

**STATE OF NEVADA BOARD TO REVIEW CLAIMS  
BOARD MEETING MINUTES  
MARCH 8, 2012**

**I. CALL TO ORDER**

Vice-Chairman George Ross called the meeting to order at 10:00 a.m. from the Las Vegas location. The meeting was conducted via videoconference with locations in Las Vegas, at the Grant Sawyer Building, 555 E. Washington Ave., Room 4412E and in Carson City at the Legislative Counsel Bureau, 401 S. Carson St., Room 2134.

**A. BOARD MEMBERS PRESENT**

Vice-Chairman George Ross, Representative of petroleum refiners  
Colleen Cripps, Ph.D., Nevada Division of Environmental Protection  
Maureen Tappan, Representative of the general public  
Michael Cox, Representative of the independent retailers of petroleum  
Wayne Seidel, Department of Motor Vehicles  
Peter Mulvihill, State Fire Marshal's Office

**BOARD MEMBERS ABSENT**

Chairman John Haycock, Representative of independent petroleum dealers

**OTHERS PRESENT**

Valerie King, Victoria Joncas, Hayden Bridwell, Steve Fischenich, Greg Lovato,  
Kevin Sullivan, Marlene Huderski, JD Dotchin, Chad Schoop, and Todd Croft,  
NDEP  
Rose Marie Reynolds, State Attorney General's Office – Las Vegas  
Peter Krueger, Nevada Petroleum Marketers and Convenience Store Association  
Joe, McGinley, McGinley & Associates, Inc.  
Tracy Johnston, McGinley & Associates, Inc.  
Mohammad Ahmad, Eagle Gas South  
John Carpenter, Cimarron West  
Lee Perks, L.A. Perks Petroleum  
Jon Bell, Broadbent & Associates, Inc.  
Scott Keesey, Broadbent & Associates, Inc.  
Rob Thompson, OGI Environmental, LLC  
Bill Rodriguez, Four Way Truck Stop  
Keith Stewart, Stewart Environmental, Inc.  
Marc Westfall, 7-Eleven Inc.  
Matt Grandjean, Stantec  
Neal Tomlinson, Snell & Wilmer LLP  
Marlene Lockard, Capital Partners

**II. PUBLIC FORUM**

Mr. Krueger, representing the Nevada Petroleum Marketers and Convenience Store Association informed the Board that the Association of Petroleum Marketers is in favor of the two amended resolutions that are being presented for Board approval.

Mr. Krueger stated he believed the proposed reduction for the Carpenter Site Specific Board Determination (SSBD) should not be adopted by the Board.

### **III. APPROVAL OF THE AGENDA**

**Mr. Seidel moved to approve the agenda. Ms. Tappan seconded the motion. There was no discussion. Motion carried unanimously.**

### **IV. APPROVAL OF THE DECEMBER 8, 2011 MINUTES**

**Mr. Mulvihill moved to approve the minutes. Mr. Seidel seconded the motion. There was no discussion. Motion carried unanimously.**

### **V. STATUS OF THE FUND**

Ms. King reported on the status of the State of Nevada Petroleum Fund (Fund) for fiscal year 2012, which runs from July 1, 2011 to June 30, 2012. She stated \$7,537,884 was a balance forwarded from fiscal year 2011. \$410,800 in fees had been collected for storage tank enrollment into the Fund. \$5,273,141.59 was collected from the ¾ cent per gallon Fund fee and \$16,203.43 in interest was earned for a total revenue of \$13,238,029.02.

Ms. King reported on the total expenditures for the Board's salary was \$689.84, the total for in-state travel was \$172.05 and operating was \$857.79. The transfer to NDEP for staff operations was approximately \$528,494.46. \$2,539.00 was transferred to the State Environmental Commission. \$12,714.00 was transferred to the DMV for the motor carrier that administers the petroleum tax. The reimbursement of claims the Board approved at the last board meeting was approximately \$3,287,511.27. The cumulative expenditures of the Fund were \$3,832,978.41.

Ms. King reported on the total liabilities. The liabilities are cost that the Fund is expected to incur throughout 2012. The Petroleum Board costs are approximately \$11,797.32. Transfer to the Highway Fund for monies in approximately \$4.6 million. The staff operations for NDEP are expected to be approximately \$488,881.54. The pending obligated claims in the amount of \$22,574.52 are claims that the Board approved for payment at the last Board meeting. Total obligations are \$5,123,253.38. The actual funds available are \$9,405,050.61.

### **VI. SITE SPECIFIC BOARD DETERMINATION**

#### **A. Site Specific Board Determination No. C2012-01 Site Specific Board Determination to Provide Reduced Petroleum Fund Coverage to Cimarron West, 1400 Mountain City Highway, Elko, NV Facility ID No. 6-000156, Petroleum Fund Case ID No. 2011000009**

Mr. Bridwell presented this Site Specific Board Determination (SSBD). In April, 2009, NDEP conducted an Underground Storage Tank (UST) regulatory compliance inspection at the subject site, at which time it was documented that the spill buckets on the three operating motor fuel UST's were damaged and "inoperable."

In May, July and October of 2009, NDEP forwarded certified letters to the owner of the facility, Mr. John Carpenter, requesting verification whether he had repaired or replaced the inoperable spill buckets and remedied other violations noted during the inspection. The other violations included issues regarding overfill protection, notification of placing one of the tanks into temporarily out of use status and verification of a UST system corrosion protection survey. The non-spill bucket violations were resolved in a timely

manner, but NDEP did not receive documentation from Mr. Carpenter during this time that the inoperable spill buckets had been repaired or replaced.

In December, 2010, NDEP recorded a spill report from the subject facility, indicating that petroleum hydrocarbon contaminated soils had been discovered pursuant to subsurface assessment activities. Contaminated groundwater was also identified at the site during a later assessment event. In May, 2011, NDEP received a Petroleum Fund Coverage Application for the site. Amended applications were also received in October and November of 2011. Fund coverage is being requested for three motor fuel UST systems. Release sources are documented as inoperable spill buckets, as noted during NDEP's April, 2009 inspection, and faulty product piping within turbine sumps on top of the UST's and also some faulty product piping beneath dispensers. The product piping release sources are completely Fund reimbursable, completely accidental, no violations, no fault of Mr. Carpenter. Releases from the spill buckets are not fund eligible. However, the quantity of contamination associated with the leaking spill buckets remains unknown at this time.

Pursuant to written requests from Fund staff for additional information, in July, 2011, Mr. Carpenter informed NDEP that the inoperable spill buckets had not been repaired or replaced. Mr. Carpenter also informed NDEP at this time that he ceased retailing motor fuel from the UST systems on January 15, 2010. The UST systems, therefore, were knowingly operated out of compliance with spill protection regulations for at least 8.5 months, in violation of 40 CFR 280.20, 21 & 30.

Resolution #99-22, adopted by the Board at the June, 1999 meeting, established a policy regarding Fund coverage for cases where contamination at a site was the result of eligible accidental releases and non-eligible spill events. Pursuant to Resolution #99-22, Fund staff is required to recommend a 20% reimbursement reduction in such cases, where the actual amount of contamination from non-eligible spill events has not been quantified, and therefore cannot be reasonably eliminated from reimbursement claims. This case will also be subject to a 10% copay. Should the Board adopt the recommendation, Fund coverage for the 3 UST systems will be granted in the amount of \$2,160,000. Mr. Bridwell informed the Board that there was no reimbursement claim associated with today's SSBD.

Mr. McGinley introduced himself, the esteemed, Mr. Carpenter, and Mr. Perks. Mr. McGinley disagreed with Mr. Bridwell's Site Specific Board Determination. Under page 2 of the recommendation, the latter part of paragraph #1. The spill buckets on all three operating USTs were damaged and inoperable. They asserted that the spill buckets were operable.

An extensive discussion ensued among the NDEP staff, Mr. McGinley, Mr. Carpenter, Mr. Perks and the Board members.

**Mr. Cox moved to approve 100% coverage at this time with a 10% copay, indicating that when Mr. McGinley is able to look at the spill buckets then we can reevaluate at that time, minus the 10% copay. Mr. Mulvihill seconded the motion. Motion carried unanimously.**

**B. Site Specific Board Determination No. C2012-02  
Site Specific Board Determination to Reduce Petroleum Fund Coverage to Eagle  
Gas South, 1360 S. Carson St., Carson City, NV  
Facility ID No. 1-000076, Petroleum Fund Case ID No. 2004000029**

Mr. Bridwell stated that in May, 2004, NDEP granted full Fund coverage to the subject facility for releases from three gasoline UST systems, in the amount of \$3 million with a 10% copay. Since that time, an onsite remediation system has been installed and operated. The leading edge of the groundwater contaminant plume, which is not affected by the remediation system, has migrated down-gradient and offsite to the east, beneath S. Carson St., and the adjacent parking lot of a commercial retail facility. Continued corrective actions, groundwater monitoring and potential additional remediation, at the site are necessary.

In December of 2008, the claimant, Mr. Mohammad Ahmad, ceased paying the remediation system power bills and his CEM, effectively bringing corrective action activities at the site to a halt. The corrective action activities that were being conducted at the time consisted of groundwater monitoring. NDEP was keeping an eye on the contaminant levels in the offsite monitoring wells. Contaminant levels in the down gradient wells across the street had been higher than the regulatory action levels. Therefore, we were unable to close the site.

In June, August and September of 2009, and in April and August of 2011, NDEP forwarded certified letters to Mr. Ahmad requesting him to hire a CEM and re-implement corrective action activities at the site. NDEP did not receive responses to any of these letters, some of which were returned to NDEP indicating "receipt refused." On November 4, 2011, NDEP's Leaking Underground Storage Tank program supervisor hand-delivered a letter to Mr. Ahmad requiring him to hire a CEM and re-implement corrective action activities at the site. In January of 2012, NDEP received a work plan from Mr. Ahmad's CEM, proposing the re-implementation of required corrective actions at the site.

Pursuant to Resolution #94-023, NDEP, Fund staff is required to recommend a 40% reimbursement reduction for sites which are non-compliant with 40 CFR 280 Subpart F, which requires corrective actions at petroleum hydrocarbon contaminated sites. Because Mr. Ahmad ceased performing required corrective action activities at the site from December, 2008 until January, 2012, pursuant to Resolution #94-023, NDEP recommends that Fund reimbursement for all remaining corrective action activities at the site be reduced by 40%. Claims will also still be subject to the additional 10% copay.

Mr. McGinley from McGinley and Associates, Inc. introduced himself, Mr. Johnston and Mr. Ahmad. Mr. Johnston stated that McGinley and Associates, Inc. became involved with this site back in 2004. There had been some previous corrective action work done prior to their involvement. This consisted of installing some monitoring wells and other things of that nature. There had been corrective action activities conducted from 2004 forward until the time the remediation system was deactivated due to non-payment of the electricity bill for the system.

Mr. Johnston indicated that it was coincidence that the remediation system was deactivated. He stated that they were in the process of requesting approval to cease active remediation. He indicated the site had been cleaned up and the wells on the property were essentially clean. Two offsite wells were above regulatory action levels. Mr. Johnston stated that shortly after the system had been turned off a report was

submitted to NDEP that recommended the system stay off. He said that after a system is turned off, regulations require that you monitor the ground water for a minimum of one year. The wells were sampled three months after the system was shut off. He stated the wells were clean with the exception of one and also that one well next to the tanks did rebound a little. For the next couple of years there was no sampling due to financial difficulties. Mr. Johnston stated they were in post remediation ground water monitoring.

Mr. Johnston is recommending to the Board there be no reduction other than the 10% copay.

Mr. Cox questioned whether McGinley and Associates, Inc. stopped doing remediation because the power had been turned off.

Mr. Johnston replied they were looking at turning the power off anyway.

Ms. Cripps asked for clarification regarding whether the issue was only about continued monitoring of a site that had been cleaned up or if there was still concern regarding whether or not there potentially needed to be additional remediation activities at the site.

Mr. Bridwell, the regulatory case officer for the site, stated that Mr. Johnston had proposed going into post remediation monitoring. However, there were still concentrations of MTBE offsite exceeding the state action level. Therefore, Mr. Bridwell did not consider that round of monitoring to be post remediation monitoring.

Mr. Cox said according to everything he has read, regarding December 2008, everything stopped. He asked Mr. Johnston when they started testing again. Did the site sit from December 2008 through January 20, 2012?

Mr. Johnston stated the remediation system was deactivated in December 2008. The property sat from March 2009 until September 2011 at which point Broadbent and Associates, Inc. sampled ten of the thirteen wells to assess whether there were any issues. There has been no further work done to date.

Ms. Cripps asked Mr. Bridwell to explain why Broadbent and Associates, Inc. sampled in September 2011?

Mr. Bridwell stated NDEP was quite frustrated that this case was still open and on the books. Mr. Bridwell said staff was moving towards seeing the end of this project. Management made the decision to hire Broadbent and Associates, Inc., who is the Lust/Trust contractor. They did a round of sampling to determine the status of the site. Mr. Ahmad had no contractor employed and was not responding to NDEP's requests. He stated NDEP will be seeking financial reimbursement from Mr. Ahmad for the round of sampling.

A lengthy discussion continued amongst NDEP staff, McGinley and Associates, Inc., Mr. Ahmad and the Board members. The Discussion entailed the time of service McGinley and Associates, Inc. provided on the site. NDEP required monitoring conducted by Broadbent and Associates, Inc. to be performed at the site, the cost of the monitoring and the compliance status of Mr. Ahmad.

Mr. Mulvihill asked staff if their recommendation of the 40% penalty only goes back to when Mr. Ahmad stopped cooperating with the division.

Mr. Bridwell stated that is correct.

A short discussion continued amongst the NDEP staff, McGinley and Associates, Inc., Mr. Ahmad and the Board members.

**Mr. Mulvihill moved to recommend the fund reimbursement for all corrective actions related to resolution 94-023 accrued at this site after December 2008 is reduced by 40%. Ms. Cripps seconded the motion.**

Mr. Mulvihill stated he didn't think it was an issue of what contamination may be there, was there or will be there in the future. He said it had to do with the actions of the property owner and the cooperation with the division or the lack of cooperation as it may be.

**Motion carried unanimously.**

**C. Site Specific Board Determination No. C2012-03  
Site Specific Board Determination to Provide Third Party Liability Coverage to  
7-Eleven #20826, 1600 N. Decatur Blvd., Las Vegas, NV  
Facility ID No. 8-000610, Petroleum Fund Case ID No. 1994000029**

Mr. Fischenich stated that the Board previously approved that the subject site receive \$742,500 which represents \$1 million in Fund coverage for one UST system with a \$10,000 deductible, and a 25% Board reduction. As of this Board meeting, the subject site has been reimbursed \$721,452.08. Despite progress in remediating the site, contamination remains at concentrations in excess of state action levels. Because the contamination has been detected off-site and created a potential for third party liability, third party liability monies have been requested.

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.

Mr. Fischenich stated that NDEP recommends that the subject facility receives additional coverage for third party liability with a maximum of \$1 million, minus the second deductible of \$10,000 and the existing 25% Board reduction. This increases the cap to the facility to \$1,485,000.

Mr. Fischenich notified the Board that this claim is listed in the agenda as a non-consent item under the Ongoing Cases/Other Products category, item number 6. The recommended reimbursable amount shown for 7-Eleven #20826 is contingent upon the Board adopting this Site Specific Board Determination.

**Ms. Cripps moved to approve Site Specific Board Determination C2012-03, granting Third Party Liability Fund Coverage, subject to the \$10,000 deductible and 25% Board Reduction. Ms. Tappan seconded the motion. Motion carried unanimously.**

**VII. APPEAL MADE BY MR. WILLIAM RODRIGUEZ**

**A. Appeal from Mr. Rodriguez to Reduce/Eliminate 20% Fund Reduction to the Four Way Truck Stop, 1260 6<sup>th</sup> St., Wells, NV  
Facility ID No. 6-000329, Petroleum Fund Case ID No. 1999000310/2004-000011**

Ms. King stated this was an independent appeal regarding Four Way Truck Stop. The Four Way Truck Stop submitted an appeal of a previous Board decision from approximately eight years ago during the December 2003 Board meeting.

Ms. King informed the Board, prior to the current owner purchasing the Four Way Truck Stop in 2003, there was a history of non-compliance established at this facility by the previous owner. A known release was identified on two separate occasions during the six years prior to the sale that were neither reported to NDEP nor investigated; this is in direct violation of Nevada Statute.

Ms. King stated the current owner, Mr. Rodriguez, purchased the property in 2003 and submitted an application for fund coverage in October of 2003. The application was for coverage for five leaking above ground storage tanks. Because a known release was not investigated or reported to NDEP until six years following the discovery, consistent with the Boards' policy resolution for violations of this nature NDEP recommended a 40% reduction of coverage to the Board. The Board reduced the recommended amount of 40% to a 20% coverage reduction in favor of the claimant.

Ms. King indicated that upon reviewing the minutes from the December 2003 meeting, the Board lowered the recommended 40% reduction to a 20% reduction to lower the cost. The Board stated at that time they did not want to punish the new owner, Mr. Rodriguez, who had demonstrated due diligence for activities of the past owner. However, the Board didn't believe that the Petroleum Fund should pay for the inappropriate actions of the previous owner.

Ms. King stated that to date NDEP has not received any new information that would allow NDEP to bring a new recommendation for coverage to the Board.

Ms. King stated that Four Way Truck Stop has submitted a total of 18 claims and has been reimbursed \$539,129.49. They have 5 tanks that are responsible for the release and have a total of \$3.6 million to be drawn from the Fund after the 20% Site Specific reduction and 10% copay.

Ms. King stated this was not a traditional appeal. Appeals typically address a recommendation that staff is providing to the Board with respect to a claim reimbursement or a coverage reduction. This appeal is very unique in that the appeal addresses a previously established or adopted Board resolution that was made 8 years ago in this case.

Ms. King informed the Board that Mr. Rodriguez and his consultant Mr. Robert Thompson from OGI Environmental were present to speak.

A discussion continued amongst the NDEP staff, Mr. Robert Thompson from OGI Environmental, Board members Ms. Rose Marie Reynolds from the Las Vegas - AG's Office.

Ms. Cripps asked if any criteria or policy was in place that would guide the Boards' actions.

Ms. King stated currently there is nothing on the books. However, NDEP will research and draft something if the Board would like.

Vice Chairman Ross requested NDEP staff to draft a policy resolution that identifies

criteria to be considered when the Board reconsiders an established Board determination. The criteria must address equity, fairness and consistency as they relate to current economic conditions and compliance.

The Board requested the proposed policy take into consideration the merits of a given case and the precedent that may be set. Also requested was for industry and the CEM community to be given the opportunity to provide input.

Mr. Mulvihill commended Mr. Rodriguez for being responsible and for promptly reporting what he found.

**Mr. Mulvihill moved to Table the Appeal Made by Mr. William Rodriguez until the Subsequent Meeting. Ms. Tappan seconded the motion. Motion carried unanimously.**

## **VIII. AMENDED RESOLUTIONS**

### **A. Amended Resolution #96-001 to Address Costs Associated with Underground Storage Tank (UST) Removals. The amendment removes the requirement that the reimbursement decision is to be based solely on monetary comparisons and refines the overall language.**

Ms. King recapped with the Board. With respect to the Fund policy resolutions, the Board has adopted the various resolutions to assist the fund staff in making recommendations to the Board with respect to fund coverage and claim reimbursement decisions that are unbiased and consistent.

Ms. King stated at the March 2011 Petroleum Board meeting pursuant to the industries request, the Board encouraged NDEP to coordinate with the CEM consulting community to look at the policy resolutions to ensure they represent what todays needs are and are consistent with the intent of the program.

Ms. King stated NDEP has coordinated with industry and the CEM consulting community. NDEP has targeted 12 resolutions that need to be looked at and adjusted. NDEP has two types of resolutions currently on the books. NDEP has Policy Resolutions and Site Specific Resolutions. The Policy Resolutions have remained the same. They are still called resolutions and the numbering system remains the same. The Site Specific Resolutions have been renamed to Site Specific Board Determinations. The numbering system has changed slightly; they will be numbered the same but have a "C" prefix to indicate a "Case" number.

Ms. King presented the first of two updated resolutions to the Board. She stated that both 96-001 and 96-003 have been reviewed by key members of the industry and the CEM community.

Ms. King stated the original Resolution 96-001 was approved by the Board to Review Claims in February 1996. The resolution addressed costs associated with Underground Storage Tank (UST) removals. The original resolution required the removal of UST to be recommended only if it could be demonstrated that it was the least expensive alternative for the remediation effort.

Ms. King stated the amendment removes the criteria that NDEP recommend to the Board

for removal of a UST must be based solely on monetary comparisons. The amended language will allow NDEP to recommendations to the Board reimbursement for removal of a UST for other reasons such as an eminent threat to human health or the environment or if removing the UST will benefit the remediation effort as approved by the regulatory case officer.

Ms. King stated there was a consensus amongst NDEP, industry and the CEM consulting community that the proposed amendment will better facilitate remediation projects.

**Ms. Cripps moved to approve the amendments to Resolution 96-001 as recommended by staff. Mr. Seidel seconded the motion. Motion carried unanimously.**

**B. Amended Resolution #96-003 Addresses authority provided to the Executive Secretary of the Board to Review Claims to Waive the Reimbursement Claim Submittal Deadlines for Certain Cases Pursuant to NAC 590.780(1).**

Mr. Bridwell stated the original Resolution #96-003 had been titled Resolution to Adopt a Policy Delegating authority to the Board's Petroleum Fund Administrator to Determine Petroleum Fund Coverage for Certain Cases Pursuant to NAC 590.780(1).

Mr. Bridwell stated this resolution granted the Petroleum Fund supervisor the authority to waive the initial claim submittal deadline pursuant to NAC 590.780, which requires an initial claim be submitted within 12 month of a release discovery. The Petroleum Fund supervisor can waive that deadline if a claim comes in late if good cause is provided.

Mr. Bridwell stated that NAC 590.780 also requires the submittal of a final claim within 12 month following the termination of corrective actions. Mr. Bridwell stated that Resolution #96-003 did not authorize the Fund supervisor to waive the deadline. Therefore, several resolutions over the years had to be brought to the Board in order to be able to recommend the final claim for a site.

Mr. Bridwell stated the changes made to the amended resolution. The title had been changed to be expressly clear, granting the Petroleum Fund supervisor the authority to process a final claim that comes in 12 months following the termination of corrective actions, if good cause is provided.

Mr. Bridwell summarized that if the late claim submittal was a result of work not being done, then that is not good cause. A good cause would be the late submittal was not a result of project delays. Or the late claim submittal didn't cause the project delays. The late claim submittal didn't increase the cost of the cleanup. The claimant maintained compliance of the regulatory required corrective action directives. Mr. Bridwell indicated they would still keep in mind for initial reimbursement claims only, if they came in late because the accrued costs didn't exceed the \$5,000 per leaking tank criteria that would be good cause.

A short discussion continued amongst NDEP staff and the Board members.

**Mr. Seidel moved to approve the amendments to Resolution 96-003 as amended. Mr. Cox seconded the motion. Motion carried unanimously.**

**IX. ADOPTION OF CONSENT ITEMS**

The Board will review all items as a consent calendar item, unless the item is marked by an asterisk (\*), or a member of the public wishes to speak in regards to the item.

A dagger (†) indicates previously disallowed monies have been appealed where the requested amount is less than the recommended amount.

**STATE BOARD TO REVIEW CLAIMS  
REQUESTED/RECOMMENDED AMOUNTS – MARCH 8, 2012**

<b><u>HEATING OIL</u></b>				<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
FOR POSSIBLE ACTION	1.	1992000102H	Lyon County School District: Yerington Elementary	\$14,518.52	\$14,517.94
FOR POSSIBLE ACTION	2.	2007000013H	Churchill County School District: Bus Barn	\$4,267.27	\$4,267.27
FOR POSSIBLE ACTION	3.	2012000001H	Roy Engelke: Engelke Property	\$4,694.22	\$6,772.99
FOR POSSIBLE ACTION	4. †	2012000002H	City of Elko: 5th Street Project	\$14,682.54	\$14,182.54
FOR POSSIBLE ACTION	5.	2012000007H	Ed Friberg: Friberg Property	\$2,467.50	\$2,467.50
FOR POSSIBLE ACTION	6.	2012000016H	Bernard Sables: Sables Property	\$7,857.50	\$7,607.50
<b>HEATING OIL SUB TOTAL:</b>				<b><u>\$48,487.55</u></b>	<b><u>\$49,815.74</u></b>
<b><u>NEW CASES, OTHER PRODUCTS</u></b>				<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
FOR POSSIBLE ACTION	1.	2012000005	Travel Systems, LLC: Zephyr Cove Resort	\$237,728.40	\$205,728.12
<b>NEW CASES, OTHER PRODUCTS SUB TOTAL:</b>				<b><u>\$237,728.40</u></b>	<b><u>\$205,728.12</u></b>

**ONGOING CASES/OTHER PRODUCTS**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1.	1993000102	Rebel Oil Company: Rebel #8	\$16,793.25	\$13,254.86
FOR POSSIBLE ACTION	2.	1993000103	Russell Yardley: Charlie Brown Construction	\$8,478.29	\$8,308.72
FOR POSSIBLE ACTION	3.	1993000115	City of Fallon: Former Bootlegger Texaco	\$35,383.00	\$35,085.80
FOR POSSIBLE ACTION	4.	1994000003	Allied Washoe: Allied Petroleum	\$5,386.60	\$5,386.60
FOR POSSIBLE ACTION	5.	1994000027	7-Eleven, Inc.: 7-Eleven #19653	\$20,913.84	\$20,913.84
FOR POSSIBLE ACTION	6.*	1994000029	7-Eleven, Inc.: 7-Eleven #20826	\$37,799.14	\$18,349.35
FOR POSSIBLE ACTION	7.	1994000037	Param Investments and or Broadbent: Gofer Market	\$20,657.11	\$20,657.11
FOR POSSIBLE ACTION	8.	1994000065	Avis Rent-A-Car Systems: Avis Rent-A-Car	\$85,157.32	\$80,760.50
FOR POSSIBLE ACTION	9.	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop	\$39,903.56	\$39,892.04
FOR POSSIBLE ACTION	10.†	1994000120	ConocoPhillips Company: Union 76 #3846	\$385.00	\$6,336.68
FOR POSSIBLE ACTION	11.	1994000122	Ron or Gary Michelsen: Mike's Gas-A-Mart	\$24,305.68	\$24,305.68
FOR POSSIBLE ACTION	12.	1995000012	Northern Nevada Asset Holdings: Parker's Model T	\$7,670.55	\$6,525.49
FOR POSSIBLE ACTION	13.	1995000042	FBF, Inc.: Gas For Less	\$4,219.61	\$3,793.15
FOR POSSIBLE ACTION	14.	1995000074	Vera Hester: Glendale Service Facility	\$18,181.28	\$16,340.85
FOR POSSIBLE ACTION	15.	1995000105	Redman Petroleum Corp.: Redman Petroleum	\$5,343.80	\$4,809.42
FOR POSSIBLE ACTION	16.	1996000037	Kumiva Group, LLC: Former Armored Transport	\$20,620.90	\$14,721.05
FOR POSSIBLE ACTION	17.	1996000063	Joan Pennachio: V&V Automotive	\$5,983.31	\$5,384.98
FOR POSSIBLE ACTION	18.	1996000101	ConocoPhillips Company: Circle K #695	\$20,319.71	\$18,287.73
FOR POSSIBLE ACTION	19.	1996000102	ConocoPhillips Company: Circle K #542	\$4,204.35	\$3,022.48
FOR POSSIBLE ACTION	20.	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility	\$2,415.00	\$2,173.50
FOR POSSIBLE ACTION	21.	1997000093	ConocoPhillips Company: Union 76 #5257	\$1,007.50	\$544.05
FOR POSSIBLE ACTION	22.	1998000046	Willdens Automotive Holdings: Allstate Rent A Car	\$44,726.32	\$40,250.98
FOR POSSIBLE ACTION	23.	1998000068	ConocoPhillips Company: Conoco #28003	\$15,767.20	\$14,190.48
FOR POSSIBLE ACTION	24.	1998000080	Seven Crown Resorts: Echo Bay Resort	\$1,686.00	\$1,517.40
FOR POSSIBLE ACTION	25.	1999000017	Reed, Inc.: Reed R-Place Shell	\$16,817.84	\$15,181.95
FOR POSSIBLE ACTION	26.	1999000022	Terrible Herbst Oil Company: Terrible Herbst #129	\$13,082.31	\$11,666.08
FOR POSSIBLE ACTION	27.	1999000029	Terrible Herbst Oil Company: Terrible Herbst #136	\$17,117.56	\$15,405.81
FOR POSSIBLE ACTION	28.	1999000048	Estate of Robert Cowan: Former Lightning Lube	\$6,827.83	\$6,318.07
FOR POSSIBLE ACTION	29.	1999000052	Estate of Martin Wessel: Ted's Chevron	\$10,303.19	\$9,272.87
FOR POSSIBLE ACTION	30.	1999000066	HP Management, LLC: Former Haycock Petroleum	\$11,607.88	\$10,447.09
FOR POSSIBLE ACTION	31.	1999000086	Terrible Herbst Oil Company: Terrible Herbst #126	\$25,759.09	\$23,183.18
FOR POSSIBLE ACTION	32.	1999000090	HP Management, LLC: Former Haycock Petroleum	\$10,787.94	\$9,709.15
FOR POSSIBLE ACTION	33.	1999000104	Terrible Herbst Oil Company: Terrible Herbst #118	\$21,492.29	\$19,331.45
FOR POSSIBLE ACTION	34.	1999000135	Terrible Herbst Oil Company: Terrible Herbst #106	\$2,613.07	\$2,351.77
FOR POSSIBLE ACTION	35.	1999000137	Terrible Herbst Oil Company: Terrible Herbst #152	\$5,793.75	\$5,214.38

**ONGOING CASES/OTHER PRODUCTS: CONTINUED**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	36.	1999000167	City of Las Vegas: Fire Station #1	\$3,435.00	\$3,435.00
FOR POSSIBLE ACTION	37.	1999000186	Gloria Pilger: Former D&G Oil Facility	\$26,113.76	\$23,502.38
FOR POSSIBLE ACTION	38.	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station	\$36,661.34	\$36,661.34
FOR POSSIBLE ACTION	39.	1999000257	University of Nevada: Newlands Agriculture	\$5,271.32	\$5,271.32
FOR POSSIBLE ACTION	40.	1999000273	V.K. Leavitt: The Waterhole	\$29,626.46	\$14,010.82
FOR POSSIBLE ACTION	41.	1999000275	ConocoPhillips Company: Circle K #1248	\$7,761.53	\$6,286.85
FOR POSSIBLE ACTION	42.*	2004000011	William Rodriguez: Four Way Truck Stop	\$56,133.26	\$38,551.15
FOR POSSIBLE ACTION	43.	2004000013	Nevada Nanak Petroleum, Inc.: NV Nanak Petroleum	\$18,524.33	\$10,003.14
FOR POSSIBLE ACTION	44.	2005000002	Carson Valley Oil Co., Inc.: Carson Valley Oil	\$11,783.61	\$10,605.25
FOR POSSIBLE ACTION	45.	2005000004	7-Eleven, Inc.: 7-Eleven #21285	\$12,887.44	\$11,598.69
FOR POSSIBLE ACTION	46.	2005000025	Bordertown, Inc.: Winner's Corner	\$37,178.88	\$33,460.99
FOR POSSIBLE ACTION	47.	2005000029	ConocoPhillips Company: Circle K#1302	\$4,275.59	\$3,848.03
FOR POSSIBLE ACTION	48.	2005000036	ConocoPhillips Company: Circle K #1791	\$2,634.10	\$1,896.55
FOR POSSIBLE ACTION	49.	2005000044	Ewing Brothers, Inc.: Ewing Brothers Facility	\$18,252.25	\$14,784.32
FOR POSSIBLE ACTION	50.	2007000002	Consolidated Nevada Corp.: Berry-Hinckley #201	\$6,093.79	\$5,484.41
FOR POSSIBLE ACTION	51.	2007000003	7-Eleven, Inc.: 7-Eleven #29648	\$38,519.60	\$19,450.59
FOR POSSIBLE ACTION	52.	2007000004	7-Eleven, Inc.: 7-Eleven #29660	\$16,422.18	\$11,823.96
FOR POSSIBLE ACTION	53.	2007000014	Ace Cab Company, Inc.: Ace Cab Company	\$26,058.58	\$23,448.22
FOR POSSIBLE ACTION	54.	2007000016	TOC Holdings Company: Former Time Oil #6-100	\$5,951.85	\$5,356.67
FOR POSSIBLE ACTION	55.	2007000023	7-Eleven, Inc.: 7-Eleven #29643	\$113,199.96	\$81,503.97
FOR POSSIBLE ACTION	56.	2008000009	Pilot Travel Centers, LLC: Flying J Travel Plaza	\$11,225.13	\$8,082.09
FOR POSSIBLE ACTION	57.	2008000017	Big Daddy's Oil, LLC: Flamingo AM/PM #82153	\$24,182.91	\$13,058.77
FOR POSSIBLE ACTION	58.	2008000018	B-H Ind. dba Terrible's: Terrible Herbst #830	\$5,064.25	\$4,456.89
FOR POSSIBLE ACTION	59.	2009000009	Tom Schwarz: Zak's Mini Mart	\$15,678.25	\$11,288.34
FOR POSSIBLE ACTION	60.	2009000017	D&J Holdings, LLC: Convenience Corner Shell	\$24,311.07	\$21,879.96
FOR POSSIBLE ACTION	61.	2009000020	Western Energetix: Battle Mountain Bulk Plant	\$4,856.23	\$4,370.60
FOR POSSIBLE ACTION	62.	2009000024	Parampreet Investment, LLC: Chuck's Circle C	\$35,183.48	\$31,665.14
FOR POSSIBLE ACTION	63.	2009000028	Vegas Rainbows, Inc.: Mick & Mac's Food Mart	\$14,220.33	\$12,478.34
FOR POSSIBLE ACTION	64.	2010000001	Smitten Oil & Tire Company: The Gas Store	\$3,280.06	\$2,952.05
FOR POSSIBLE ACTION	65.	2010000003	Big Wheel Properties, LLC: Big Wheel Travel Center	\$360.00	\$324.00
FOR POSSIBLE ACTION	66.	2010000005	7-Eleven, Inc.: 7-Eleven #27071	\$5,663.38	\$5,097.04
FOR POSSIBLE ACTION	67.	2010000007	Pecos Express, Inc.: Pecos Express	\$40,041.60	\$35,947.44
FOR POSSIBLE ACTION	68.	2010000013	Argyris Enterprises, LLC: City Stop #12	\$33,193.04	\$29,552.41
FOR POSSIBLE ACTION	69.	2011000001	Short Line Express Market: Short Line Express	\$33,035.50	\$29,437.65
FOR POSSIBLE ACTION	70.†	2011000003	7-Eleven, Inc.: 7-Eleven #29662	\$5,145.30	\$6,460.52

**ONGOING CASES/OTHER PRODUCTS: CONTINUED**

				<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
FOR POSSIBLE ACTION	71.	2011000006	7-Eleven, Inc.: 7-Eleven #29384	\$9,114.06	\$8,202.65
FOR POSSIBLE ACTION	72.†	2011000007	Echo Bay Marina, LLC: Echo Bay Marina	\$0.00	\$16,382.86

**ONGOING CASES/OTHER PRODUCTS SUB TOTAL:      \$1,330,850.49                      \$1,135,514.94**

**REQUESTED                      RECOMMENDED**

**CLAIMS TOTAL:                      \$1,617,066.44                      \$1,391,058.80**

**Ms. Cripps moved for approval of the consent items, Heating Oil, 1 through 6, New Cases/Other Products, 1, Ongoing Cases/Other Products, 1 through 72. Mr. Mulvihill seconded the motion.**

Vice Chairman Ross informed the Board that under Ongoing Cases C, item number 53, Ace Cab Company, he thinks is still being represented by a member of the law firm by which he is employed. However, he stated this associate has no bearing on his employment or pay so he will vote.

Mr. Cox recused himself from voting under Ongoing Cases C, item number 4, because he is principal of the company.

**Motion carried unanimously.**

## **X. EXECUTIVE SUMMARY**

Ms. King informed the Board that Mr. Jim Najima, the Bureau Chief of Corrective Actions had recently retired. She introduced our new Bureau Chief, Mr. Greg Lovato.

Ms. King presented the Executive summary and informed the Board that the Petroleum Fund (Fund) was established in 1989. Since then 1,402 cases have been evaluated for reimbursement. 121 cases were denied coverage and a total of 1,040 cases have been closed. 16 cases are in pending status awaiting staff review or additional information. 44 cases have expired, 18 new cases have been received by NDEP for evaluation of Fund coverage. There are currently 181 active remediation sites expected to continue with requests for reimbursement.

Not including today's Board authorization, approximately \$164.2 million have been reimbursed. Adding today's reimbursement, approximately \$165.5 million have been reimbursed from the Fund to date.

The invoicing for storage tank Fund enrollment for fiscal year 2012, which runs from October 1, 2011 through September 30, 2012, commenced on August 22, 2011. 1,432 facilities have been invoiced at \$100 per storage tank system. As of November 16, 2011, 1,340 facilities, or approximately 93.6% have submitted the required fees.

Ms. King discussed the handout that was given to the Board members in regards to the Petroleum Fund resolution review. She informed the Board that staff is expecting to present the following amended resolutions at the June 14, 2012 Board meeting. Resolution #96-016, the CEM cost guidelines and #96-004, provides information on reimbursable and non-reimbursable items. #96-004 will be folded into #96-016 the cost guidelines. Ms. King updated the Board regarding the status of these two resolutions, stating they were out for comment by industry and the CEM consulting community.

Ms. King informed the Board that Resolution #2008-04 is a resolution regarding the identification of the source of the release that must be identified to determine if it's Fund eligible. Typically records are used to determine this. Staff would like to use a science approach as well. Staff is still coordinating with others at this time. The resolution doesn't necessarily need to be changed because it doesn't preclude that approach.

Ms. King stated that Resolution numbers 93-002, 97-012, and 99-022 in some way refer to spill and overfill issues. Therefore, staff is trying to consolidate all three resolutions into one single resolution for the Boards review and approval at the next Board meeting.

Ms. King updated the Board on the Conoco Phillips Sites. Back in June 2010 NDEP brought before the Board six cases that were presented as a single packet from Conoco Phillips. The Board asked NDEP to present each as an individual case. As of this Board meeting, two sites have been provided full fund coverage. Both NDEP and Conoco Phillips at the administrative level mutually agreed that two sites would not be provided fund coverage. NDEP is still awaiting information from Conoco Phillips regarding the last two sites.

**XI. PUBLIC FORM**

There were no requests to speak.

**XII. CONFIRMATION OF NEXT BOARD MEETING DATE**

It was confirmed the next meeting date would be Thursday, June 14, 2012 at 10:00.

**XIII. ADJOURNMENT**

There being no further business, the meeting adjourned at 1:44 pm.