitigation costs. All right. Next slide.

The majority did indicate that there would be negative impacts if USTIF was dissolved. Some of the impacts highlighted were lack of coverage availability, higher costs for the owners and operators, unaffordable coverage, compliance issues and then obviously there's a detrimental impact to the public and environment without proper remediation. Next slide.

Now, there's some questions around making sure that USTIF is providing the benefit that is intended, and the majority do feel that it is. I do have this quote here at the top that I'd like to read. I thought it was pretty important and highlighted the utilization of USTIF and the fact that it's stepping into really help remediate - remediate spills and leaks. It says," USTIF has been repeatedly told by the EPA that it ranks amongst the top programs in the nation. Over 93 percent of claims submitted since the program's inception have been deemed eligible and have received funding in excess of $1.18 billion." So, it has been utilized, claims are getting paid and the environment is being helped. In addition, USTIF fulfills the financial responsibility requirement of EPA regulations. Most feel that eligibly - eligible leaks are addressed in a timely and cost-effective manner and they do not have any concerns with the response time, adequacy of corrective action or issues regarding ongoing site maintenance. And the majority feel that limits and deductibles are currently adequate - provide adequate coverage for the claimants. Next slide.

Now, we have some questions around the new fee billing system since it was rolled out in July of 2021 - sorry, 2017. The majority feel it's been a success. There was an adoption curve there where the uptake with the participants was a little slow, but now after five years it's been - it's been doing pretty good. Right now, there's over 4,000 users and it has improved USTIF's ability to collect all fees to which it's been entitled. The system allows for easy access of payments, account review, provides internal auditing and tracking of - of fees.

Lastly, we asked the board members for - about what they though were future challenges for the fund. Obviously first and foremost were the economic conditions; inflation, labor market demand, the increasing litigious population. Also return on investments is shrinking with the - with the downturn in the stock market. Other items were the retirement of the commonwealth employees, the impact of electrical vehicles and then as we discussed earlier the - the aging sites leading to a potential influx of claims. And then also the potential for - at any time the government can take funds like what happened with COVID.

Are there any questions with the board results?

So next we'll move onto the participant survey. We sent the survey out to about - a little over 4,200 participants and 890 responded. It's important to note that the respondent refers to an individual that responded to this - to the question and did not leave it blank. You can go to the next slide.

So, there are a lot of graphs and I'm

going to move through these pretty quickly and just highlight the main takeaways, but if you have any questions about anything, well stop me and we'll go through that. So similar to when we did the - in the prior five-year block from 2012 to '16 the majority of tank owners owned between one to three tanks and had one location at about 71 percent. Eighty-one (81) percent have a good understanding of the EPA regulations, rating at a one - one, two or three. And 59 percent of the respondents were satisfied with the reasonability of the USTIF fees.

We did ask a question about if - if we were to modify the coverage or fee structure what would be a preferable option. On average, the decrease in claim deductible, first-party was the most preferred modification. In second place was the reduction in the capacity fees. The least preferred option was to decrease or eliminate the third-party deductible. You can skip this. It's just the result - summary of the results. Sorry. You can go down two - two slides.

The next questions were about the new fee billing system. Fifty-seven (57) percent found it easy to create an account and 76 percent said it was an improvement over the old system. Ten percent did have issues with the new fee billing system, and the most common upsetting issues were log in the system or payment issues. Ninety-nine (99) percent said USTIF is respondent - responsive, and I think it was actually less than one percent said they were nonresponsive. E-mail is the preferred method of communication with 83 percent preferring that. Ninety-two (92) percent indicate that they prefer the current methodology for demonstrating financial responsibility and 11 percent have actually filed a claim.

Now in the next few questions we wanted more details with those that have filed claims. Sixty-three (63) percent of the claims were filed in this last five-year block, the 2017 to '21 period. Thirty-nine (39) percent of the claims were tank removal and replacement. And if you look on the far right, there's 19 responses that - that had other. We - we looked at the description of the other field and they were mostly leaks. So - so next time we do this we'll add leaks as a category. Seventy-five (75) percent were satisfied with the entire claims process between claims handling, cleanup, and payment to the third-party. And 81 percent were satisfied with the cleanup work performed. And 75 percent were satisfied with the timeliness of the cleanup. I think these are all great results especially given the backdrop of COVID; reducing staffing and the issues that - that would come with that as well.

So next we asked what - what claimants like most about the claims process, what they disliked and what they had for suggestions. There's a lot of overlap depending on who responded. Common themes were a timeliness of the cleanup as positives and then also some people said it took too long. Some people said they appreciated the responsiveness and the - the communication and then the others said that they were left in the dark, they wished there was more transparency and more I guess even a document that outlined the process in sort of one, two, three four, so that they knew what was expected at what point and they had an expectation on how long it would take for a claim to get processed. So, it was really sort of a mixed bag with - with some overarching themes, but in general, you know, as you can see by the results people were satisfied with - with their claims process.

Yeah, one - at the bottom, one noted that they prevent environmental companies from taking advantage of USTIF. I guess there was some thought that they were charging higher fees than they should be for the services. And - and another noted that they - that they wished USTIF provided a - a list of approvable contractor rates so that they could know what they're - what they're on the hook for versus what's being covered. Okay.

BOARD MEMBER: I'm sorry. I'm just jumping around.

MR. RAYNES: Next slide, please. Yeah.

Seventy-five (75) percent found the service USTIF provides valuable to the public. And then we asked some questions on the - or a question on the 2018 regulation changes with regards to inspections and training. Seventy (70) percent said they were not impacted. Of those that - that were impacted cited the additional time and costs related with training.

Next we have some questions about the website. Sixty-eight (68) percent found it helpful and 60 percent visit the website about one to four times a year. The never category, about 25 percent of the respondents said they never visited the website. Seventy-six (76) percent have not accessed the FAQ. And we did ask what - what additional information they would desire to see on the website. Some said they just wanted some e-mails with what - with either what's new or - or new regulation changes. Other said that they wanted to be able to find contact information and phone numbers as well as some others said that they wanted to be given a heads up about the regulations so that they can make changes before inspections. Next slide.

In terms of suggestions for the website, some wanted more common verbiage so that it would be easier for people without specific knowledge and education to be able to follow along. Others wanted paper payment option. Some noted they - that they wanted better coordination with the PADEP. And then another one, they noted that they wanted to be able to use the same e-mail address for multiple corporate accounts. Go to the next slide.

So, in conclusion I'll run through the five different objectives and - and the main takeaways from - from what we've observed. In terms of funding adequacy, the - the fund is in a surplus position with 94.5 million. Cost control initiatives seem to be working. Claims payments have decreased from 33.3 million in 2017 down to a little less than 31 million in 2021. The new fee billing system has been a success and USTIF is - has the ability to collect all fees to which its entitled. Sorry, one - one slide up. There are no duplication of services. Sorry, two slides up. One more. Yeah. It was noted that are some private insurance offerings, but none provided the same level of coverage as USTIF. There is a demonstrated need for the program. It provides broad coverage to all underground storage tank owners at the lowest cost. It also provides environmental and public protection as leaks and spills are properly remediated. And it also helps small tank owners provide financial responsibility.

In terms of ways that there would be negative impacts if the program was dissolved. We highlighted earlier there'd be lack of coverage availability, unaffordable coverage, small owners will be disadvantaged, there'd be gaps in - in coverage if they went through the private market and there'd be additional costs related to statutory and regulatory change and there'd obviously be an impact - an adverse impact on the environment and the public and there'd be a potential for a tank owner to solve these issues.

Lastly, ensuring that - that the program is providing the benefits as intended. We have near universal participation by the tank owners.

We have prompt reporting of leaks, a 60-day reporting requirement. There's a simple fee structure. Coverage is available. We have consistent coverage language, fewer coverage disputes and there's no need to spend time and resources shopping for coverage. USTIF works with the DEP's regional offices during remediation process with the goal of more timely and cost-effective cleanup responses.

So, with that that concluded the performance review. I'll open it up to any questions.

MR. BURGAN: Thank you, Andrew. I'll just - I just have a comment.

MR. RAYNES: Sure.

MR. BURGAN: On - on our website all - I'm on there and so is all the USTIF staff. Names, phone numbers -.

MR. RAYNES: Right.

MR. BURGAN: And the e-mail addresses. Somebody just didn't click to the next screen.

MR. RAYNES: I think there's a lot of that -

MR. BURGAN: Yeah.

MR. RAYNES: - when they're filling it out.

MR. BURGAN: Yeah.

MR. RAYNES: I just felt the need to report everything, but right, exactly. I - I find it hard to believe the contact information's not there.

MR. BURGAN: Yeah. It's on there because I know I get the phone calls.

MR. RAYNES: Right.

BOARD MEMBER: I - I have a question. You said in the respondent - the participant survey you said that 71 percent I think owned one to three tanks and were focused at one location.

MR. RAYNES: Yes.

BOARD MEMBER: Which I - I think is a lot higher than I expected.

How does that - but only 890 people responded out of over 4,000 surveys. How does that figure compare to what we know of tank owners?

MR. RAYNES: That'd be a good question for Rick.

BOARD MEMBER: I'm looking at the category of one to three locations and one location, small operators.

MR. BURGAN: Yeah, a majority of them are.

BOARD MEMBER: Okay.

MR. RAYNES: And unsophisticated I

would say too.

MR. BURGAN: Yeah.

BOARD MEMBER: So, you wouldn't - you wouldn't consider this 71 percent of the people that responded to being disproportionate to the actual number of small operators?

MR. BURGAN: No. I think that's about right.

BOARD MEMBER: Okay.

MR. BURGAN: I mean, because you got the Sheetz, the Wawas, the Turkey Hills, you know, that got 300 to 400 stores, but even those stores Sheetz only has normally three to five tanks. I think it's - I think it - I thought it was a good response really I thought it was a good response. I didn't see any anomalies in regards to that data.

BOARD MEMBER: Okay.

MR. RAYNES: It - it was fairly consistent I think with what we did in '12 to '16 when we had 200 responses. And now we, you know, 4-Xed that this time, and it was a similar distribution of - of tanks -

MR. BURGAN: Yeah.

MR. RAYNES: - and location.

MR. BURGAN: Yeah. And I know back -

back when we did it five years ago, we kind of targeted - we bracketed the big boys, the middle - middle guys and the mom and pops. This year we did not do that. We just - we just sent out a - a blast out there and - but I - I think it still reveals the general tank population out there.

I will make -.

CHAIR: Rick, I'd have to say that I don't find that percentage surprising. There's a tremendous amount of people out there that do only own one station.

MR. BURGAN: Yeah. Yeah. No, I agree. So, I - yeah, I think - I think the data is - is accurate. I will make one other comment though and you will see - I - I picked up a performance review report. There's a theme out there, people get us confused with PADEP. I see it all the time. We - we get resource - we get questions on our resource account all the time about tank registration fees and we kick them over to our - our counterparts at PADEP. But there was a comment I saw in the review where a respondent or respondents were complaining that the USTIF program bills for empty or unused tanks.

AUDIENCE MEMBER: Right.

MR. BURGAN: That is absolutely

incorrect. In two - we have not - we have not done that since 2013 when the USTIF program lost a court case in Commonwealth Court.

So yeah, you see - you still see that non-differentiation out there between what we do and what - what PADEP does, and I just wanted to clear that up. Some folks went along that. USTIF does not bill for empty tanks. But - and I did check with Mr. Shiffer over there the other day. DEP does bill for any tank that's in the ground as a registration, but as far as USTIF we are not permitted to bill capacity on that. So, I just wanted to throw that out there.

Steve, we do need - we do need a vote to accept that and then I see in my letter I wrote to the General Assembly five years ago, the board also makes a vote whether to continue - continue the program. So that puts me on the spot and my staff. So, I think we can do that in one vote, maybe Steve, but I'll defer to you on that.

CHAIR: Okay.

Do I have motion to accept the presentation and along with that to continue the USTIF program?

MR. GREINER: I'll make that motion. This is Andy.

CHAIR: A second?

BOARD MEMBER: I'll second.

CHAIR: Very good. Let's take a vote on it. All those in favor say aye.

AYES RESPOND

CHAIR: Opposed? I would say the motion carries. Thanks to all. And Andy, that was a great review and again, it shows how stellar our program is compared to anything else in the nation.

Okay. At this time, let's move onto DEP's presentation. Troy, if you'd take it away?

MR. CONRAD: Will do. Can everyone hear me okay? All right.

You know, as in - in past years the department will be making three requests similar to the ones that we made in prior years. The first is under the base Environmental Cleanup Program allocation. So, under the base Environmental Cleanup Program the department conducts safety cleanups of facilities where threats to human health are not being addressed due to recalcitrance or the financial inability of the responsible party.

DEP also funds the underground storage tank heating oil cleanup reimbursements from this allocation. The statute authorizes up to 5.5 million annually for this allocation. The DEP is requesting no supplemental allocation for the current fiscal year.

The department is requesting the board approve an allocation of 3.2 million for the fiscal year starting on July 1, 2023, and we're asking the board to approve the department's ability to expend any unused allocations from the prior year.

DEP estimates that 2.1 million in contract costs to perform corrective action at 18 sites; 350,000 for DEP personnel and administrative costs and 750,000 for home heating oil cleanup reimbursements.

Steve, would you like me to go through all - all three requests or did you want to vote on these individually?

CHAIR: I'd say keep going.

MR. CONRAD: All right. Understood.

The second allocation request is the Pollution Prevention Program, commonly referred to as the Pump and Plug Program, which encourages small tank owners to remove environmental threats posed by non-upgraded, abandoned underground tanks. The law authorizes up to $350,000 annually for this allocation.

The department is requesting no supplemental application for the current fiscal year. For the fiscal year starting July 1, 2023, DEP is requesting the board approve expending the unused allocation from the prior year, which will cover its estimated $50,000 in costs.

And the third allocation is the investigation and closure allocation, which covers the department's personnel and general operating costs for enforcement and administration of the corrective action regulations for underground storage tanks that are not covered by Pennsylvania's federal grant or charged to the base Environmental Cleanup Program. The law authorizes up to $7 million annually for this allocation.

The department is requesting no - no supplemental allocation for the current fiscal year. The department requests the board approve an allocation of 7 million for the fiscal year starting July 1, 2023 and to approve expending any unused allocations from the prior year.

In summary, for fiscal year 2023-24, the department is requesting the board approve allocations totaling 10.2 million of the 12.85 million the statute authorizes.

CHAIR: Do we have any questions? I'd entertain a motion.

BOARD MEMBER: I'll move to approve the requests at 10.2 million.

MR. GREINER: Second. This is Andy.

CHAIR: Very good. Thanks, Andy.

At this time, let's take a vote to accept the request of $10,200,000. All those in favor say aye.

AYES RESPOND

CHAIR: Opposed? The motion carries. I think you're all set.

MR. CONRAD: Thanks, Steve.

CHAIR: Okay. At this time, we will move onto administrative items. And I guess Claims Summary. Amy, you're onboard.

MR. BURGAN: Wait a minute, Steve. You skipped me.

CHAIR: What'd I skip?

MR. BURGAN: I got some new business. The 2023 board member term renewals.

CHAIR: You're absolutely right. Please, Rick, go ahead.

MR. BURGAN: That's all right, Steve.

Yeah, just some housekeeping here.

While I was - when preparing for the meeting, I noticed that we have actually four board seats that come up for renewal during calendar year 2023. We got three definites. One's a wild card and I'll explain that in a second. But Mr. Greiner, I see yours - your term expires on February 25th of '23. Mr. Buckfelder, you're up on March 2nd of 2023. I hate to put you fellows on the spot, but if you want to attend the next board meeting, I need to get your reappointed before then. So, either shoot me an e-mail after the meeting and let me know if you would be interested in continuing your terms. I would hopefully ask that you do. But yeah, we'll need to start that appointment - reappointment process with the governor's office while I still have a contact there until - until January 17. I'm not sure if that gentleman will still be in that - in that role or not.

I see that Stephanie Wissman, who is not in attendance today because she actually got appointed to the governor's transition team, her term expires on April 30th of 2023. So, she's good for - for the next meeting. I will follow up with her via e-mail.

The wild card, and I believe the gentleman is on the call today, is Chris Hartman, who was actually appointed I believe it's house majority leader. Bryan Cutler appointed that position. And Chris, I believe as of yesterday, he lost that spot. I don't follow that too closely, but I believe Joanna McClinton was sworn in, but I'm hearing now that may be temporary until January when we hold another special election. So, you're kind out there influx, Chris, but as soon as we get those seats designated I will reach out to the individual that nominated - you know, that position that nominated you and see if they would want to make a reappointment. So, you're - you're kind of influx until we move through the governor's transition period along with the house transition and senate transition.

MR. HARTMAN: Okay.

MR. BURGAN: That's it for board member renewals, Steve.

CHAIR: Okay. Let's move onto administrative items, Claim Summary. Amy, you're on.

MS. FORBES-WITT: Thank you. Good morning, everyone. I am happy to report on the program's Claim Summary data and payment information for the calendar year-to-date.

As of November 30, 2022, we had 182 new claims received and two re-openings this year, one in April and one in November. We have already surpassed last year's claims total of 172. The total is 184 newly reported or reopened claims.

Claims closed that were eligible for a payment equaled to 169 and three were closed without a payment. There were 16 denied claims thus far and 39 claims that were withdrawn.

For the first 11 months of the year, the program has closed 227 claims. The total pending claim count has decreased to 841. The dollars paid thus far relating to claims payments equals $25,530,535.35. The cost per closed claim equates to $260,582.78 on average.

Regarding the TIIP Program, there was one new TIIP claim received this November. No claims were closed, and we have three open TIIP claims at November's end. The reserves were set at $750,000. We have not made any TIIP payments so far this year.

And I just wanted to give an up-to-date value on the TIIP claims as we did receive another TIIP claim on December 6th. So, we currently have four open TIIP claims. We have received one other tank claim in December as well. That concludes the claims and payment information. If anyone has any questions or comments.

MR. GREINER: I have one question. It's more for my education. With the tank owners and operators program what - what's a typical reason that a claim would be withdrawn?

MS. FORBES-WITT: Possibly they did not reach the deductible. They might have found that, you know, they thought that there was, you know, something that transpired into the soil but it - it didn't actually occur. That was actually a with closed - withdrawn claim today that I saw. That they thought that there was something but when they tested the soil there was nothing found, so they made a request to withdraw the claim. So that's just a few examples that I'm aware of.

MR. GREINER: Okay. Thank you.

MS. FORBES-WITT: Thank you.

CHAIR: Any further questions?

Okay. Amy, thank you. Rick, we move back to you for the financial statements.

MR. BURGAN: Okay. Well, you want to move to page four. I can't see that far, but -. All right. I'd just like to remind folks these are done on fiscal year and not a calendar year. So, I will cover the first quarter, which runs from July 1st through September 30th.

Revenue for that period of time came in at 12,367,720. I know last year about this time we were at 2,722,671 (sic). So, we're down for the first quarter 355,000. Regarding investment income and my actuarial friends referred to that. Yeah, we're down. Everybody took a hit in the market. So, you will see a negative number there. You know, loss on return of investment is at $21,537,947. So, during the first quarter we actually ran a deficit of $6,958,375.

I will stop at this point and say - because this question came up at a presentation I gave at the DEP Storage Tank Advisory Council meeting on Tuesday. Somebody wanted to know how much - what the percentage we actually lost. So, I did some back of the napkin calculations this morning. If you look on page three, our long-term investment amount as of September 30th was basically 356 million. We lost 21 and a half million. Doing the math, if I did it right, means we lost six percent. I think that's pretty good. I know there's some funds out there that are down 20, 25 percent. So, I didn't - you know, I take that number with a grain of salt. You know, that next quarter it could be right back up. I kind of expect it to be if the market keeps trending, but we do watch those investments closely. I'm on the board and Laura's on the board and my chief of counsel on the board with treasury. Sixty-five (65) percent of our investments are equities, which is basically stock market. Thirty-five (35) percent are bonds. These are the long-term municipal bonds, a lot of financial bonds. I believe when the - when the equities are down bonds are up. So, we - you know, we - we hedge - we hedge our - our gains on this thing, but I think a six percent loss is not bad.

As far as expenditures, we had administrative costs of about 1.3 million. Claims payments during the first quarter were $7,680,046. Funds released to DEP for their allocations, $1,923,756. So, the total expenditures for the first 90 days was 10,905,636. Overall, we ran a deficit of $17,864,011. And the good news how - is, however, that if you look on the bottom line we had a fund balance as of September 30th of $353,284,923. So, we're very solid.

Just one more from me, Bob, if you can get to page 11. This is the unfunded liability that Chas and Andrew referred to. We are still in the black on that. And as they indicated that was - it was basically due to that 86 and a half million loan repayment that came in. Despite, you know, the dip in the market we are still - we still have a - an excess above our estimated actuarial liability of $27,418,424.

I took a look just as an - as an aside. Calendar year revenue numbers to date, as of November 30th, we - we were - basically matched last year. We were $16,000 ahead of last year's revenue after 11 months. It's uncanny how we can be that close, but we - we were right on target with last year.

December will be a big month. This is one of the biggest - this is the biggest week of the year for the program area. On Monday we dropped 7,700 statements. I believe there was 72 - about 7,500. I think it was 7,250 capacity owner statements went out, 215 TIIP went out. They were loaded electronically into FBS on Monday. They are still waiting to be mailed from DGS. But as of this morning we had already had 140 different facilities make electronic payments without even getting an - a paper invoice.

After five years folks are getting it. I'm - I'm pleasantly pleased. But yeah, we - we dropped those at 11:30 and I think we had our first payment at noon on Monday. So next week we'll be busy and that's if DGS will get those statements out, but normally during December we'll clear about another 67 million, which if that occurs will put us right on par with last year's revenue numbers. So, from my point of view everything looks pretty good and we'll - we'll see a - see what the December financials look like, but no concerns from my end.

With that said, does anyone from the group have any questions? Okay.

CHAIR: Hearing none, why don't we move on to the Pollution Prevention Grant Program? Troy, if you would?

MR. CONRAD: So, for the current fiscal year that began on July 1, 2022, one grant has been approved for $2,250 and no applications are currently pending. Since the program's inception on January 30, 1998, 1,155 grants have been approved totaling over 5.9 million.

Steve, would you like me to go onto the Environmental Cleanup Program?

CHAIR: If you would, please.

MR. CONRAD: For the current fiscal year that began on July 1, 2022, DEP has expended approximately 539,000 of the approved allocation. DEP is currently working on 16 sites. To date, 39 reimbursements have been approved, totaling $158,666 and one reimbursement is still pending. And that would conclude our updates for both Pollution Prevention and Environmental Cleanup.

CHAIR: Do we have any questions for Troy?

AUDIENCE MEMBER: No. Troy is good.

CHAIR: Okay. Let's move on. Back to old business. Rick?

MR. BURGAN: Thank you, Steve.

I took out my trusty calendar and - and estimated the dates for next year, but let me know if you have any conflicts. The September date got moved again because of some training and some vacations that were jammed in there that we had booked. But right now the tentative dates for March - well, for next year will be March 9th, June 8th, September 21st and December 14th.

BOARD MEMBER: Sounds good.

MR. BURGAN: If anybody has any major conflicts with those dates let me know, but otherwise we'll lock those down and get them up - get those up on our website in a couple days.

MR. CONRAD: Rick, could you repeat those one more time?

MR. BURGAN: Sure. Certainly, Troy.

It'd be March 9th, June 8th, September 21st and December 14th.

MR. CONRAD: Thank you.

MR. BURGAN: Yes, sir.

And other than that, I would wish everybody a happy holiday.

BOARD MEMBER: Thank you.

MR. BURGAN: Thank you, Steve.

CHAIR: Very good. Okay.

Do I have a motion for adjournment?

MR. GREINER: Like to make a motion to adjourn.

BOARD MEMBER: I'll second it.

CHAIR: All those in favor please say aye.

AYES RESPOND

CHAIR: Motion is carried.

I'd like to say to everybody I think it was a great report we heard this morning. There's no doubt that USTIF is definitely doing the job they should be doing. I'd like to wish everybody a happy holiday and thanks for attending.

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MEETING CONCLUDED AT 11:19 A.M.

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CERTIFICATE

I hereby certify that the foregoing proceedings, hearing held before Chair Hieber, was reported by me on December 8, 2022 and that I, Sophia Mahoney, read this transcript, and that I attest that this transcript is a true and accurate record of the proceeding.

Date the 10 day of January, 2023

Sophia Mahoney,
Court Reporter