

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRANSCRIPT OF A MEETING
OF THE
STATE OF NEVADA
PETROLEUM BOARD TO REVIEW CLAIMS

Thursday, June 5, 2008
10:00 a.m.
Department of Conservation and Natural Resources
The Bryan Building, 901 South Stewart Street
2nd Floor, Tahoe Hearing Room
Carson City, Nevada

With Videoconferencing From
College of Southern Nevada
3200 East Cheyenne Avenue
Room 2638
Las Vegas, Nevada

ORIGINAL

REPORTED BY: SHANNON L. TAYLOR, CCR, CSR, RMR
Certified Court, Shorthand and Registered Merit Reporter
Nevada CCR #322, California CSR #8753, Idaho CSR #485
1381 Valley View Drive, Carson City, Nevada 89701
(775) 887-0472

A P P E A R A N C E S

Board Members Present in Carson City:

Edgar Roberts, Department of Motor Vehicles (DMV)
James Wright, State Fire Marshall's Office - State
Fire Marshall

Others Present in Carson City:

Bennett Kottler, Division of Environmental
Protection (NDEP) - Bureau of Corrective Actions
(BCA)
Steve Fischenich, NDEP-BCA
Art Gravenstein, NDEP-BCA
Teresa Larson, NDEP-BCA
Victoria Joncas, NDEP-BCA
Scott Smale, NDEP-BCA
Allen Biaggi, Department of Conservation and
Natural Resources - Director
Tracy Johnston, McGinley and Associates (MGA)
Joe McGinley, MGA
Julie Pugh, Model T Casino

Board Members Present via Videoconferencing from
Las Vegas:

John Haycock, Chairman, Representing Independent
Dealers of Petroleum
John Meeters, Representing Independent Retailers of
Petroleum
George Ross, Representing Refiners of Petroleum
Leo Drozdoff, NDEP - Administrator

Others Present via Videoconferencing from Las Vegas:

Rose Marie Reynolds, State Attorney General's
Office, Las Vegas, Deputy Attorney General
Jim Najima, NDEP-BCA
Marlene Huderski, NDEP-Bureau of Federal Facilities
James Dotchin, NDEP-BCA
Neal Tomlinson, Ace Cab Company
Lawrence Banks, ATC Associates Inc.
Jon Bell, Broadbent and Associates Inc. (BAI)
Ned Kruger, BAI
Scott McKeag, MGA
Keith Houk, Converse Consultants
Rob Gegenheimer, Converse Consultants
Tracy Campen, The Westmark Group

1 CARSON CITY, NEVADA, JUNE 5, 2008, 10:00 A.M.

2 -oOo-

3 CHAIRMAN HAYCOCK: Members of the Board, take
4 their seats.

5 It is the time appointed for the State Board to
6 Review Claims, the June 5th meeting. Members of the
7 Board have received their agenda. So if you will open
8 your books to the agenda. Let's do a roll call of the
9 members.

10 MS. JONCAS: Chairman Haycock, with your
11 permission --

12 CHAIRMAN HAYCOCK: Yes?

13 MS. JONCAS: -- the Recording Secretary would
14 like to take roll call of all the Board members.
15 However, before --

16 CHAIRMAN HAYCOCK: You have my permission.

17 MS. JONCAS: Thank you. Before we get started,
18 I would just like to ask everyone to please speak loudly
19 and clearly during the Board meeting. And in addition,
20 if you could please identify yourselves while speaking.

21 At this time, I would like to proceed with roll
22 call.

23 Chairman Haycock? Present?

24 CHAIRMAN HAYCOCK: Present.

25 MS. JONCAS: Ms. Joanne Blystone? Ms. Joanne

1 Blystone? Not present.

2 Mr. Edgar Roberts?

3 MR. ROBERTS: Here.

4 MS. JONCAS: Mr. Leo Drozdoff?

5 MR. DROZDOFF: Here.

6 MS. JONCAS: Mr. James Wright?

7 MR. WRIGHT: Here.

8 MS. JONCAS: Mr. George Ross?

9 MR. ROSS: Here.

10 MS. JONCAS: Mr. John Meeters?

11 MR. MEETERS: Here.

12 MS. JONCAS: Counsel from the A.G.'s Office,

13 Ms. Rose Marie Reynolds?

14 MS. REYNOLDS: Here.

15 MS. JONCAS: Ms. Reynolds, would you like to
16 establish if we have a quorum, please.

17 MS. REYNOLDS: Yes, you have a quorum.

18 MS. JONCAS: Chairman Haycock, you may take
19 over the Board.

20 CHAIRMAN HAYCOCK: Thank you very much.

21 The first action item would be Agenda item
22 number II, Approval of the Agenda. The Chair would
23 entertain that motion.

24 MR. ROBERTS: For the record, Edgar Roberts.

25 So moved.

1 MR. DROZDOFF: I'll second. This is Leo
2 Drozdoff.

3 CHAIRMAN HAYCOCK: We have a motion and a
4 second. Is there discussion of the motion?

5 All in favor of the motion, say "aye."

6 (The members said "aye.")

7 CHAIRMAN HAYCOCK: Opposed?

8 The motion carries. The agenda's approved.

9 We would move to Approval of the March 6th
10 Minutes.

11 MR. ROBERTS: For the record, Edgar Roberts.
12 Mr. Chairman, on page 3, line 13, I have a change. It's
13 Edgar instead of Edward.

14 CHAIRMAN HAYCOCK: Are there any other changes?
15 Entertain a motion for approval.

16 MR. ROBERTS: For the record, Edgar Roberts.
17 So moved.

18 CHAIRMAN HAYCOCK: We have a motion. Is there
19 a second?

20 MR. MEETERS: John Meeters. Second.

21 CHAIRMAN HAYCOCK: We have a second. Is there
22 discussion of the motion?

23 All in favor of the motion, say "aye."

24 (The members said "aye.")

25 CHAIRMAN HAYCOCK: Opposed?

1 The motion carries.

2 Agenda item number IV, Status of the Fund. Mr.
3 Bennett?

4 MR. KOTTLER: Mr. Chairman, members of the
5 Board, the Status of the Fund is as follows for fiscal
6 year 2008. And that runs from July 1st, 2007 through
7 June 30th of 2008.

8 Total revenue for the Fund is just below \$12.6
9 million. And that's comprised of \$11.8 million, which
10 was balanced-forwarded from fiscal year 2007.

11 Approximately \$415,000 was collected from tank
12 enrollment fees for above ground and marina storage
13 tanks. \$18,000 is the approximate amount collected from
14 the three-quarter of a cent per gallon Petroleum Fund
15 fee before the fee was shut off for the current fiscal
16 year. An additional \$373,000 was interest-generated.

17 Total expenditures for the Fund for the fiscal
18 year are approximately \$7 million, of which \$6.2 million
19 is reimbursement of claims.

20 Current Fund liabilities are just below \$.5
21 million. The remaining Fund balance is approximately \$5
22 million.

23 Staff is recommending the approval of just over
24 \$2.4 million in reimbursement today. And if the Board
25 approves all reimbursement recommendations, a balance of

1 \$2.6 million will remain in the Fund.

2 As can be seen in the second page of this
3 section, staff has made a final projection that the Fund
4 will end fiscal year 2008, on June 30th, with a balance
5 less than \$5 million, the amount below which NRS 590.860
6 requires collection of the Petroleum Fund fee to resume.

7 The subject letter has been forwarded to the
8 Department of Motor Vehicles, as well as Chairman
9 Haycock advising that the fee should be collected in
10 fiscal year 2009, beginning on July 1st, 2008.

11 CHAIRMAN HAYCOCK: What is the procedure for
12 providing this information to those entities that
13 collect the three-quarters of a cent?

14 MR. KOTTLER: It's my understanding that the
15 Department of Motor Vehicles is currently administering
16 that. And they sent out a set of letters to those
17 entities, notifying them that the fee will have to be
18 resumed.

19 CHAIRMAN HAYCOCK: Do you concur with that,
20 Edgar?

21 MR. ROBERTS: For the record, Edgar Roberts.
22 That is correct. We -- Once we received the
23 notification to turn the fee back on, we sent out that
24 notification to all of the suppliers and notifying them
25 that they have to collect the fee again.

1 CHAIRMAN HAYCOCK: Okay. Very good. Is there
2 anything else relative to the Status of the Fund?

3 MR. KOTTLER: No, not at this time.

4 CHAIRMAN HAYCOCK: Okay. Very good. We'll
5 move to Agenda item number V, which is a Review of Past
6 Board Determination, Interpretation of a Resolution,
7 95-028.

8 MR. KOTTLER: Mr. Chairman and members of the
9 Board, before we have Mr. Tracy Johnston, environmental
10 consultant for the subject facility, discuss this
11 matter, I'd like to give some introduction. This matter
12 concerns Resolution 95-028 in which the Petroleum Fund
13 Board made a statement of policy regarding Senate Bill
14 121. That resolution is included in the Board packet in
15 the back of this section V. So that's available for
16 your review.

17 The Senate Bill, 121, which was effective
18 July 1st, 1995, modified NRS statutes regarding
19 Petroleum Fund revenues, as well as costs. Among the
20 specific issues addressed were modifying Petroleum Fund
21 fee from .6 to .75 cents collected per gallon of motor
22 diesel and heating fuel, modifying the registration fee
23 per UST system from 50 to \$100, establishing a \$250
24 deductible for heating oil tanks, and salient to the
25 matter that's going to be discussed now, changing the

1 capped \$10,000 deductible to a 10 percent co-payment for
2 all operators other than political subdivisions of the
3 state and those designated as small business owners.

4 This matter was discussed at the August 23rd,
5 1995 meeting. Mr. Eric Taxer, Petroleum Fund
6 Administrator at that time, presented a synopsis of S.B.
7 121 and asked the Board for input. And after a
8 considerable amount of discussion, the Board decided
9 more information was needed, and a decision was deferred
10 to the next meeting.

11 In September of 1995, on the 14th, a workshop
12 was held. And at that time, the legal counsel reviewed
13 the benefits and drawbacks of nine different scenarios
14 to implementing the provisions of S.B. 121, including
15 different drivers, whereby the discovery date would be
16 the driver of implementing this, or perhaps the
17 application receipt date or the agency response date.

18 In the end, in the following day, on September
19 15th, Board Resolution 1995-028 was adopted where staff
20 presented two of these options. And the Board adopted a
21 modified version of one of them.

22 Later on in that month, NDEP informed 53
23 facilities, including the subject one, Motel T Casino,
24 that the deductible per UST would be changed to a
25 co-payment.

1 And there is one correction that I noticed on
2 the chronology on page 2 of Mr. Johnston's letter of May
3 12th, whereby the letter from NDEP is currently listed
4 as November 7th of 1995. That letter went out on
5 September 25th of 1995.

6 So given that background, I'd like to have
7 Mr. Tracy Johnston come up and discuss the
8 interpretation.

9 MR. JOHNSTON: Good morning. My name's Tracy
10 Johnston. I'm a C.E.M. with McGinley & Associates here
11 in Reno, Nevada. And I have with me Ms. Julie Pugh, who
12 represents Model T Casino. She's a controller for
13 Model T over there. And so I have her with me, also, if
14 you have any questions to direct to her.

15 Before I start, I'd like to make sure, does
16 everybody have a copy of this, my May 12th
17 correspondence, the packet that has six, six or seven
18 attachments to it?

19 MR. ROBERTS: Yes.

20 MR. JOHNSTON: Okay. All right. So this
21 particular site, it's a very mature site. I've kind of
22 prepared this thing in a chronological order, kind of
23 give you a history of what happened out here to get them
24 coverage. And I've highlighted and bolded some dates
25 that I think are very important. Everything here is

1 date-specific. And the dates are very important in
2 regards to the context of what we're looking at here.

3 Overall, as you can see, what we're trying to
4 do, what we'd like you to do is reconsider the
5 deductible that's currently assigned to Model T. And we
6 believe that it's warranted to, essentially, revert to
7 the original deductible that was assigned to them when
8 they were originally issued coverage. And I'll be going
9 through our argument for that decision.

10 Okay. To give you some history on the sites,
11 there was six underground storage tanks of this
12 property. Okay. This is the C Store. It's right next
13 to Model T Casino in downtown Winnemucca. The tanks
14 were closed, permanently closed by removal in March,
15 April, 1994. Okay. And following removal, there was
16 contamination discovered beneath each tank. Okay.
17 They, essentially, had five leaking underground storage
18 tank systems that were all subsequently determined to be
19 eligible for coverage. Okay.

20 At the time that these were removed, they went
21 ahead and did some overexcavation in the source area,
22 where the tanks were. Okay. That's the April 1994
23 bullet there. This is a very important date, because
24 this is actually when the initial corrective action
25 costs were incurred on this project. And by "initial

1 corrective action," I mean initial eligible, it would be
2 eligible for reimbursement by the Petroleum Fund in the
3 event that this site was covered by the Fund. Okay.
4 That's why I have that in bold. It said approximately a
5 thousand cubic yards of soil was excavated. It was --
6 ended up being treated on site using bioremediation.

7 And then, in May of '94 -- I've actually
8 included in here -- I didn't really discuss a lot about
9 them -- each Board meeting that occurred from the time
10 of discovery up to the time when the letter from -- that
11 Bennett was referring to, in September, went out. And
12 there's a reason for that, too. I can, you know --
13 Because we're talking about in the context of Board
14 action. When you look at S.B. 121, it all comes down to
15 when -- if a Board action was taken on a particular
16 property, whether or not they would be subject to this
17 new deductible or the one that was initially assigned to
18 them. Okay.

19 So May of '94 Board meeting, July 1994 Board
20 meeting. The other thing to keep -- to bear in mind,
21 that's an important issue, on the May 1994 Board
22 meeting, that was the last Board meeting that I saw that
23 they actually used to review the -- the Board would
24 actually review Petroleum Fund applications.

25 As you know, in the past, Chairman Haycock,

1 they used to -- when someone sent in an application of
2 coverage, it not only went before NDEP, but it also had
3 to go to the Board for approval. Okay.

4 So May 1994, they actually had applications for
5 coverage that were submitted and subject to Board
6 action. Okay.

7 Turn the page here. On July 15th, 1994, that's
8 when the application for Petroleum Fund coverage was
9 submitted to NDEP. And that's Attachment number 1.
10 That was submitted by Mr. Tim Bengochea, who was the
11 owner of the Model T property at that time. He no
12 longer owns the property and is no longer involved in
13 the projects; but just a F.Y.I. there.

14 Shortly thereafter, July 29th, 1994, the
15 application for coverage was denied by NDEP. That's
16 Attachment number 2. The reason for denial was that
17 they were under the impression, NDEP was, that the tanks
18 had been previously closed in place. So the thought was
19 we can't provide coverage to tanks that, obviously, have
20 been previously closed.

21 So Mr. Bengochea sent them a letter that's
22 Attachment number 3, September 8th, 1994, essentially
23 explaining the -- And I don't really need to go through
24 the details of that, but basically giving information
25 saying the tanks had not been closed in place; they're

1 basically temporarily out of use and until they could
2 get the money to close them.

3 So with that understanding, clarification, the
4 state just went ahead and granted coverage in October of
5 1994. Okay.

6 The coverage granted -- And bear in mind, there
7 was a Board meeting. So the application for coverage
8 was submitted in July of 1994. Okay. If it was -- If
9 NDEP had known that the tanks were -- the application
10 for coverage was good and they had not denied it, there
11 is a possibility, of course, at that time, that the
12 application would have gone before the Board. Because
13 the Board was still hearing applications. That's the
14 first argument I'd like to make, or the first point, I
15 should say, I'd like to make.

16 October of '94, the NDEP issues coverage.
17 That's Attachment number 4. Four. They gave a million
18 dollars of coverage for each leaking UST system, with a
19 \$10,000 co-pay for each leaking UST system. So you have
20 a total of \$5 million of Petroleum Fund coverage
21 granted, with a \$50,000 cap on the deductible. Okay.
22 And that's the letter that went to Model T. Okay.

23 Now, time is real critical. Okay. The -- So
24 now, at that point in time, from that point in time, a
25 reimbursement package can be submitted at any time. The

1 responsibility for submitting the reimbursement package
2 lied with the C.E.M. at the time, which was Lahontan
3 Geoscience, Carol Oberholtzer. Okay. She was the one
4 that was involved in this project at the outset.

5 We are involved, came February of this year.
6 And that's why this is coming up right now. We
7 actually -- I'll give you a little history here. In
8 looking through the files, this came up to my attention,
9 something that was strange, why they're on the current
10 deductible they are, based on the timing. So.

11 So there was no package submitted. Even though
12 there were costs that had been incurred back in April
13 '94, no package was submitted at all until April of
14 1995. Okay. Which was a year to the day after they
15 released discovery. Okay.

16 The -- There was another Board meeting. There
17 was two more Board meetings, before -- after the
18 April 5th, 1995 request was submitted and the July 1st,
19 1995 date that's referred to in S.B. 121. This package,
20 for whatever reason, was not included in either one of
21 those Board meetings. I don't know what the reason is;
22 but it was not. Critical. Because all that had to
23 happen here was a package to get submitted for the
24 July 1st, 1995 date and have the Board make a
25 determination on that. And that's a Board action.

1 Okay.

2 So the -- then, along come S.B. 121. And
3 everybody's familiar with that, just based on what --
4 Bennett kind of laid the groundwork on what that was all
5 about.

6 The bottom line is the decision, the important
7 thing to note on there is that the Model T had not had a
8 Board action yet, for whatever, by that date. And the
9 S.B. 121 specifically says that for all cases where a
10 Board action had not -- had occurred before the July
11 1st, 1995 date, you're on the original, you're
12 grandfathered in, basically, to the original coverage
13 that was granted to you.

14 Okay. So, obviously, if something had been
15 submitted prior to July 1st, 1995, the Board had taken
16 action on, regardless of whether it was the application
17 for coverage or any Petroleum Fund reimbursement
18 packages, and that then Model T would have been on the
19 old \$50,000 co-pay. Okay.

20 But because of that, they were then switched to
21 the 10 percent deductible, which is significant. And
22 this has been an amount, a substantial amount,
23 additional monies that are out, paid, they have been
24 out-of-pocket on this job versus the \$50,000. Okay.
25 And we have a lot more to do out there. Okay.

1 The first -- The reimbursement request that was
 2 submitted by Ms. Oberholtzer in April of -- or in April
 3 of '95 was not heard until the October 25th, 1995 Board
 4 meeting.

5 And then, as a result, actually, as has been
 6 pointed out, the letter that I have listed as
 7 November 7, apparently, it was before that Board
 8 meeting, the letter from Gil Cerruti that, basically,
 9 says "You guys are now no longer on the \$50,000 co-pay
 10 or \$10,000 co-pay; you're on the 10 percent deductible."
 11 That was the first time that Model T had heard anything
 12 that their deductible would be changed.

13 And certainly no one knew at that time what was
 14 going on with S.B. 121 and what decisions were going to
 15 be made. If they had, if Model T had known that, that
 16 the July 1st date was so critical, there's no question
 17 in my mind that they would have made sure. You know,
 18 they were always harping on this first, first
 19 reimbursement request, as it is. And afterwards,
 20 Ms. Pugh can attest that there was times when it would
 21 take a year or two for them to submit packages. They
 22 would make sure they had one in, without question. I
 23 mean this is a lot of money we're talking about.

24 But as a result, you know, they went back, and
 25 now they're on the 10 percent co-pay.

1 And like I said, we were retained in February
2 of 2008 to assume corrective action responsibilities at
3 this site.

4 So based on the unique circumstances here and
5 what has happened, not only with the failure to submit
6 packages to the Board, but also the -- even when the
7 packages were submitted, for some reason, it didn't get
8 on the Board meeting before the July 1st 1995 date there
9 that S.B. 121 took effect.

10 I think that it's warranted that Model T be --
11 you know, that the original coverage that was granted to
12 the Model T be reinstated as far as the original
13 deductible, which is the \$50,000.

14 To let you know where they're at now, the
15 out-of-pocket they've had, as far as the 10 percent
16 co-pay, is up around almost \$90,000. Okay.

17 Additionally, there's a hundred thousand
18 dollars, more than a hundred thousand dollars that has
19 been deemed ineligible for various reasons, the packages
20 were inadequate or whatever. We are going to go back
21 and review those, too. A hundred thousand dollars
22 out-of-pocket in addition to the 88,000 or 90,000. So
23 they're almost into this 200,000 out-of-pocket.

24 And we're -- And I predict, anticipate that
25 we're going to be looking at at least \$500,000 to a

1 million dollars more before we get this thing completed.
2 Because, essentially, we're just now starting the
3 remediation, the way I look at it.

4 So, you know, this decision was quite
5 significant. It, basically, took the out-of-pocket
6 liability from Model T from 50,000 max to potentially
7 500,000, if it went to \$5 million. Which I don't see
8 this doing; but certainly it could go for a couple, you
9 know, million dollars. And over something like, you
10 know, in my mind, they hired someone to do this for
11 them. And that's part of their job. And they didn't do
12 it as quickly as they could have. And then, when they
13 did do it, it didn't get put on the agenda like it
14 should have, maybe.

15 So, I guess, that's my argument kind of laid
16 out there. And that's why we -- that's why we're
17 requesting that the Board reconsider the current
18 deductible that's assigned to them and go back to the
19 original one.

20 CHAIRMAN HAYCOCK: Okay. Thank you very much.
21 You've certainly done a lot of research here and
22 presented these facts succinctly.

23 Does the staff take exception to any of these
24 facts?

25 MR. KOTTLER: Well, I would like to clarify a

1 few points, Mr. Chairman, members of the Board. As I
2 previously stated, there actually were, were a total
3 have 53 facilities that were in a similar situation,
4 where they had either applications or claims submitted
5 to the Fund that had not had a Board action. In fact,
6 nine of those facilities, including Model T Casino, are
7 currently open. So that's one consideration. And --

8 CHAIRMAN HAYCOCK: Bennett, could you repeat
9 that, please.

10 MS. REYNOLDS: Were open.

11 CHAIRMAN HAYCOCK: Were currently open?

12 MR. REYNOLDS: Nine claims that are open.

13 MR. KOTTLER: Yes, there are nine facilities,
14 including Model T Casino, that are from this era that
15 were in a similar situation, that got switched to a
16 co-payment, that are currently -- that are currently
17 open.

18 And as I said, too, there are a number of
19 facilities that are closed, that had payments and,
20 should the Board pursue a reinterpretation of this,
21 should be or could be considered for a change in their
22 reimbursements.

23 So that's one consideration. For
24 clarification, the delay in processing was due to a
25 backlog and a large number of cases that the staff had

1 at that time. And it was from approximately six months
2 to nine months before material that was submitted to the
3 staff could be processed. And all, all responsible
4 parties submitting materials to the staff were subjected
5 to that delay.

6 And that was a concern at that time of how to
7 reduce that delay. But that was a feature of how the
8 staff was able to process the large number of
9 applications and requests at that time.

10 CHAIRMAN HAYCOCK: Okay. I'm going to open
11 this to members of the Board who have any questions or
12 discussion of the situation.

13 MR. ROBERTS: For the record, Edgar Roberts.
14 Chairman, I'm looking at the paperwork submitted. And
15 we have a resolution by you. And it's Resolution --
16 State Board to Review Claims Resolution number 95-028:
17 Resolution to adopt a statement of policy regarding the
18 implementation date of S.B. 121.

19 Right below number four, where it starts
20 "Therefore, it be resolved," in that paragraph, it says
21 "All requests for reimbursement that relate to
22 applications received by NDEP prior to July 1, 1995
23 shall be reviewed in accordance with the statutes and
24 regulations that were in place at the time the
25 applications were received."

1 I just want to let the other Board members be
2 aware of that. Thank you.

3 CHAIRMAN HAYCOCK: Thank you. I think, that's
4 fairly relevant.

5 Go ahead now.

6 MS. REYNOLDS: I was going to say, that
7 option was discussed in '95, but it wasn't adopted. In
8 other words, this argument that Model T is making now
9 has been presented before. And the Board decided back
10 in '95 that action we were not going to entertain those
11 claims. Option A, there's no signature on that page.
12 You turn the page; under option B, there's no signature
13 that page, either. The resolution that was actually
14 adopted, that's been signed, and that's actually the
15 last page of the packet.

16 Does that make is clearer?

17 MR. DROZDOFF: Yeah. And I would point out
18 that it said the change or the relevant change was all
19 requests for reimbursement and received Board action.
20 That was the key point. And added a second requirement.
21 Which is what the Board deliberated on.

22 CHAIRMAN HAYCOCK: There's probably, in my
23 mind, there's probably an interpretation as to what a
24 Board action is. If staff takes action, is that on
25 behalf of the Board?

1 MS. REYNOLDS: No.

2 CHAIRMAN HAYCOCK: So their accepting or
3 denying of an application is not on behalf of the board?

4 MS. REYNOLDS: No. I believe, the --

5 CHAIRMAN HAYCOCK: And it's not considered
6 action?

7 MS. REYNOLDS: It's not considered action.

8 CHAIRMAN HAYCOCK: The other question I have is
9 whether there is anything legally or morally binding
10 about the October 19th letter from NDEP in which
11 Mr. Taxer specifically says that the deductible from
12 this facility is, therefore, \$50,000?

13 MS. REYNOLDS: No.

14 CHAIRMAN HAYCOCK: Not legally?

15 MS. REYNOLDS: No, not legally. The statute
16 changed with an effective date of July 1st, '95. The
17 Board had to then determine how it was going to
18 interpret and implement that change. The Board acted,
19 it passed its resolution, and that's what they decided.
20 They notified everyone. I believe, Mr. Kottler has
21 clarified that. And you've got an example of the
22 September 25th letter that went to Model T.

23 And you'll notice, I think it's very telling,
24 that Gil Cerruti, in that letter --

25 CHAIRMAN HAYCOCK: Which letter are you talking

1 about now?

2 MS. REYNOLDS: September 25th, '95. This is
3 Attachment number 6.

4 CHAIRMAN HAYCOCK: Okay. These attachments are
5 hard to find.

6 MR. ROBERTS: Mr. Chairman, Edgar Roberts.

7 CHAIRMAN HAYCOCK: Yes, sir?

8 MR. ROBERTS: Could we have the lady who was
9 talking state her name and title?

10 MS. REYNOLDS: I'm Rose Marie Reynolds, and I'm
11 with the Attorney General's Office.

12 MR. ROBERTS: Okay. Thank you very much.

13 MS. REYNOLDS: You'll notice, in that last
14 paragraph, that Mr. Cerruti offered Model T an
15 opportunity, if you have -- "if you wish to appeal this
16 decision to the State Board to Review Claims" where he's
17 notifying them that the deductible is not going to
18 apply, the co-pay is going to apply. He's notified
19 them, and he's told them here "you have an opportunity;
20 if you wish to appeal, please appeal."

21 This letter is dated September 25th, '95. We
22 are now almost 13 years later; we are now hearing this
23 matter.

24 There's a long-standing principle when it comes
25 to legal interpretation. And this is holdings by the

1 Nevada State Supreme Court, specifically the Sierra
2 Pacific Power Company vs. Department of Taxation case
3 from 1980, that states when ample opportunity exists for
4 the legislature to amend the language of a statute or
5 the way the agency has interpreted it, and it has not
6 done so, then it must be deemed not to have desired a
7 changed statutory definition.

8 If the legislature did not like the way the
9 Board was interpreting S.B. 121 in 1995, it has had,
10 what, 13 years to go and change that. And they have not
11 done so.

12 So I believe that the Board's interpretation of
13 the way -- and the way it has been applying that through
14 its resolution is correct.

15 MR. DROZDOFF: Well -- This is Leo Drozdoff.
16 Along those lines, I guess, that was going to be my
17 question of Tracy, which is you found a -- Tracy, you
18 found a lot of -- your correspondence is very good,
19 through '94 and '95. Do you -- Did you find any --
20 anything along those lines following either the Board's
21 action or Mr. Cerruti's letter, did you find anything
22 that said, you know, there was an effort to contest
23 that, or did it just kind of stop?

24 MR. JOHNSTON: Yeah, I'd like to speak to that.
25 And I have one other comment. No, I didn't really, I

1 didn't find anything where it was -- I think, they -- it
2 is my understanding they kind of relied on the C.E.M. to
3 be, you know, taking a lead on this thing as far as
4 getting this thing going.

5 And, I believe, they just accepted the fact
6 that the -- You know, we're not questioning the
7 resolution or the Board's interpretation of the
8 resolution. I want to be clear on that. We're not
9 questioning that. That's not what this argument's
10 about. The argument is about, simply, that, you know,
11 we understand the July 1st, 1995 date and what the
12 resolution is. We're saying there should have been some
13 action taken by the Board before then. That's all.
14 There should have been, you know, something. But there
15 wasn't.

16 MR. DROZDOFF: But there should have been --

17 MR. JOHNSTON: But there wasn't, you know. So.

18 CHAIRMAN HAYCOCK: You know, I hate to be the
19 guy to introduce logic into this, but I'm not sure if it
20 would have been in the best interest of Model T at that
21 time to protest that the actual 10 percent may have
22 saved them money. They had no idea what the ultimate
23 cost of this project was going to be until probably some
24 time much closer to right now. Is that a correct
25 statement, Tracy?

1 MR. JOHNSTON: I would say they had no, no
 2 idea. I think, they -- you know, not because they
 3 didn't have an idea, I'm sure would say, you know, we
 4 want to make sure we stay with this, you know, the
 5 original deductible. I don't think there -- you know,
 6 that the thought was, in my mind, that they did not
 7 appeal this because they thought it was going to save
 8 them money. I think, they thought it was, this was a
 9 sign to them. They get this letter after, and just in
 10 September 1995, after S.B. 121 had been taken effect,
 11 and said, "Well, I guess, we can't do nothing about it.
 12 And whatever it's going to cost, it's going to cost."

13 Certainly, they -- I don't think they knew at
 14 that time what the cleanup cost was going to be, even
 15 though there were -- there was probably some estimates
 16 and stuff, which had not held true, you know, on what it
 17 was going to cost. But I don't believe that's the
 18 reason why it wasn't appealed. I think, they just
 19 didn't realize it could be appealed, you know. And I
 20 think --

21 CHAIRMAN HAYCOCK: Can you talk a little bit
 22 about the ownership of Model T. When the incident
 23 occurred, it was owned by -- How do you say his last
 24 name?

25 MR. DROZDOFF: Bengochea.

1 MR. JOHNSTON: Tim Bengochea, yes, correct.

2 And then it was --

3 CHAIRMAN HAYCOCK: Okay. And you said that he
4 is no longer the owner. When did ownership change, and
5 what were the circumstances there?

6 MS. PUGH: It was 2005.

7 MR. JOHNSTON: Julie Pugh indicated to me it
8 was 2005. That's when. And Julie, of the Model T,
9 that's about the time that she took over responsibility
10 for this. That's when she had decided to make a change
11 on that. The C.E.M. and everything didn't like the way
12 it was going, or whatever. And so her involvement
13 didn't start until about 2005, which is where they got
14 us involved.

15 CHAIRMAN HAYCOCK: Okay. But are we talking
16 about ownership or just management?

17 MR. JOHNSTON: Ownership. Ownership changed in
18 2005. Mr. Bengochea no longer owns the facility.

19 CHAIRMAN HAYCOCK: Okay. It was bought by who?

20 MS. PUGH: Holder Hospitality Group.

21 MR. JOHNSTON: Holder Hospitality Group.

22 CHAIRMAN HAYCOCK: Okay. I guess, my question
23 was, or is, the new owner bought this knowing that there
24 was this environmental situation. Is that a correct
25 statement?

1 MR. JOHNSTON: Yes.

2 CHAIRMAN HAYCOCK: And knowing everything
3 really, or at least having the opportunity to know
4 everything that the Board now knows based on your
5 submittal. And, I guess, one way of looking at it is
6 that that owner bought it and paid a fair market price
7 based on the situation as it was at that time, which was
8 a 10 percent co-pay.

9 And at this time -- And I can think of a lot of
10 reasons to argue either way. But at this time, any
11 change to that co-pay scenario which would result in the
12 benefit of Model T would be somewhat of a windfall to
13 the new owner, is the way I see it.

14 I guess, one of the things, you know, the Board
15 is somewhat bound to do what's legal. And you've got
16 counsel here telling us what's legal. And it's pretty
17 hard to go in the face of that without, really without
18 due cause. And if you have followed this Board at all,
19 you know that we take every opportunity to give the
20 benefit to the claimant when possible.

21 And I've looked at this, and I've read it. I
22 think you did a marvelous job of presenting these facts.
23 And I looked at several different things that, you know,
24 perhaps we could hang our hat on. I'm not sure that any
25 of them, in my mind, hold water at this time, you know,

1 based on asking counsel to review them.

2 Go ahead.

3 MR. DROZDOFF: This is Leo Drozdoff. I am, I'm
4 sympathetic to the cause. But, I guess, here's -- and
5 the issue John, the Chairman, has raised with regard to
6 ownership is a good thorough one. But the two that sort
7 of stuck out for me, getting ready for this meeting, the
8 two points that sort of mean the most to me were -- The
9 first issue was the point that Edgar looked at, which is
10 that the Board -- And, certainly, I wasn't around at the
11 time. But the Board modeled a variety of options,
12 including option A, where they could have just said,
13 "Look, if we got a receipt here for request for
14 reimbursement, that's what we go on." And that didn't
15 fly. What changed was they added the sentence "and
16 received Board action."

17 So I've got to believe that there was some
18 level of deliberation that took place to come up with
19 that issue.

20 And then the second point was what I was
21 referring to earlier, which is that I asked Mr. Johnston
22 about, which is, you know, Gil Cerruti's letter in
23 September was pretty -- actually, was pretty clear, that
24 said this is what's been decided. But you have a chance
25 to come forward and take a look at it and make your

1 case.

2 And, I guess, you know, I don't know, 13 years
3 later seems a little bit late to make that case. So I
4 mean I am sympathetic. I think that had this case that
5 Mr. Johnston is making now, in 2008, been made in, you
6 know, September or October of 1995, maybe I would have
7 been swayed. But those kind of rang true to me.

8 And then the issue that Chairman Haycock
9 raised, which is that the ownership change in 2005 took
10 place. McGinley didn't take over until February of this
11 year. So they were operating under the assumption of
12 what this would cost.

13 So, I guess, I'm -- all of those, plus Rose
14 Marie's rather eloquent discussion on point, kind of
15 leads me to the place where I would not be supporting
16 this request.

17 CHAIRMAN HAYCOCK: Yes, sir?

18 MR. ROSS: George Ross. The 53 facilities and
19 similar situations that were -- as I understand it
20 correctly, that meant there were 53 facilities who had,
21 essentially, submitted some early paperwork but yet had
22 not had Board approval. Am I reading that, hearing that
23 correctly?

24 MR. KOTTLER: That's correct, Mr. Ross.

25 MR. ROSS: So when they passed what they did

1 pass on September 15th, the resolution they did pass,
2 they passed that knowing that there were actually 53
3 programs or 53 stations that had this issue, when they
4 were sent that letter. I would imagine, without
5 having -- I, obviously, wasn't there. But I would
6 imagine that they must have said to themselves, "We'll
7 send them a letter, we'll give them a chance to appeal,
8 and then we can look at it on a case-by-case basis." If
9 there seems to be a, you know, compelling reason on the
10 particular case, then they had, obviously, the
11 opportunity to do so.

12 I know, from my own experience in my other
13 life, that what the attorney general said with regard to
14 legislature on regulations and interpretations is
15 extremely true. They get very involved when they don't
16 like something going on.

17 CHAIRMAN HAYCOCK: Is there any other
18 discussion from the Board?

19 Are there any final comments from
20 representatives of the Model T?

21 The Chair would entertain a motion relative to
22 this Agenda item.

23 Or not. If there's no motion, I guess, it
24 dies.

25 Is there any motion relative to this action

1 item or potential action item, this Agenda item?

2 MR. ROBERTS: This is Edgar Roberts, for the
3 record.

4 CHAIRMAN HAYCOCK: I'm sorry. Go ahead.

5 MR. ROBERTS: Mr. Chairman, Edgar Roberts, for
6 the record. In light of the September 25th, 1995 letter
7 allowing them to appeal, at the bottom of the letter,
8 and no appeal came forth, I would move to not entertain
9 granting them the 10 percent co-pay and -- and stay with
10 the intention of S.B. 121.

11 CHAIRMAN HAYCOCK: Okay. So your motion is
12 to --

13 MR. ROBERTS: Deny the --

14 CHAIRMAN HAYCOCK: -- is to deny the
15 application, or the --

16 MR. ROBERTS: The request.

17 CHAIRMAN HAYCOCK: -- most recent request?

18 MR. ROBERTS: Most recent request for
19 reduction.

20 CHAIRMAN HAYCOCK: Okay.

21 MR. DROZDOFF: I'll -- This is Leo Drozdoff.
22 I'll second it so we could -- so I could ask one
23 question.

24 CHAIRMAN HAYCOCK: Okay. The motion's been
25 made and seconded. Is there discussion of the motion?

1 MR. DROZDOFF: I requested to Rose -- This is
2 Leo Drozdoff again. My question is, is it better form,
3 does it make sense to -- as opposed to just letting
4 something die, to take an affirmative -- to make a
5 statement one way or another?

6 MS. REYNOLDS: Yes.

7 MR. DROZDOFF: Okay.

8 CHAIRMAN HAYCOCK: I guess, I have -- As long
9 as it's open to discussion, there's something in my mind
10 that's kind of on the periphery and probably doesn't
11 hold legal water, but it's worth asking. Is there any
12 liability on the part of NDEP or the Board for taking an
13 undue amount of time to address this claim, which
14 resulted in the financial hardship for financial
15 detriment to the claimant? Because it did take over six
16 months.

17 MS. REYNOLDS: Correct. But on the opposite
18 side, you've got them waiting six months to actually
19 submit the claim from when they received notification
20 that it's been accepted. They submitted their claim on
21 the last day that was possible, which was April 1, '95.
22 They were notified back in September of '94. So it's --
23 it's a wash. They waited six months to do anything.

24 CHAIRMAN HAYCOCK: Okay. I'm not asking for a
25 decision as to whether they would ever win any kind of a

1 lawsuit.

2 MS. REYNOLDS: Right.

3 CHAIRMAN HAYCOCK: Just is there, is there
4 danger of a lawsuit in this case, or would we
5 potentially have any liability for their part in it?

6 MS. REYNOLDS: I don't --

7 CHAIRMAN HAYCOCK: If your opinion, you're
8 saying probably not.

9 MS. REYNOLDS: Probably not, no.

10 CHAIRMAN HAYCOCK: Okay. All right. Okay. we
11 have a motion is a second. Is there any other
12 discussion of the motion?

13 All in favor of the motion, say "aye."

14 (The members said "aye.")

15 CHAIRMAN HAYCOCK: Opposed?

16 The motion carries.

17 Thank you very much for your efforts on this.
18 You did a very good job.

19 Let's move on the Agenda to item number VI,
20 which is an Adoption of Consent Items.

21

22 VI. ADOPTION OF CONSENT ITEMS (ACTION)

23 The Board will review all items marked with a pound sign
24 (#) as a consent calendar item, unless a member of the
public wishes to speak in regard to a certain issue.

25

PETROLEUM BOARD MEETING, 06-05-08

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE BOARD TO REVIEW CLAIMS
JUNE 5, 2008

A: HEATING OIL

1.# 1992000102H Lyon County School District:
Yerington Elementary
2.# 1999000232H Dan Anderson: Former Springer
Residence
3.# 2006000020H Bruno Benna: Benna Residence
4.# 2006000021H Andrea Nichols: Nichols Residence
5.# 2007000013H Churchill County School District: Bus
Barn

B: NEW CASES, OTHER PRODUCTS:

1.# 1999000043 Chevron USA Products Company: Chevron
#9-7537
2.# 1999000064 Al Park Petroleum, Inc.: Conoco Pit
Stop
3.# 2004000039 Clark Co. Dept. of Aviation: Frmr
National Car Rental
4.# 2007000014 Ace Cab Company, Inc.: Ace Cab
Company
5.# 2007000016 TOC Holdings Company: Former Time Oil
Facility

C: ON GOING CASES/OTHER PRODUCTS:

1.# 1992000014 BP West Coast Products, LLC: ARCO
#6068
2.# 1992000034 PDQ Food Stores, Inc.: PDQ #508
3.# 1992000087 Anderson Dairy, Inc.: Anderson Dairy
4.# 1993000011 7-Eleven, Inc.: 7-Eleven #29646
5.# 1993000051 BP West Coast Products LLC: ARCO
#4950
6.# 1993000102 Rebel Oil Company: Rebel #8
7.# 1993000103 Russell Yardley: Charlie Brown
Construction
8.# 1993000115 City of Fallon: Former Bootlegger
Texaco
9.# 1994000003 Allied Washoe: Allied Petroleum
10.# 1994000037 Manjeet Sodhi and/or Broadbent: Gofer
Market
11.# 1994000065 Avis Rent A Car Systems: Former Avis
Rent A Car
12.# 1994000067 Peppermill, Inc.: Former Peppermill
Truck Stop

PETROLEUM BOARD MEETING, 06-05-08

1	13.#	1994000086	Falconi Motors, Inc.: Falconi's Tropicana Honda
2	14.#	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop
3	15.#	1994000120	Conoco Phillips Company: Union 76 #3846
4	16.#	1994000122	Ron or Gary Michelsen: Mike's Gas-A-Mart
5	17.#	1994000125	Conoco Phillips Company: Union 76 #5558
6	18.#	1995000012	Model T Casino: Parker's Model T
7	19.#	1995000028	Gita Corporation: Gita Corporation Facility
8	20.#	1995000029	BP West Coast Products, LLC: ARCO #1903
9	21.#	1995000039	Al Park Petroleum, Inc.: Crescent Valley Market
10	22.#	1995000042	FBF, Inc.: Fayeghi Texaco
11	23.#	1995000080	Churchill County: Churchill County Road Department
12	24.#	1995000094	Harrah's Operating Company: Former Caesar's Tahoe
13	25.#	1995000105	Redman Petroleum Corp.: Redman Petroleum
14	26.#	1995000110	Chevron USA Products Company: Chevron #9-2836
15	27.#	1995000142	7-Eleven, Inc.: 7-Eleven #29644
16	28.#	1996000026	Moapa Valley Credit Union: Former Russ Auto
17	29.#	1996000063	Joan Pennachio: V&V Automotive
18	30.#	1996000064	H&A Esslinger Trust: Red Rock Mini Mart
19	31.#	1996000101	Conoco Phillips Company: Circle K #695
20	32.#	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility
21	33.#	1997000024	BP West Coast Products, LLC: ARCO #399
22	34.#	1997000093	Conoco Phillips Company: Union 76 #5257
23	35.#	1998000025	Washoe County School District: Getto Transportation
24	36.#	1998000046	Willdens Automotive Holdings: Allstate Rent A Car
25	37.#	1998000068	Conoco Phillips Company: Conoco #28003
26	38.#	1998000073	City of Reno: City of Reno Police Station

PETROLEUM BOARD MEETING, 06-05-08

1	39.#	1998000075	Anne Dufurrena: McDermitt Service Motel
2	40.#	1998000080	Seven Crown Resorts: Echo Bay Resort
	41.#	1999000007	7-Eleven, Inc.: 7-Eleven #21850
3	42.#	1999000011	Terrible Herbst Oil Company: Terrible Herbst #133
4	43.#	1999000012	BP West Coast Products LLC: ARCO #5319
5	44.#	1999000015	Terrible Herbst Oil Company: Terrible Herbst #144
6	45.#	1999000017	Reed, Inc.: Reed R-Place Shell
	46.#	1999000022	Terrible Herbst Oil Company: Terrible Herbst #129
7	47.#	1999000029	Terrible Herbst Oil Company: Terrible Herbst #136
8	48.#	1999000042	Chevron USA Products Company: Chevron #9-2567
9	49.#	1999000061	Rich Sorani: Former Rich's Unocal
10	50.#	1999000066	HP Management, LLC: Former Haycock Petroleum
11	51.#	1999000086	Terrible Herbst Oil Company: Terrible Herbst #126
12	52.#	1999000090	HP Management, LLC: Former Haycock Petroleum
13	53.#	1999000104	Terrible Herbst Oil Company: Terrible Herbst #118
14	54.#	1999000108	Gold Ranch Casino: Gold Ranch Casino
	55.#	1999000135	Terrible Herbst Oil Company: Terrible Herbst #106
15	56.#	1999000137	Terrible Herbst Oil Company: Terrible Herbst #152
16	57.#	1999000155	Varney Padgett: Old Washoe Station
17	58.#	1999000162	Terrible Herbst Oil Company: Terrible Herbst #159
18	59.#	1999000167	City of Las Vegas: Fire Station #1
	60.#	1999000186	Gloria Pilger: Former D&G Oil Facility
19	61.#	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station
20	62.#	1999000204	Berry-Hinckley Industries: Trailside General Store
21	63.#	1999000224	BP West Coast Products LLC: ARCO #5326
22	64.#	1999000244	7-Eleven, Inc.: 7-Eleven #22070
23	65.#	1999000257	University of Nevada: Newlands Agriculture
24	66.#	1999000273	V.K. Leavitt: The Waterhole
25	67.#	1999000275	Conoco Phillips Company: Circle K #1248

PETROLEUM BOARD MEETING, 06-05-08

1 68.# 1999000276 Robert Harris: Pecos Station Texaco
69.# 2004000013 Jesse Jhawar: Nevada Nanak Petroleum
2 70.# 2004000014 BP West Coast Products LLC: ARCO #437
71.# 2004000025 New Castle Corporation: Former ARCO
3 #1580
72.# 2004000027 BP West Coast Products LLC: ARCO
4 #5309
73.# 2004000029 V-R Property Management: Gas-N-Save
5 74.# 2005000002 Carson Valley Oil Co., Inc.: Carson
Valley Oil
6 75.# 2005000018 BP West Coast Products LLC: ARCO
#1718
7 76.# 2005000021 Berry-Hinckley Industries: Berry-
Hinckley #95
8 77.# 2005000025 Bordertown, Inc.: Winner's Corner
78.# 2005000039 TOC Holdings Company: Taylor Street
9 Market
79.# 2005000039 Petrosun Fuel, Inc.: Taylor Street
10 Market
80.# 2005000044 Ewing Brothers, Inc.: Ewing Brothers
11 Facility
81.# 2006000007 7-Eleven, Inc.: 7-Eleven #33022
12 82.# 2007000002 Consolidated Nevada Corp.: Berry-
Hinckley #201
13 83.# 2007000003 7-Eleven, Inc.: 7-Eleven #29648
84.# 2007000004 7-Eleven, Inc.: 7-Eleven #29660
14

15 CHAIRMAN HAYCOCK: The Chair would entertain a
16 motion to approve Consent Items.

17 MR. ROBERTS: So moved. Edgar Roberts, for the
18 record.

19 CHAIRMAN HAYCOCK: Mr. Roberts, could you be
20 specific on your motion. Is it to -- Is your motion to
21 approve every Consent Item listed in 1 through 84?
22 Actually, 1 to 5 --

23 MR. ROBERTS: One --

24 CHAIRMAN HAYCOCK: Okay. So, specifically, the
25 motion is to approve Consent Items: Heating Oil, 1

1 through 5; New Cases, Other Products, 1 through 5;
2 Ongoing Cases, 1 through --

3 MR. ROBERTS: 84.

4 CHAIRMAN HAYCOCK: -- 84. Is that correct?

5 MR. ROBERTS: Correct.

6 CHAIRMAN HAYCOCK: Okay. So that's your
7 motion.

8 Do we have a second to the motion?

9 MR. DROZDOFF: Leo Drozdoff. Second.

10 CHAIRMAN HAYCOCK: We have a motion and a
11 second. Is there discussion of the motion?

12 The Chair would like to acknowledge that cases
13 number 50 and 52, HP Management, LLC, that I am the
14 managing partner of HP Management, LLC. And I don't
15 know if I have to state on those two --

16 MS. REYNOLDS: Yes.

17 CHAIRMAN HAYCOCK: -- or just acknowledge that
18 it wouldn't prejudice me. What would you recommend?

19 MS. REYNOLDS: I would abstain.

20 CHAIRMAN HAYCOCK: Does it take two votes? So
21 I will be abstaining on those two.

22 MR. ROSS: George Ross. I need to acknowledge
23 that I hold options as a -- stock options as a former BP
24 employee. And, therefore, under 1, Ongoing Cases, 1, 5,
25 20, 33, 43, 63, 70, 72 and 75, where BP Properties, ARCO

1 Properties before that, they would have a -- such a
2 minute impact on BP's profitability of stock price, that
3 I will vote, unless instructed otherwise by the A.G.

4 MS. REYNOLDS: You're fine.

5 CHAIRMAN HAYCOCK: Is there any other
6 discussion?

7 We have a motion and a second on the table.

8 All in favor of the motion, say "aye."

9 (The members said "aye.")

10 CHAIRMAN HAYCOCK: Opposed?

11 The motion carries.

12 Agenda item number VII, Executive Summary.

13 MR. KOTTLER: Mr. Chairman, members of the
14 Board, for fiscal year 2008, which began July 1st of
15 2007, NDEP has received three new cases for evaluation
16 of Petroleum Fund coverage. And since the inception of
17 the Fund, 1,309 cases have been evaluated for
18 reimbursement. 164 of those are active remediation
19 cases that are expected to continue with requests for
20 reimbursement. 964 cases have been closed. 111 cases
21 have been denied coverage. And 44 cases expired where
22 the initial claim was not submitted within 12 months of
23 discovery date, and there was no appeal. 18 cases are
24 currently in pending status awaiting submittal of
25 additional information or initial staff evaluation for

1 coverage.

2 Not counting this Board meeting authorizations,
3 just under \$141 million has been reimbursed from the
4 Petroleum Fund to date. Including today's reimbursement
5 recommendations, \$143.3 million will have been
6 reimbursed from the Petroleum Fund to date.

7 Invoicing for tank enrollment into the Fund for
8 fiscal year 2008, which runs from October 1st, 2007 to
9 September 30th, 2008, commenced on August 8th, 2007.
10 1,428 facilities were invoiced at \$100 per petroleum
11 tank system. And as of May 12th, 2008, 1,383
12 approximately 97 percent of the facilities, have paid.

13 CHAIRMAN HAYCOCK: Okay. Are there any
14 questions?

15 In the minutes of the previous Board meeting,
16 which I was not in attendance, I read that Ms. Winchell,
17 on behalf of Mr. Roberts, asked about increasing the end
18 Fund balance, to which the Board said that would require
19 some more thought and research and would bring it up at
20 the next Board meeting. Is there any life to that
21 thought at this time?

22 MR. KOTTLER: It's my understanding that
23 members of NDEP have consulted with DMV regarding this
24 issue.

25 CHAIRMAN HAYCOCK: The members of the DMV have

1 consulted with who?

2 MR. KOTTLER: They've consulted with
3 administrators from NDEP regarding this issue.

4 CHAIRMAN HAYCOCK: Okay. So it is still under
5 consultation?

6 MR. ROBERTS: Edgar Roberts, for the record. I
7 did speak with Allen about it. And at this time frame,
8 they will not be moving forward on it, for
9 recommendation to increase the Fund balance or -- the
10 Fund balance.

11 CHAIRMAN HAYCOCK: Okay. All right. So it was
12 followed up on and denied, or the decision was made not
13 to follow up on it?

14 MR. ROBERTS: Correct.

15 CHAIRMAN HAYCOCK: Okay.

16 Okay. Are there any other questions before we
17 move to Agenda item number VIII?

18 Okay. The Public Forum, this is the
19 opportunity for members of the public to speak before
20 the Board on any issue, any issue that was not included
21 in the agenda.

22 MR. BIAGGI: Good morning, Mr. Chairman,
23 committee members. My name is Allen Biaggi. I'm the
24 Director of the Department of Conservation and Natural
25 Resources. I don't attend these meetings as much as I

1 should. And I certainly miss participating on the
2 Board, which I did for six years.

3 All I wanted to say was just how pleased I am
4 to see this Board still as efficient and as effective as
5 it always has been.

6 Mr. Chairman, your leadership for all these
7 years has been exemplary. And I want to thank you and
8 the rest of the Board for it.

9 And this is the first time that I've been to a
10 board meeting with Mr. Drozdoff on the Board itself and
11 with Mr. Kottler running it. And I think they're both
12 bringing a new level of professionalism to it.

13 So I want to thank everyone involved.

14 CHAIRMAN HAYCOCK: Thank you for those
15 comments, Allen. And I would certainly agree relative
16 to the Administrator of the Fund. Bennett Kottler has
17 been doing an exceptional job. We really, really are
18 fortunate to have him.

19 Are there any other comments from the public?

20 MR. KOTTLER: Mr. Chairman, I would like to
21 raise an issue. It's come to my --

22 CHAIRMAN HAYCOCK: Please identify yourself.

23 MR. KOTTLER: This is Bennett Kottler.

24 CHAIRMAN HAYCOCK: Okay. I thought so.

25 MR. KOTTLER: Thank you.

1 It's come to my attention that most members of
2 the Board are relatively new. And in consideration that
3 many of the resolutions, in particular the site-specific
4 resolutions, really presume a high level of technical
5 and policy knowledge in regard to UST systems and in
6 regard on how the Fund operates, I wanted to raise to
7 the Board the potential of having a half-day workshop
8 following one of the Board meetings, and that it could
9 be open as well to different topics that Board members
10 would be interested in. We have done that previously,
11 or in the history of the Fund, that's been done
12 previously, to the benefit of Board members and pleasure
13 of the Chairman.

14 So I'd like to raise that as a matter of
15 discussion.

16 CHAIRMAN HAYCOCK: Taking a quick poll of the
17 other members of the Board here in Las Vegas, I think
18 that they certainly think that that would bring benefit,
19 if you are willing to put that together.

20 MR. KOTTLER: M-hm, yes, I would be. So it's
21 good to know that there is the interest in that.

22 And a potential topic is, essentially, overview
23 of UST systems and their implications for Fund
24 resolutions. We could have both the staff of the UST
25 program, as well as members of the Petroleum Fund staff,

1 review UST components and release protection, with an
2 eye towards resolutions that the Fund presents where
3 there may be concerns about noncompliance or reasons why
4 the Petroleum Fund staff may recommend reductions or
5 even denial.

6 CHAIRMAN HAYCOCK: Do you envision that that
7 venue would be up north?

8 MR. KOTTLER: Whatever pleases the Board. If
9 the majority of Board members are located down south,
10 then staff would be more than happy to travel down
11 south. It does seem like having us all in one location,
12 again, for a half-day workshop, would be most
13 beneficial.

14 CHAIRMAN HAYCOCK: Okay. All right. Yes, I'd
15 say go ahead and pull up on those plans. And I'm told
16 that the venue probably is irrelevant, based on where
17 staff is. So whatever you think. I perceive that
18 there's a high level of interest from members of the
19 Board, particularly those who are fairly new.

20 Having said that, is there any other -- I
21 think, we have one more Agenda item, which is the
22 confirmation of the next meeting, September 4th, 2008.

23 Does anybody have a problem with that?

24 All right. If nobody has a problem with
25 September 4th, which is a Thursday, as the next meeting

1 date, we'll consider that pretty much set in stone.

2 Is there any other action to come before the
3 members of the Board or staff?

4 That said, this meeting stands adjourned.

5 * * * * *

6 (The meeting adjourned at 10:58 a.m.)

7 -oOo-

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

REPORTER'S CERTIFICATE

I, SHANNON L. TAYLOR, a Nevada Certified Court Reporter, Nevada CCR #322, do hereby certify:

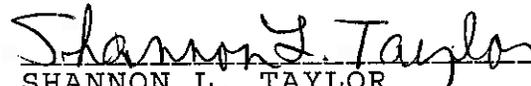
That I was present at the Department of Conservation and Natural Resources, The Bryan Building, 901 South Stewart Street, 2nd Floor, Tahoe Hearing Room, Carson City, Nevada, on Thursday, June 5, 2008, and commencing at 10:00 a.m. took stenotype notes of a meeting of the State of Nevada, Petroleum Board to Review Cases;

That I thereafter transcribed the aforementioned stenotype notes into typewriting as herein appears, and that the foregoing transcript, consisting of pages 1 through 48, is a full, true, and correct transcription of said stenotype notes of said meeting;

That the Item VI. Adoption of Consent Items, which includes a list of items, has been inserted into this transcript, beginning on page 35, line 22, and ending on page 39, line 13.5, at the request of the Bureau of Corrective Actions, Department of Conservation & Natural Resources, Nevada Division of Environmental Protection, and is not a part of the verbatim portion of this transcript but is included for reference purposes;

I further certify that I am not an attorney or counsel for any of the parties, not a relative or employee of any attorney or counsel connected with the actions, nor financially interested in the actions.

DATED: At Carson City, Nevada, this 7th day of July, 2008.


SHANNON L. TAYLOR
Nevada CCR #322, RMR

ORIGINAL