UNDERGROUND STORAGE TANK INDEMNIFICATION BOARD

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IN RE: FOURTH QUARTER BOARD MEETING

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BEFORE: J. STEPHEN HIEBER, Chair
Benjamin Lorah, Member
Stephanie Wissman, Member
Kevin Forsythe, Member
Andrew Greiner, Member
Nila Manning, Member
Troy Conrad, Member
Michael Humphreys, Member
Greg Perry, Member
William Buckfelder, Member
Alex Baloga, Member
Andrew McMenamin, Member
Laura Lyon Slaymaker, Member
Michael Howells, Member

HEARING: Thursday, December 12, 2024
10:00 a.m.

Reporter: Ian Weeber

LOCATION: Forster Room
First Floor Conference Center
Capital Associates Building
901 North 7th Street
Harrisburg, PA 17102

WITNESSES: None

A P P E A R A N C E S

CHARELES (CHAS) KULLMAN
Aon Corporation

AMY FORBES-WITT
PRESTON BUCKMAN

I N D E X

E X H I B I T S

Number	Description	Page Offered

NONE OFFERED

P R O C E E D I N G S

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MR. LORAH: Welcome to the Underground Storage Tank Indemnification Funds Meeting for the third (sic) quarter of 2024. As you may know, this is Yousef's 30th year of operations. So we have some refreshments in the conference room. We're working on USTIB’s 30th year of operation, so have some refreshments in the conference room. We’re working on USTIB’s 30th anniversary annual report that will be released in the spring. So we'll have a retrospective of USTIB’s operations. So there's more on that to come.

So with that, we'll check for quorum. So I'll do a roll call.

Stephanie Catarino Wissman?

MS. WISSMAN: Here.

MR. LORAH: John Lutz?

Kevin Forsyth?

MR. FORSYTHE: Here.

MR. LORAH: Watam Patel phonetic)?

Andy Greiner?

MR. GREINER: Here.

MR. LORAH: Nila Manning?

MS. MANNING: Here.

MR. LORAH: Ted Harris?

MR. HARRIS: Here.

MR. LORAH: Jessica Shirley?

Troy Conrad?

MR. CONRAD: Present.

MR. LORAH: Mike Humphreys?

MR. HUMPHREYS: Here.

MR. LORAH: Laura Lyon Slaymaker?

MS. SLAYMAKER: Here.

MR. LORAH: Greg Perry?

Stephen Hieber?

CHAIR: I'm here.

MR. LORAH: Scott Hafer (phonetic)?

Bill Buckfelder?

MR. BUCKFELDER: Here.

MR. LORAH: Alex Baloga?

MR. BALOGA: Here.

MR. LORAH: Michael Howells?

MR. HOWELLS: Here.

MR. LORAH: Andrew McMenamin?

MR. MCMENAMIN: Here.

MR. LORAH: And Chris Hartman, the representative of the House Minority Leader, let me know that he will not be in attendance today.

All right, so we have ten, quorum is eight. So we have enough to have votes today.

So just as a heads up to everyone, this meeting is being recorded. Your continued participation in the meeting indicates your consent to being recorded. If you do not wish to be recorded, please exit the meeting at this time. Thank you.

And with that, I'll turn it over to Mr. Hieber to begin the meeting.

CHAIR: Thank you, Ben. At this time, I would like to call the fourth quarter Board meeting of the Underground Storage Tank Indemnification Board to order. Moving on to new business, Ben, if you would.

MR. LORAH: Sure. So the first item on the agenda is the Board member updates and term renewals. We have a few updates. The first is that the three year term for Greg Perry, the representative of the Pennsylvania Farm Bureau, Pennsylvania State Grange and the Pennsylvania Farmers Union, expired on December 6th. Mr. Perry indicated his willingness to serve an additional term, so we passed his name on to the Governor's Office for reappointment.

And just as a reminder to everyone how the Board appointments work, even if your term expires, you continue to serve until you resign or your replacement is appointed. So, Greg - Mr. Perry is still a voting member of the Board.

The next update is that the two year term of William Buckfelder, representing a local government member knowledgeable about storage tanks, expires in March 2025. So we'll touch base with you early next year regarding your willingness to continue to serve on the Board.

We have two more terms expiring next year. Mr. Hieber and Ms. Manning. Mr. Hieber is the representative of the Tank Installers of Pennsylvania. And Nila Manning, is the representative of the Pennsylvania Petroleum Association. Each of their terms expire in April next year. So we'll be contacting Ms. Manning and Mr. Hieber following our March meeting to determine whether they wish to continue on the Board. So those are the term updates.

Just a reminder that the General Assembly will be reconvening next year. So we'll be contacting House and Senate majority and minority leaders regarding their appointees for the next session. So that will be an update coming.

And just as a reminder, the statements of financial interest issued by the Pennsylvania State Ethics Commission will be coming out early next year and are due May 1st. So once we receive them, we'll distribute them to the Board. So that's - that's all for term updates. Back to you, Mr. Hieber..

CHAIR: Thank you, Ben.

Okay, let's move on to the presentation of the actuarial report. Chas, if you would.

MR. KULLMAN: Sure. So I'd like to go over the results of our review and discuss the main observations and assumptions. We'll start with the actuarial study, we'll look at the trends in the claims data. Then we'll move on to the position at June 30th, 2024. We'll both look at loss and AOE estimates and what that means for the balance sheet for June '24. Then we'll look at pro forma estimates and financial statements with a focus on adequacy of rates. Sorry. I got to get used to doing two things. And then we'll finally review projections of underwriting income for the tank installers program.

The next slide here is the usual background slide we include each year. Not much has changed here, and there are more details for each of these items on pages 12 and 13 of the executive summary report. We continue to monitor the impact of the 2018 regulation changes.

And the only new item here is the amended eligibility requirements related to the - position.

With that, we'll start with the actuarial study on the next slide. The main part of the actuarial study is estimating loss and expense reserves. There have been no changes in our actuarial methods. We continue to use multiple actuarial methods to capture various aspects of loss experience. The model assumptions have been reviewed and updated based on June 30th, 2024 data, as well as updated exposure information. And the main findings for loss and expense are that the favorable loss experience we've seen in recent years has continued, and that's both with respect to frequency and cost of claims.

So we'll start by looking at claim counts. This slide shows claim counts by year. Focusing on column four we saw lower frequency for years 2017 through 2018 and then with the 2018 regulation changes we saw an uptick in frequency for ’19 and ’20 which you can see with the dotted circle there. ’21 through ’23 look more like the pre regulation change frequency. In other words, frequency has moderated since we had that uptick.

Lastly, I'd just like to point out that frequency for the first six months of 2024 which you can see in the bottom of column two was particularly low. There are only 68 claims. Typically we see more like 80 to 100.

So it's also helpful to look at annual counts between reviews. So this slide shows the counts from a 7/1 to 6/30 basis and we can see the same patterns we just noted here. Basically, frequency has moderated since 2020 and frequency has been particularly favorable the last 12 months. There were 157 claims filed since our prior review, in contrast to a prior expectation of approximately 185.

So in response to the lower frequency, our 2024, ’25 frequency projection was lowered from 185 to 174 as you can see at the bottom. And that 174 is consistent with a four year average. So we expect year to year variability. We’re trying - we tried to smooth that out a little bit. But recent 12 months sure look well.

The next slide shows a graph of frequency. We just looked at that red curve which the solid red shows the historical counts and the red dotted line shows our projected frequency for 2024, ’25. The blue curve there shows the frequency rate which is counts for registered tank. And I thought it was interesting that our frequency projection relative to registered tanks is slightly above the pre 18 frequency rates. So that might indicate that there'll be room in the future for additional reductions in frequency. Of course there's other factors that impact frequency, so that's something we'll be monitoring going forward.

So frequency improved since last year. The other data trends have also considered - continued. Claims continue to be closed more quickly. You can see that through the steadily decreasing number of open claims here. It's down to 752 open claims as of June 30th, 2024. It's not shown here, but you can also see that claims are being closed more quickly by looking at close year data. The average close lag, which is the time between claim filing and claim closure has been lower during each of the last five years.

In addition to claim closures, claim cost activity has also been favorable. One thing we like to look at each year is the projections from our model for the upcoming 12 month period versus the actual experience. During the last 12 months, there was approximately $6 million less paid loss and expense than expected and approximately $9 and a half million less reported loss than expected.

So what's the impact of this favorable claims experience on our estimates? The next slide shows the change in ultimate loss and expense by report year since our prior review. And you can see in the difference column here that we lowered total ultimate loss and expense by approximately $18.3 million. You can also see that the percentage difference is bigger for the more recent, less mature years. That’s something we talked about in the past just because there's additional uncertainty in those years. As a reference, the decrease last year was approximately $38 million.

The next slide shows the graph of ultimate loss and expense relative to exposures, which in this case are registered tanks. And we show the prior two years as well, our prior two review result. And the area between the curves here, it represents the amount of decrease in the total estimates.

So as a reference, in the 2022 review we lowered the estimates $30 million. 2023, I just mentioned we lowered them $38 million. And this year we lowered it $18 million. So while we did continue to decrease the estimates, it's not quite as much as the prior years. But that being said, it's still a notable decrease. The $18 million is approximately seven percent of the prior reserves.

Next slide, we compare the estimates, ultimate estimates to revenue. The last column shows the ultimate loss and expense divided by revenue for each year. And we've seen ratios less than 100 since 2005. And as was the case last year, the program is adequately funded, has been adequately funded since 2005 when you add in other costs as well as investment income.

So where are we at June 30th, 2024 with respect to the balance sheet? Surplus was approximately $142 million last year at June 30th, ’23. Now we're at $199 million. Last year's report we would have projected that we'd be at $160 million. And the difference really is due to lowering the ultimate loss and expense estimates as well as favorable investment income, which I'm sure Ben will talk about later. So that's the 6/30 balance sheet.

What about the pro forma estimates? Again, we focus on the adequacy here. We start with the 2024, ’25 underwriting assumptions, which is loss, AOE expense and revenue. In response to the favorable loss experience, we lowered free claim frequency by 6 - approximately 6.1 percent. We lowered the average cost per claim by approximately 4.4 percent for the upcoming year. And when combining that, the ultimate loss and expense estimate compared to last year's assumptions, we lowered the 2024, 2025 cost estimate by ten percent, which is the aggregate of frequencies and severity reduction. Yeah, frequency and severity reductions. So we're looking at ten percent less loss than we previously expected for the upcoming year.

Revenue kind of came in right where we expected it to. So we made very little change to that. We were projecting $53.6 million, now we're projecting 53.7. So that's the 2024, ’25 underwriting assumptions.

As in prior reviews, we apply trends to these assumptions to project future years for loss, expense and revenue. And really there's no change in the trends we're using here. We trend cost at two percent, we trend frequency at flat of zero percent. And then through revenue we trend at negative one and a half percent per year. And that's meant to reflect the expectation that future fuel consumption will increase. So again, these trends are applied to the 2024 assumptions we just discussed and that provides the underwriting projections for future years.

So in this slide, our ten year projections are shows below the line there. And similar to prior - current and prior years, the fund is adequately funded through the ten year period when you add in other costs as well as investment income. If we just focus on underwriting income, which would exclude investment and income in DEP costs but include other claims administration type expenses. Then the underwriting income will be positive through 2032 to ’33, which is the second to last year here. So that's actually an improvement since last year.

Last year were only projecting positive underwriting income through 2029, ’30. So we basically added three more years out to the future where we have positive underwriting income. So the outlook has improved.

Okay, this is lost expense and revenue. We also want to look at other pro forma costs and assumptions and those are on this next slide. The only changes here are that we lowered the return on cash and invested assets a hair from 4.5 percent to 4.25 percent. And claims administration and other expenses here are at about $6 million. We were previously assuming 6.2, so we lowered that at that as well. And the point of all this is to assess the fees. And the one board requirement is to set fees such as we have positive cash and invested assets for at least five years. And the ten year cash flow projections are on this next slide.

Here we look at the results for the ten year period combined and we sensitivity test the investment rate. Page nine of the executive summary shows these results by year. And you can see here in the dotted circle that cash invested assets are positive during the ten year period. In fact, that would hold for the 20 year projection period that we provide in our report. So therefore this meets the Board requirements and no rate change is needed.

The additional fee adequacy test we look at each year is to require no decrease in surplus during the next ten years. We saw earlier, the surplus at June 30th, 2024 is approximately $199 million. You can see here in the second to last column, the undiscounted surplus is above that for the ten year period. So this test would be passed. So no decrease, you know, based on requiring that - surplus doesn't decrease over the next ten years would require no fee change there. And I guess I should say that surplus doesn't decrease over the ten year period. In fact, that holds for the full 20 year period as well and under all the interest rates we tested which is four and a quarter plus or minus half percent. So that conclusion's on the next slide here. So that's the fee adequacy for USTIB.

We also looked at underwriting income for TIIP in our review. This slide shows just a summary of loss only for the TIIP program. Since last year there were no new TIIP claims. The only changes were that two claims that were previously reserved at $125,000, which is the preliminary reserve value, both of those closed with no payment. So the total reported went down $250,000 as you can see in column four there.

So in response to that data, we lowered the loss forecast for TIIP from approximately

$209,000 to $172,000. And that's - we focus on a - since there's so few data for TIIP, when we make these assumptions, we're focusing on long term averages because there are just so few planes as you can see in column five there. So we take this loss projection, add a provision for expenses and compare to projected revenue on the next slide.

For revenue here we had a small decrease. Last year we were projecting $325,000. We lowered that to 315. Actual TIIP revenue during the last 12 months was approximately $295,000. Comparing revenue to our estimated costs, you can see in the second to last column there that each year has positive underwriting income for the upcoming ten years. Last year that was only true for eight years. So we've made some improvement on the TIIP projections as well. So the TIIP outlook has improved similar to -.

With that, I can take any questions I there are any.

CHAIR: Not hearing any questions, do we have a motion to accept Aon's actuarial report?

MS. WISSMAN: I make the motion to accept the actuarial report, Stephanie Wissman.

CHAIR: And can I have a -?

MR. GREINER: Andrew Greiner, second.

CHAIR: Very good. Is there any further discussion? Let's take a voice vote. All those in favor say aye.

AYES RESPOND

CHAIR: Opposed, say no.

The motion carries. Thank you.

Moving on, let's go to the action on the USTIB fees. Is there a motion to accept no increase or decrease in fees?

MR. GREINER: Andrew Greiner, I'll make a motion that we keep the fees as is.

MS. WISSMAN: I second, Stephanie Wissman.

CHAIR: Thank you.

All in favor, please say aye.

AYES RESPOND

CHAIR: Opposed?

Very good. Motion carries. There'll be no fee increase or decrease.

Moving on, we'll go on to the DEP special funding request. Troy, if you would.

MR. CONRAD: Thanks, Steve.

In past years, DEP is making three requests as shown in the information distributed with the agenda. The first request, known as the Base Environmental Cleanup Program Allocation allows DEP to conduct state lead cleanups of facilities where threats to human health are not being addressed due to recalcitrance or 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.

This year, the Department is requesting no supplemental allocation for the current fiscal year. The Department is requesting the Board approve an allocation of $3.3 million for the fiscal year starting July 1st, 2025, and to approve expending any unused allocation for the prior year. The Department estimates that $2.3 million in contract costs to perform corrective action at 17 sites. Approximately $370,000 for DEP personnel and administrative costs. And $750,000 for heating oil cleanup reimbursements.

Steve, would you like me to go through all three, or do you want to pause after each one?

CHAIR: No, please go ahead, Troy.

MR. CONRAD: Okay.

The second allocation request is known

as the Pollution Prevention Grant Allocation. It’s commonly referred to as pump and plug and encourages small tank owners to remove environmental threats posed by non-upgraded, abandoned underground tanks. The law authorizes $350,000 annually for this allocation. This year, DEP is requesting no supplemental allocation for the current fiscal year. For the fiscal year starting July 1st, 2025, DEP is requesting the Board approve expending the unused allocations from the prior year, which will cover its estimated $40,000 in costs.

And the last allocation is the Investigation and Closure Allocation, which covers DEP's personnel and general operating costs for enforcement and administration of the corrective action regulations for underground storage tank releases that are not covered by Pennsylvania's federal grant or not charged to the Base Environmental Cleanup Program. The law authorizes up to $7 million annually for this allocation.

DEP is not requesting any supplemental allocation for the current fiscal year. DEP requests the Board approve an allocation of $7 million for the fiscal year starting July 1st, 2025, and to approve expending any unused allocations from the prior year.

In summary for fiscal year ’25, ’26 , DEP is requesting the Board approve allocations totaling $10.3 million of the $12.85 million the statute authorizes.

CHAIR: Do we have any questions?

Is there a motion to approve DEP’s special funding request?

MR. HUMPHREYS: Mr. Chair, it's Mike Humphreys. I'll move to approve DEP special funding request for fiscal year ’25, ’26.

CHAIR: Is there a second?

MR. GREINER: Andrew Greiner, second to the motion.

CHAIR: Very good. Let's do a voice vote. All those in favor say aye.

AYES RESPOND

CHAIR: Opposed?

Not hearing any, the motion carries. Troy, thank you.

Moving on, let's go to administrative items. Amy, if you would give us the USTIF claim summary.

MS. FORBES-WITT: Sure. Thank you.

Good morning, everyone. I’m going to report on the program's claim summary data and payment information for the calendar year to date.

As of November 30th, we've had 133 new claims and three re-openings. So the total is 136 newly reported or reopened claims. Claims closed that were eligible for payments equal 131 and seven closed without a payment. There were 11 denied claims and 27 claims that were withdrawn. The program has closed 176 claims so far. The total pending claim count currently is 749. At the same time last year, the total open claims were 792. The dollars paid relating to claims payments equals $26,032,991.32. The cost per closed claim equates to $221,364.63 on average.

Regarding the TIIP program, no new claims received so far in 2024. No claims were closed and we have two open TIIP claims. The reserves are set at $1.425 million. And there were no TIIP payments made this year. That concludes the claims and payment information. And we're going to move on to some graphs.

Right now, you're looking at the 2024 claims year to date versus the five year to date average. And you'll see the orange depicts the 2024. The blue is the five year to date average. And you'll see that we are running lower this year on the claims than the five year state average. And in my meetings with the EPA, they were saying that the - 2023 was the lowest year to date and 2024 is running the same. So I just thought I'd put that information out there. So nationally claims are lower per the EPA.

Then on the next slide this is the total USTIF claims by year. So you'll see from 1994 on the left to 2024 on the right. So it looks like in 2024 you can see that that is the lowest portion of the graph. We have 138 claims received so far and 2015, if you'll look at that, there were 147 total claims received for 2015. So I don't know if this is going to be the lowest year yet or if we're going to get around the 2015. But we are only nine away from the 2015 max claims receipt which was pretty interesting. So we'll see where we're at the end of this year.

And then for the next slide we have the claims payments 2024 year to date versus the five year to date average and there's a little decrease from the five year to date average. The claims payments shown in this graph mostly - or closely match the five year average values that we've seen in prior quarters because the five year average formula was incorrect. This was a graph that was shown back in the September Board meeting. We corrected the error which explains the change. And currently the claim payments year to date are down close to six percent as compared to the five year average.

That is the end of the presentation for me. Does anyone have any questions?

CHAIR: Thank you, Amy. Not hearing any, let's move on to the financial statements. Ben, if you would.

MR. LORAH: Thanks, Steve.

So this will just provide an overview of USTIF’s third quarter financial statements that are prepared by the comptroller. Just as a reminder, the financials are presented on a fiscal year basis. So it's showing the information reported for the first three months for the fiscal year, July to September. So as of September 30th, the fund balance totaled roughly $476 million as compared to $410 million last year at this time. The main driver of the increase, as Chas had mentioned, is the $80 million increase of our long term investments due to favorable market conditions.

This chart shows the fund balance over time at the third quarter which reflects the highest balance at this point in the last five years, again due to the high investment returns. This portion of the financials are the cash flow statement and it again shows the first three months of the fiscal year. You can see that revenues are higher again this year, again due to the value of the investments. Fee revenues on the other hand, are slightly down as compared to last year. Expenses are also down. We have a $3 million decrease in claims and indemnification compared to last year.

So this chart shows the fee income by category for the first three months of the fiscal year. You can see we're pretty close to last year, but just a little bit down in all categories.

This chart shows the fee income on annual basis, so a calendar year basis. Although in September we lightly exceeded the five year average. At the end of the year, we're still going to be a little bit short which runs to that 1.5 percent decrease that we see year over year. This portion of the financial shows our funded and unfunded liability based on the actuarial liabilities. So this year our actuarial liabilities are about $33 million less than last year at this time. And we have an available fund balance of almost $208 million.

This chart shows the funded and unfunded liability over time and that portion is shown in gray. Since 2021, USTIF has been fully funded and at this point the fund continues to grow.

So that's the presentation on the third quarter financials and I'll take any questions that anyone has.

CHAIR: Thanks, Ben. All looks good.

Going on, let's go to unfinished business. Preston, if you would.

MR. BUCKMAN: Yeah. Good morning.

So as we continue on the long and winding road that is the regulatory review and promulgation process, we sent our proposed amendments to the Office of Attorney General. We did get one comment or one suggestion and that was to add heating oil tank, the acronym being HOT, to subsection two of the eligibility provision. Just to clarify that the heating oil tanks are also subject to any outstanding fees that may be -.

So I think you can see that in the materials that were sent around. There it is, subsection two in red. We just added or HOT to make that clarification. And otherwise, this should be the same as what the Board saw and voted on at the September meeting.

So I don't know if there's any questions. If there are not, then we need sort of as a formality, I guess, to take a vote and make sure that the Board is okay with this latest amendment.

CHAIR: At this time I would accept a motion to accept the annex as presented.

MR. HUMPHREYS: Mike Humphreys. I'll move the technical edit.

MR. CONRAD: Second. This is Troy Conrad, I second.

CHAIR: Okay.

If there's no further discussion, we'll take a voice vote. All those in favor say aye.

AYES RESPOND

CHAIR: Opposed?

Not hearing any, the motion carries. Thank you.

MR. CONRAD: Mr. Hieber -

CHAIR: Okay, at this time I'll turn it back over to Ben.

MR. LORAH: Mr. Heber, I. We have the DEP Pollution Prevention Grant Program statistics to report on. So in the administrative items we have to do CND.

CHAIR: I'm sorry, Troy. I thought you covered that in your prior.

MR. CONRAD: No worries. This will only take a minute.

CHAIR: Go right ahead.

MR. CONRAD: SO Pollution Prevention Grant Program Statistics for the current fiscal year that began on July 1st, 2024, one grant has been approved for $10,000 and no applications are pending at this time. Since the program's inception on January 30th, 1998, 1,158 grants have been approved, totaling over $5.9 million.

Under environmental Cleanup Program Statistics for the current fiscal year that began in July 2024, DEP has expended approximately $531,000 of the $4 million allocation approved by the Board. This money was used on 17 sites across the Commonwealth. To date, 59 heating oil cleanup reimbursement applications have been approved, totaling $228,000, and approximately nine applications are currently pending the Department's review. And that's all I have for you, Steve.

CHAIR: All righty. Again, my apology, Troy.

MR. CONRAD: No worries.

CHAIR: At this time, I will turn it back over to Ben.

MR. LORAH: Thanks, Mr. Hieber.

So, we have the 2025 meeting dates that were circulated to everyone with this Board meeting announcement. They shake out to be March 13th, June 12th, September 11th, and December 11th. And as of yet, no one has indicated any conflict with these dates.

CHAIR: Sounds good. If there are no objections, we will accept the dates as presented.

At this time, if there is no objection, this meeting will be adjourned.

Not hearing any, we will adjourn the meeting. I would like to thank everyone for their attendance and wish you all a very happy holiday season.

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MEETING CONCLUDED AT 10:41 A.M.

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CERTIFICATE

I hereby certify that the foregoing proceedings, a meeting of the USTIB was reported by me on December 12, 2024 and that I, Ian Weeber, read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.

Dated the 30th day of December, 2024.

Ian Weeber

Ian Weeber,

Court Reporter