

**STATE BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
MARCH 10, 2011**

I. CALL TO ORDER

Chairman John Haycock called the meeting to order at 2:00 p.m. The meeting was held in the Bryan Building, 901 S. Stewart St., Carson City, 2nd floor, Tahoe Hearing Room.

A. BOARD MEMBERS PRESENT

Chairman John Haycock, Representative of independent petroleum dealers
Vice Chairman George Ross, Representative of petroleum refiners
Colleen Cripps, Ph.D., Nevada Division of Environmental Protection (NDEP)
Maureen Tappan, Representative of the general public
James Wright, State Fire Marshal
Michael Cox, Representative of the independent retailers of petroleum
Wayne Seidel, Department of Motor Vehicles

OTHERS PRESENT

Bennett Kottler, Victoria Joncas, Steve Fischenich, Shirley DeCrona,
Kevin Sullivan, (NDEP)
Rose Marie Reynolds, State Attorney General's Office - Las Vegas
Keith Stewart, Stewart Environmental, Inc.
Erin McMullen, Frias Holding Company/Snell and Wilmer, LLP
Bryan Vetrano, Broadbent and Associates, Inc.

Mr. Kottler introduced Mr. Wayne Seidel, Administrator of the Motor Carrier Division, Department of Motor Vehicles. Mr. Seidel replaced Ms. Dawn Lietz as a member of the Board.

II. APPROVAL OF THE AGENDA

**Ms. Cripps moved to approve the agenda. Ms. Tappan seconded the motion.
Motion carried unanimously.**

III. APPROVAL OF THE DECEMBER 15, 2010 MINUTES

**Mr. Cox moved to approve the minutes. Ms. Cripps seconded the motion.
Motion carried.**

Mr. Seidel was not present at the December 15, 2010 Board meeting. Therefore, he abstained from voting.

IV. PUBLIC FORUM

There were no requests to speak.

V. STATUS OF THE FUND

Mr. Kottler reported on the status of the Fund for fiscal year 2011, which runs from July 1, 2010 to June 30, 2011. He stated the total cumulative revenue in the Fund for the current fiscal year was approximately \$14.3 million. He stated \$8.5 million was the balance forwarded from the previous fiscal year 2010. Approximately \$412,000 in fees was collected for tank enrollment into the Fund for storage tanks. Approximately \$5.4 million was collected from the ¾ cent per gallon Fund fee and approximately \$17,000 is interest earned. Total expenditures from the fund were approximately \$4.8 million of which \$3.5 million was payment of claims.

Approximately \$800,000 was transferred to the Nevada State Highway Fund for this fiscal year. This was the second and final transfer for the fiscal year. Mr. Kottler stated the remaining Fund balance was approximately \$9.5 million for the current fiscal year.

Mr. Kottler stated staff is recommending the approval of approximately \$2.4 million in reimbursements and that there will be a balance of \$7.1 million in the Fund if the Board approves all reimbursement recommendations.

VI. DETERMINATION OF FUND COVERAGE

A. Resolution No. 2011-01

**Resolution to Waive the 12 Month final Claim Submittal Deadline for 7-Eleven #20687, 1600 N. Rancho Dr., Las Vegas, NV,
Facility ID No. 8-000609, Petroleum Fund Case ID No. 1993000010**

Mr. Fischenich indicated as per current Board policy, pursuant to Nevada Administrative Code (NAC) 590.780(1), Fund staff cannot accept a final reimbursement claim later than 12 months following completion of corrective actions unless good cause for the delay is provided. The final claim for this case was received by NDEP more than 12 months following the cessation of corrective actions at the site. 7-Eleven had indicated the late submittal of the claim was a result of a delay in the removal of the remediation system due to its size and complexity of the system.

Mr. Fischenich stated that NDEP's findings indicate there was no cost savings for 7-Eleven, nor were there any additional cost to the Fund due to the late submittal. Therefore, NDEP is recommending that the Board finds good cause to waive the final claim submittal deadline.

Mr. Fischenich indicated that this claim is agenized as a non-consent item.

Mr. Fischenich read a letter provided from Matthew Grandjean of Stantec Consulting Corporation was representing 7- Eleven. The letter indicated that 7-Eleven supports the resolution. They wish to reiterate there was no delay in the cleanup activity or financial benefit to 7-Eleven, due to exceeding the deadline for submitting the final claim.

Ms. Tappan moved to approve Resolution 2011-01 and Mr. Ross seconded the motion. Motion carried unanimously.

VII. ADOPTION OF CONSENT ITEMS

Items marked with a single asterisk (*) are nonconsent items.

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 10, 2011**

<u>HEATING OIL</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.	1992000102H	Lyon County School District: Yerington Elementary	\$75,355.13	\$75,332.67
2.	2006000020H	Bruno Benna: Benna Residence	\$1,390.00	\$1,390.00
3.	2007000013H	Churchill County School District: Bus Barn	\$5,910.50	\$5,910.50
4.	2011000004H	Whitney Hackstaff: Hackstaff Residence	\$12,437.92	\$12,187.92
HEATING OIL: SUB TOTAL:			<u>\$95,093.55</u>	<u>\$94,821.09</u>

<u>NEW CASES/OTHER PRODUCTS</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.	2005000036	ConocoPhillips Company: Circle K #1791	\$19,165.27	\$13,765.78
2.	2011000003	7-Eleven, Inc.: 7-Eleven #29662	\$19,254.09	\$12,044.74
NEW CASES, OTHER PRODUCTS: SUB TOTAL:			<u>\$38,419.36</u>	<u>\$25,810.52</u>

<u>ONGOING CASES/OTHER PRODUCTS</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.*	1993000010	7-Eleven, Inc.: 7-Eleven #20687	\$7,712.23	\$6,834.13
2.	1993000011	7-Eleven, Inc.: 7-Eleven #29646	\$45,643.69	\$44,020.69
3.	1993000102	Rebel Oil Company: Rebel #8	\$5,312.84	\$5,312.84
4.	1993000103	Russell Yardley: Charlie Brown Construction	\$14,877.41	\$14,579.86
5.	1993000115	City of Fallon: Former Bootlegger Texaco	\$12,820.00	\$11,906.50
6.†	1994000003	Allied Washoe: Allied Petroleum	\$8,311.98	\$9,137.65
7.	1994000012	Wirtz Beverage NV.: Former DeLuca Liquor & Wine	\$12,275.13	\$12,275.13
8.	1994000028	7-Eleven, Inc.: 7-Eleven #20084	\$27,067.05	\$20,076.51

ONGOING CASES/OTHER PRODUCTS: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>
9.	1994000029	7-Eleven, Inc.: 7-Eleven #20826	\$27,422.20	\$20,563.86
10.†	1994000065	Avis Rent A Car Systems: Avis Rent A Car	\$101,604.34	\$103,617.15
11.	1994000086	Falconi Motors, Inc.: Falconi's Tropicana Honda	\$21,287.43	\$20,274.34
12.	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop	\$304,614.67	\$304,614.67
13.	1994000120	ConocoPhillips Company: Union 76 #3846	\$7,179.75	\$6,461.77
14.	1994000122	Ron or Gary Michelsen: Mike's Gas-A-Mart	\$35,152.18	\$34,680.96
15.	1995000012	N. Nevada Asset Holdings: Parker's Model T	\$45,901.52	\$40,107.76
16.	1995000042	FBF, Inc.: Fayeghi Texaco	\$5,688.03	\$5,000.87
17.	1995000074	Vera Hester: Glendale Service Facility	\$29,768.54	\$26,739.71
18.	1995000105	Redman Petroleum Corp.: Redman Petroleum	\$7,266.48	\$4,090.50
19.	1995000142	7-Eleven, Inc.: 7-Eleven #29644	\$13,826.53	\$12,443.87
20.	1996000010	Shell Oil Products US: Texaco #0175	\$33,297.06	\$20,719.00
21.	1996000026	Moapa Valley Credit Union: Former Russ Auto Repair	\$3,600.71	\$2,592.51
22.	1996000063	Joan Pennachio: V&V Automotive	\$9,670.41	\$8,703.37
23.	1996000064	H&A Esslinger, LLC: Red Rock Mini Mart	\$30,213.46	\$23,314.41
24.	1996000101	ConocoPhillips Company: Circle K #695	\$16,749.89	\$15,074.90
25.	1996000102	ConocoPhillips Company: Circle K #542	\$4,729.50	\$2,840.04
26.	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility	\$4,217.50	\$3,795.75
27.	1997000093	ConocoPhillips Company: Union 76 #5257	\$10,926.85	\$5,552.20
28.	1998000046	Willdens Automotive Holdings: Allstate Rent A Car	\$34,338.93	\$30,986.18
29.	1998000053	7-Eleven, Inc.: 7-Eleven #27361	\$4,397.16	\$989.36
30.	1998000068	ConocoPhillips Company: Conoco #28003	\$28,898.24	\$25,894.12
31.	1998000073	City of Reno: City of Reno Police Station	\$5,000.71	\$5,000.71
32.	1998000080	Seven Crown Resorts: Echo Bay Resort	\$19,610.33	\$17,595.30
33.	1999000011	Terrible Herbst Oil Company: Terrible Herbst #133	\$22,018.55	\$13,464.67
34.	1999000014	Al Park Petroleum: Conoco Pit Stop #7	\$40,060.40	\$35,095.05
35.	1999000015	Terrible Herbst Oil Company: Terrible Herbst #144	\$8,516.33	\$7,537.35
36.	1999000017	Reed, Inc.: Reed R-Place Shell	\$32,779.15	\$21,189.21
37.	1999000022	Terrible Herbst Oil Company: Terrible Herbst #129	\$9,567.26	\$8,600.44
38.	1999000029	Terrible Herbst Oil Company: Terrible Herbst #136	\$17,148.55	\$15,104.52
39.	1999000048	Estate of Robert Cowan: Former Lightning Lube	\$9,964.41	\$9,964.41
40.	1999000052	Estate of Martin Wessel: Ted's Chevron	\$3,516.56	\$3,119.00
41.	1999000061	Rich Sorani: Former Rich's Unocal	\$4,429.00	\$4,429.00
42.	1999000066	HP Management, LLC: Former Haycock Petroleum	\$12,070.66	\$10,863.59
43.	1999000086	Terrible Herbst Oil Company: Terrible Herbst #126	\$55,537.05	\$49,427.51
44.	1999000090	HP Management, LLC: Former Haycock Petroleum	\$40,485.88	\$36,437.29
45.	1999000114	City of Fallon: Fallon Maintenance Yard	\$4,664.75	\$3,361.90
46.	1999000135	Terrible Herbst Oil Company: Terrible Herbst #106	\$16,999.30	\$8,627.04
47.	1999000137	Terrible Herbst Oil Company: Terrible Herbst #152	\$17,263.35	\$15,133.48

<u>ONGOING CASES/OTHER PRODUCTS: CONTINUED</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
48.	1999000162	Terrible Herbst Oil Company: Terrible Herbst #159	\$19,456.44	\$10,619.37
49.	1999000167	City of Las Vegas: Fire Station #1	\$13,556.43	\$13,556.43
50.	1999000186	Gloria Pilger: Former D&G Oil Facility	\$24,163.72	\$21,704.07
51.	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station	\$29,694.02	\$28,673.02
52.	1999000257	University of Nevada: Newlands Agriculture	\$2,777.50	\$2,623.50
53.	1999000273	V.K. Leavitt: The Waterhole	\$36,900.53	\$15,665.54
54.	1999000275	ConocoPhillips Company: Circle K #1248	\$3,260.96	\$2,641.37
55.	2004000011	William Rodriguez: Four Way Truck Stop	\$67,477.14	\$47,727.59
56.	2004000013	Nevada Nanak Petroleum, Inc.: NV Nanak Petroleum	\$2,052.41	\$1,108.30
57.	2004000025	New Castle Corporation: ARCO #1580	\$110,389.43	\$97,958.19
58.	2005000002	Carson Valley Oil Co., Inc.: Carson Valley Oil	\$14,982.98	\$13,484.68
59.	2005000021	B-H Ind. dba Terrible's: Former Berry-Hinckley #95	\$5,689.40	\$4,738.05
60.	2005000025	Bordertown, Inc.: Winner's Corner	\$33,001.44	\$29,176.48
61.	2005000039	Petrosun Fuel, Inc.: Taylor Street Market	\$18,538.30	\$16,684.47
62.	2005000044	Ewing Brothers, Inc.: Ewing Brothers Facility	\$21,054.33	\$17,054.01
63.	2006000007	7-Eleven, Inc.: 7-Eleven #33022	\$17,518.70	\$15,525.77
64.	2006000017	7-Eleven, Inc.: 7-Eleven #26994	\$11,556.98	\$8,321.02
65.	2007000002	Consolidated Nevada Corp.: Berry-Hinckley #201	\$4,176.05	\$3,758.45
66.	2007000014	Ace Cab Company, Inc.: Ace Cab Company	\$359,538.39	\$323,584.55
67.	2007000016	TOC Holdings Company: Former Time Oil #6-100	\$9,806.04	\$8,507.73
68.	2007000023	7-Eleven, Inc.: 7-Eleven #29643	\$20,848.99	\$15,011.27
69.	2008000017	Big Daddy's Oil, LLC: Flamingo AM/PM #82153	\$22,909.53	\$12,371.15
70.	2008000018	B-H Ind. dba Terrible's: Terrible Herbst #830	\$33,691.27	\$25,139.80
71.	2008000019	Stop N Shop 2 Land, LLC: Stop N Shop #2	\$8,996.78	\$7,431.30
72.	2009000009	Tom Schwarz: Zak's Mini Mart	\$18,736.64	\$13,474.40
73.	2009000017	D&J Holdings, LLC: Convenience Corner Shell	\$188,824.39	\$169,624.25
74.	2009000020	Western Energetix, LLC: Western Energetix Bulk Plant	\$8,727.55	\$7,854.80
75.	2009000024	Parampreet Investment, LLC: Chuck's Circle C	\$115,642.96	\$102,960.42
76.	2009000028	Vegas Rainbows, Inc.: Mick & Mac's Food Mart	\$17,146.80	\$12,246.16
77.	2010000001	Smitten Oil & Tire Company: The Gas Store	\$1,688.13	\$1,519.32
78.	2010000003	Big Wheel Properties, LLC: Big Wheel Travel Center	\$15,806.50	\$14,225.85
79.	2010000005	7-Eleven, Inc.: 7-Eleven #27071	\$5,986.25	\$5,387.62
80.	2010000007	Pecos Express, Inc.: Pecos Express	\$9,673.41	\$8,701.57
81.	2010000009	TA Operating: Mill City Travel Center	\$16,876.51	\$14,219.35
82.	2010000010	Petrosun Fuel, Inc.: Victorian Food Mart	\$3,870.75	\$3,483.67
83.	2010000018	TA Operating: Mill City Travel Center	\$36,899.63	\$31,940.67
84.	2011000001	Short Line Express Market: Short Line Express	\$44,316.91	\$39,885.22

ONGOING CASES/OTHER PRODUCTS: SUB TOTAL:	<u>\$2,610,638.14</u>	<u>\$2,276,740.49</u>
	<u>REQUESTED</u>	<u>RECOMMENDED</u>
CLAIMS TOTAL:	<u>\$2,744,151.05</u>	<u>\$2,397,372.10</u>

Ms. Cripps moved for approval of Item No. VII, Heating Oil, 1 through 4, New Cases/Other Products, 1 and 2, Ongoing Cases/Other Products, 2 through 84. Mr. Wright seconded the motion.

Motion was amended to include Ongoing Cases/Other Products No. 1. Ms. Cripps moved to amend and Mr. Wright seconded. Discussion followed.

Chairman Haycock disclosed under Ongoing Cases C, Item Numbers 42 and 44, that he is a managing partner for HP Management LLC. Therefore, he recused himself from voting on those two items.

Vice Chairman Ross disclosed under Ongoing Cases C, Item Number 66, that he is an employee of the law firm, which represents Ace Cab Company. However, he stated these interests would not affect his voting.

Mr. Cox disclosed under Ongoing Cases C, Item Number 6, that he is the principal in the company. Therefore, he recused himself from voting on the item.

Motion carried unanimously.

VIII. EXECUTIVE SUMMARY

Mr. Kevin Sullivan, supervisor of the underground storage tank (UST) and leaking underground storage tank (LUST) program informed the Board about the first facility in Nevada to receive a red tag pursuant to Nevada implementation of the 2005 Federal Energy Policy Act.

Mr. Sullivan indicated that receiving a red tag prohibits a facility from receiving fuel from their delivery source. A red tag physically covers the fill port of a UST that has been determined to be out of compliance. The first facility to see this implementation take effect will be in approximately two weeks. Any facility that has been red tagged will be listed on the Bureau of Corrective Actions (BCA) website. The facility that received the red tag notification will also be listed on the BCA website. The facility information will remain on the website until the facility is no longer in violation. The delivery sources will be notified in advanced that fuel cannot be delivered to the facility red tagged. Lastly, there is a penalty, should the red tag be removed.

In response to questions from Board members, Mr. Sullivan indicated that before a red tag is received, the UST/LUST program must complete three notices of violations. Should the facility fail to respond to the third request, they receive a 14 day notice indicating the day the UST/LUST program will place a red tag on their facility. If the facility can achieve compliance with the subject regulations within the 14 day period, the UST/LUST program will not red tag the subject UST(s).

Mr. Sullivan indicated to the Board that the facilities complying with the proper monitoring and reporting a leak are not at risk. It's those facilities that don't report the information requested by the UST program that are at risk. After Mr. Sullivan stated that some six facilities were under consideration for the enforcement action, Mr. Kottler added the perspective that these potential facilities represent a fraction of a percent of the approximately 1,400 facilities enrolled in the Fund.

Mr. Kottler reported on the status of the Fund for fiscal year 2011, which began July 1, 2010. NDEP has received 8 new cases for evaluation of coverage. Since the inception of the program, 1,369 cases have been evaluated for reimbursement. There are currently 231 active remediation sites expected to continue with requests for reimbursement. A total of 969 cases have been closed, 113 cases have been denied coverage, and 42 cases have expired. A total of 14 cases are currently in a pending status, awaiting either submittal of additional information or initial staff evaluation for coverage.

Not counting today's Board authorization, approximately \$163.2 million has been reimbursed. Adding today's reimbursement recommendations, approximately \$165.6 million will have been reimbursed from the Petroleum Fund to date.

The invoicing for tank enrollment into the Fund for fiscal year 2011, which runs from October 1, 2010 through September 30, 2011, commenced on August 5, 2010. 1,437 facilities have been invoiced at \$100 per petroleum tank system. As of February 9, 2011, 94% of the facilities have paid.

IX. CONFIRMATION OF NEXT MEETING DATE

It was confirmed the next meeting date would be Thursday, June 9, 2011.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 2:23 pm.

