STATE BOARD TO REVIEW CLAIMS

MEETING OF MARCH 10, 2010
Summary of Resolution

ITEM VIII.A.

SUBJECT: Proposed Resolution to Provide Third Party Liability Coverage to Gofer Market, 4600 North Virginia Street, Reno, Facility ID No. 4-000502, Petroleum Fund Case ID No. 1994000037

DISCUSSION: The State Board to Review Claims (Board) previously approved the subject site for $1 million in State of Nevada Petroleum Fund (Fund) coverage for first party liability claims with a $10,000.00 deductible. As of the December 10, 2009 meeting, the subject site has been reimbursed $971,983.48. Despite progress in remediating the site, contamination remains at concentrations in excess of Nevada State Action Levels. Because the contamination has spread off-site and created a potential for third party liability, third party liability coverage has been requested.

Nevada Division of Environmental Protection (NDEP) therefore, recommends that the subject facility receive third party liability coverage.

RECOMMENDATION: **Adoption** of Resolution No. 2010–01 as proposed, granting third party liability Fund coverage to the subject site with a $10,000.00 deductible.

RESOLUTION NO. 2010–01

Resolution to Provide Third Party Liability Petroleum Fund Coverage for
Gofer Market
4600 North Virginia Street, Reno, Nevada
Petroleum Fund Case ID No. 1994000037
Facility ID No. 4-000502

Whereas, the State Board to Review Claims (hereinafter referred to as the Board) Finds:

1. The subject site was previously granted Fund coverage for $1 million in first liability claims with a 10 percent co-payment.

2. As of the December 10, 2009 meeting, the subject site has been reimbursed $971,983.48.

3. Despite progress in remediating the site, contamination remains at concentrations in excess of Nevada State Action Levels, has spread off-site, and creates a potential for third party liability.

4. In accordance with Board Resolution No. 2007-10, the owner/operator has acknowledged that using third party liability funds for corrective actions will reduce the remaining funds in the event of a third party lawsuit (Attachment A).

THEREFORE BE IT RESOLVED:

1) The owner/operator has acknowledged that using third party liability funds for corrective actions will reduce the remaining funds in the event of a third party lawsuit.

2) The Board grants third party liability Fund coverage to Gofer Market, Petroleum Fund Case ID No. 1994000037 with a $10,000.00 deductible.

3) The maximum amount that the Board will reimburse for third party liabilities due to the discharge from the underground storage tank system for this case is $990,000 (maximum cap of $1,000,000 for the tank less a $10,000.00 deductible).

I, John Haycock, Chairperson, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the Nevada State Board to Review Claims on March 10, 2010.

John Haycock, Chairperson
State Board to Review Claims

RECEIVED
APR 07 2010
ENVIRONMENTAL PROTECTION

ATTACHMENT A

Letter from Owner of
Gofer Market

RECEIVED
JAN 26 2010
ENVIRONMENTAL PROTECTION

January 25, 2010

Nevada Division of Environmental Protection
Bureau of Corrective Actions
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701

Attn: Mr. Bennett Kottler

Re: GoFer Market facility, 4600 North Virginia Street, Reno, NV (Facility ID No. 4-000502, Fund Case No. 1994000037).

Dear Mr. Gravenstein:

This letter is submitted as formal notification that the above referenced site/case is about to cross the one million dollar point in Nevada Petroleum Fund (Fund) reimbursed expense. As of the December 10, 2009 Board to Review Claims meeting, Gofer Market has been reimbursed/approved a total of $971,983.48. Unfortunately, site remediation activities have not yet reached a point where the site can be considered for regulatory closure. Significant progress has been made and thousands of gallons of released gasoline have been recovered. However, there is still enough impact remaining in-place such that remediation activities will be required to continue into the future. Accordingly, reimbursement funds in excess of a million dollars will be needed in order to complete this project. Since the contamination has spread off site and created potential for third party liability (NRS 590.890 3.(a)), I am requesting that the Fund begin charging clean-up costs to the available million dollars of third party liability coverage. I realize that this will reduce the remaining funds available in the case of a third party suit.

Should you have questions or require additional information, please do not hesitate to contact me.

Sincerely,

Kanu Patel
Property Owner

CC: Mr. Art Gravenstein, NDEP-BCA