

**STATE BOARD TO REVIEW CLAIMS  
BOARD MEETING MINUTES  
JUNE 11, 2009**

**I. CALL TO ORDER**

Chairman Haycock called the meeting to order from the Carson City location at 10:00 a.m. The meeting was conducted via videoconference with locations in Las Vegas at the College of Southern Nevada, 3200 E. Cheyenne Ave., Room 2638, and in Carson City at the Bryan Building, 901 S. Stewart St., 2<sup>nd</sup> Floor Tahoe Hearing Room.

**A. CARSON CITY: BOARD MEMBERS PRESENT**

Chairman – Mr. John Haycock, Independent Dealers of Petroleum  
Ms. Dawn Lietz, Department of Motor Vehicles (DMV)  
Ms. Maureen Tappan, General Public  
Mr. James Wright, State Fire Marshall’s Office – State Fire Marshal

**CARSON CITY: BOARD MEMBERS ABSENT**

None

**OTHERS PRESENT IN CARSON CITY**

Mr. Bennett Kottler, Ms. Victoria Joncas, Mr. Steve Fischenich,  
Mr. Hayden Bridwell, Mr. Joe Sawyer, Mr. Greg Lovato,  
Mr. Sam Jackson and Ms. Teresa Larson,  
Nevada Division of Environmental Protection (NDEP)  
Mr. Allen Biaggi, Department of Conservation and Natural Resources  
Mr. Matt Herrick, Broadbent and Associates, Inc.  
Ms. Carole Hyde and Ms. Denise Vessie, Peppermill, Inc.  
Mr. Mike Barrington, RDM Environmental, Inc.

**LAS VEGAS: BOARD MEMBERS PRESENT**

Mr. George Ross, Refiners of Petroleum  
Mr. Leo Drozdoff, NDEP

**LAS VEGAS: BOARD MEMBERS ABSENT**

Mr. John Meeters, Independent Retailers of Petroleum

**OTHERS PRESENT IN LAS VEGAS**

Ms. Rose Marie Reynolds, State Attorney General’s Office - Las Vegas  
Ms. Marlene Huderski, Ms. Gail Dansby Mr. Todd Croft and  
Mr. Jim Najima, NDEP  
Mr. Scott McNulty and Mr. Kirk Stowers, Broadbent and Associates, Inc.  
Mr. Andrew Stewart, ATC Associates, Inc.  
Mr. Keith Stewart, Stewart Environmental, Inc.  
Mr. Ty Salazar, Mr. Robert Folle and Mr. Tracy Campen,  
The Westmark Group

**OTHERS PRESENT IN LAS VEGAS: CONTINUED**

Mr. Mick Kurtz, Mick and Mac's Food  
Ms. Erin McMullen, Ace Cab Company  
Ms. Francois Alvandi, Big Daddy's Oil  
Ms. Linda Bullen, Lionel Sawyer & Collins  
Mr. Tony Pope, Kumiva Group

**II. APPROVAL OF THE AGENDA**

Mr. Kottler indicated there was a change on page five regarding the totals under On Going Cases/Other Products. He stated that the subtotal amount should be \$1,994,426.31 and the claims total amount should be \$2,089,063.50. The corrections were noted and approved by the Board.

**Ms. Tappan moved to approve the modified agenda. Mr. Wright seconded the motion. Motion carried unanimously.**

**III. APPROVAL OF THE MARCH 5, 2009 MINUTES**

**Ms. Lietz moved to approve the minutes with the corrections. Ms. Tappan seconded the motion. Motion carried unanimously.**

Chairman Haycock stated that the March minutes indicated Chairman Haycock called the meeting to order from the Carson City location. The Chairman was actually in the Las Vegas location. The correction was noted and approved by the Board.

**IV. PUBLIC FORUM**

Mr. Keith Stewart spoke on behalf of several entities including Stewart Environmental Inc. (SEI), the Western Petroleum Marketers Association (WPMA), and a claimant.

He stated that in the early to mid-1990's WPMA, Nevada Division of Environmental Protection (NDEP), and environmental consultants participated in establishing the Fund's Not-to-Exceed Proposal (NTEP) guidelines. He stated that the industry rarely see issues with them; however, the NDEP has requested that specific projects exceed the Fund's Cost Guidelines as well as industry Standards of Practice.

In regards to technical Standards of Practice, he stated that if the current standards are elevated then WPMA prefers workshops or discussions take place with NDEP.

In response to the Chairman's request for staff comment, Mr. Kottler noted that the Cost Guidelines were last updated in 2001, and that staff could conduct workshops to address Cost Guidelines. The Chairman stated that it is "probably time to take a look."

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

Mr. Kottler reported the status of the Fund for fiscal year 2009, which runs from July 1, 2008 through June 30, 2009. He stated the total cumulative revenue for the Fund is approximately \$12 million. There was balance forward of \$3.25 million from fiscal year 2008. In addition, approximately \$422,000 was collected from tank enrollment fees for registration of storage tanks, and approximately \$8.3 million was collected from the ¾ cent per gallon petroleum fund fee. Interest from the Fund was \$56,000. Total expenditures from the Fund were approximately \$7.2 million of which \$6.4 million was for reimbursement of claims. The remaining Fund balance was approximately \$4.9 million for the current fiscal year.

Mr. Kottler Stated today staff is recommending the approval of approximately \$2.1 million in reimbursements. If the Board approves all reimbursement recommendations, a balance of \$2.8 million will remain in the Fund.

Mr. Kottler announced that NDEP staff has made the final projection that the fiscal year 2009 year-end balance in the Petroleum Fund will end with a total of \$6.9 million. That amount is less than the \$7.5 million, the amount below which revised statute requires suspension of collection of the ¾ cent petroleum Fund fee. Mr. Kottler reported a letter has been forwarded to the DMV and Chairman Haycock, advising that Fund staffs' second and final recommendation is to continue collecting the fee through 2010, which begins on July 1, 2009.

## **VI. DETERMINATION OF FUND COVERAGE**

### **A. Resolution to Provide Reduced Petroleum Fund Coverage to Armored Transport, 1685 S. Palm St., Las Vegas, NV, Facility ID No. 8-000042, Petroleum Fund Case ID No. 1996000037, Resolution No. 2009-04**

Mr. Kottler indicated the subject facility previously received coverage in 1995 from the Fund. In 2001, after reviewing the file, Fund staff denied coverage noting that the facility was noncompliant with release detection requirements which it concluded was proximate cause of the release.

As a result of a 2009 request from the current owner, staff reviewed the case again. Mr. Kottler presented an argument that the lack of compliance with line leak detectors was not proximate cause of the release because a more sensitive annual tightness test of the systems was performed within 6 months of release discovery. Nonetheless, NDEP staff recommended that Fund coverage be reinstated with a 20% reimbursement reduction for failure to comply with release detection requirements.

**Ms. Tappan moved to approve Item No. VI.A and Mr. Wright seconded the motion. Motion carried unanimously.**

**B. Resolution to Provide Reduced Petroleum Fund Coverage to Zak's Mini Mart, 251 N. Nellis Blvd., Las Vegas, NV, Facility ID No. 8-001746, Petroleum Fund Case ID No. 2009000009, Resolution No. 2009-05**

Mr. Kottler noted the NDEP staff recommended the subject facility receive Fund coverage with a 20% reduction due to the fact the facility was out of compliance with federal financial responsibility requirements during the applicable fiscal year.

Chairman Haycock asked if there was anyone at the meeting representing the responsible party.

Mr. Stewart stated they agree with the resolution.

**Ms. Lietz moved to approve Item No. VI.B and Mr. Wright seconded the motion. Motion carried unanimously.**

**VII. REVIEW OF PAST BOARD DETERMINATION**

Reconsideration of Board Resolution No. 2008-05 granting coverage under the State of Nevada Petroleum Fund with a 40% Reduction to Flamingo AM/PM No. 82153, 209 E. Flamingo Rd., Las Vegas, NV, Petroleum Fund Case ID No. 2008000017, Facility ID No. 8-000019

Mr. Kottler gave a brief introduction to Resolution No. 2008-05, which was previously approved at the September 11, 2008 Board meeting.

Presentation were made by Mr. Keith Stewart and Ms. Linda Bullen, environmental consultant and attorney, respectively, for the owner of the subject facility.

The Board had an extended discussion which included the participation of Mr. Stewart, Ms. Bullen, and Mr. Todd Croft, Supervisor of NDEP's Las Vegas office's LUST and Remediation program.

**Mr. Drozdoff moved to reaffirm the Board's decision regarding Resolution No. 2008-05 from the September 11, 2008. Mr. Wright seconded the motion.**

**Chairman Haycock opposed.**

**Motion carried.**

## VIII. ADOPTION OF CONSENT ITEMS

Items marked with a single asterisk (\*) are consent 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 – JUNE 11, 2009

<u>HEATING OIL</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.	1992000102H	Lyon County School District: Yerington Elementary	\$3,927.38	\$3,927.38
2.	2006000020H	Bruno Benna: Benna Residence	\$2,469.15	\$2,469.15
3.	2007000013H	Churchill County School District: Bus Barn	\$17,043.60	\$17,043.60
4.	2009000013H	The Foothills at Wingfield: Hansen Ranch	\$1,725.00	\$1,725.00
5.	2009000015H	John or Mary Gardner: Gardner Residence	\$8,691.53	\$8,441.53
6.	2009000016H	D&T Limited Liability Company: United Construction	\$4,318.88	\$4,068.88
7.	2009000018H	Phil Satre: Satre Property	\$2,513.00	\$2,010.00
8.	2009000021H	Regional Transportation Comm.: 4th Street Bus Station	\$21,548.36	\$20,048.36
9.	2009000022H	Regional Transportation Comm.: 4th Street Bus Station	\$14,719.29	\$13,247.36
<b>HEATING OIL: SUB TOTAL:</b>			<b><u>\$76,956.19</u></b>	<b><u>\$72,981.26</u></b>

<u>NEW CASES/OTHER PRODUCTS</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.	2008000002	Boomtown Hotel & Casino: Boomtown Truck Stop	\$24,062.15	\$21,655.93
<b>NEW CASES, OTHER PRODUCTS: SUB TOTAL:</b>			<b><u>\$24,062.15</u></b>	<b><u>\$21,655.93</u></b>

<u>ON GOING CASES/OTHER PRODUCTS</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.	1992000014	BP West Coast Products, LLC: ARCO #6068	\$3,124.50	\$3,124.50
2.	1992000056	REALM: National Car Rental	\$76,663.72	\$76,310.66
3.	1992000087	Anderson Dairy, Inc.: Anderson Dairy	\$6,473.73	\$6,473.73
4.	1993000010	7-Eleven, Inc.: 7-Eleven #20687	\$10,051.08	\$9,045.98
5.	1993000011	7-Eleven, Inc.: 7-Eleven #29646	\$12,859.72	\$12,841.17
6.	1993000051	BP West Coast Products, LLC: ARCO #4950	\$3,518.07	\$3,501.75
7.	1993000102	Rebel Oil Company: Rebel #8	\$26,281.41	\$21,761.41

**ON GOING CASES/OTHER PRODUCTS: CONTINUED**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
8.	1993000103	Russell Yardley: Charlie Brown Construction	\$4,395.00	\$4,307.10
9.	1993000115	City of Fallon: Former Bootlegger Texaco	\$135,919.04	\$125,262.32
10.†	1994000003	Allied Washoe: Allied Petroleum	\$27,698.84	\$27,703.05
11.	1994000012	American Mart Corporation: DeLuca Liquor & Wine	\$7,220.25	\$7,220.25
12.	1994000028	7-Eleven, Inc.: 7-Eleven #20084	\$8,405.61	\$8,395.14
13.	1994000029	7-Eleven, Inc.: 7-Eleven #20826	\$37,532.41	\$28,096.99
14.†	1994000037	Sodhi and/or Broadbent: Gofer Market	\$1,567.50	\$3,668.50
15.	1994000037	Param Investments and/or Broadbent: Gofer Market	\$11,053.86	\$10,988.31
16.	1994000065	Avis Rent A Car Systems: Avis Rent A Car	\$35,047.57	\$32,789.18
17.	1994000067	Peppermill, Inc.: Former Peppermill Truck Stop	\$37,721.49	\$37,513.78
18.	1994000086	Falconi Motors, Inc.: Falconi's Tropicana Honda	\$67,603.17	\$67,469.84
19.	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop	\$61,010.98	\$61,010.98
20.	1994000120	Conoco Phillips Company: Union 76 #3846	\$15,498.37	\$13,945.08
21.	1994000122	Ron or Gary Michelsen: Mike's Gas-A-Mart	\$24,525.68	\$24,525.68
22.	1994000125	Conoco Phillips Company: Union 76 #5558	\$3,998.52	\$3,998.52
23.	1995000012	Model T Casino: Parker's Model T	\$72,821.36	\$65,539.22
24.	1995000028	Gita Corporation: Gita Corporation Facility	\$1,857.70	\$1,671.93
25.	1995000029	BP West Coast Products, LLC: ARCO #1903	\$4,867.61	\$4,380.85
26.	1995000042	FBF, Inc.: Fayeghi Texaco	\$38,958.95	\$34,928.05
27.	1995000105	Redman Petroleum Corp.: Redman Petroleum	\$13,188.27	\$11,869.44
28.	1995000142	7-Eleven, Inc.: 7-Eleven #29644	\$14,781.92	\$13,303.73
29.	1996000026	Moapa Valley Credit Union: Former Russ Auto	\$5,522.81	\$3,976.43
30.	1996000063	Joan Pennachio: V&V Automotive	\$9,591.65	\$8,632.48
31.	1996000064	H&A Esslinger Trust: Red Rock Mini Mart	\$40,890.52	\$28,907.07
32.	1996000100	Conoco Phillips Company: Circle K #1246	\$4,868.42	\$3,865.15
33.	1996000101	Conoco Phillips Company: Circle K #695	\$21,173.15	\$18,555.39
34.	1996000102	Conoco Phillips Company: Circle K #542	\$5,175.97	\$3,842.41
35.	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility	\$4,670.00	\$4,203.00
36.	1997000024	BP West Coast Products, LLC: ARCO #399	\$3,949.09	\$2,662.98
37.	1997000093	Conoco Phillips Company: Union 76 #5257	\$3,611.25	\$1,950.08
38.	1998000046	Willdens Automotive Holdings: Allstate Rent A Car	\$38,572.38	\$34,688.32
39.	1998000053	7-Eleven, Inc.: 7-Eleven #27361	\$21,773.94	\$4,889.69
40.	1998000068	Conoco Phillips Company: Conoco #28003	\$132,967.89	\$28,278.86
41.	1998000073	City of Reno: City of Reno Police Station	\$8,416.11	\$7,952.26
42.	1998000075	Anne Dufurrena: McDermitt Service Motel	\$8,422.18	\$7,579.96
43.	1998000080	Seven Crown Resorts: Echo Bay Resort	\$23,412.99	\$21,071.69
44.	1999000007	7-Eleven, Inc.: 7-Eleven #21850	\$11,667.53	\$10,496.19
45.	1999000011	Terrible Herbst Oil Company: Terrible Herbst #133	\$6,494.88	\$5,845.39

**ON GOING CASES/OTHER PRODUCTS: CONTINUED**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
46.	1999000015	Terrible Herbst Oil Company: Terrible Herbst #144	\$10,657.15	\$9,591.43
47.	1999000017	Reed, Inc.: Reed R-Place Shell	\$11,143.09	\$9,934.29
48.	1999000022	Terrible Herbst Oil Company: Terrible Herbst #129	\$26,028.36	\$22,874.09
49.	1999000029	Terrible Herbst Oil Company: Terrible Herbst #136	\$16,165.63	\$14,549.07
50.	1999000037	Longley Construction Company: Longley Construction	\$11,709.94	\$10,528.43
51.†	1999000048	Estate of Robert Cowan: Former Lightning Lube	\$19,809.10	\$21,868.55
52.	1999000052	Estate of Martin Wessel: Ted's Chevron	\$13,847.33	\$12,462.60
53.	1999000061	Rich Sorani: Former Rich's Unocal	\$49,498.75	\$49,498.75
54.	1999000066	HP Management, LLC: Former Haycock Petroleum	\$11,370.52	\$10,233.47
55.	1999000086	Terrible Herbst Oil Company: Terrible Herbst #126	\$39,492.31	\$35,543.08
56.	1999000090	HP Management, LLC: Former Haycock Petroleum	\$22,674.61	\$20,407.15
57.	1999000104	Terrible Herbst Oil Company: Terrible Herbst #118	\$28,557.61	\$25,701.85
58.	1999000108	Gold Ranch Casino: Gold Ranch Casino	\$10,953.53	\$7,480.79
59.	1999000135	Terrible Herbst Oil Company: Terrible Herbst #106	\$10,137.64	\$9,123.88
60.	1999000137	Terrible Herbst Oil Company: Terrible Herbst #152	\$10,327.74	\$9,294.96
61.	1999000155	Varney Padgett: Old Washoe Station	\$4,417.83	\$3,958.65
62.	1999000162	Terrible Herbst Oil Company: Terrible Herbst #159	\$9,390.45	\$8,451.41
63.	1999000167	City of Las Vegas: Fire Station #1	\$19,111.04	\$19,111.04
64.	1999000186	Gloria Pilger: Former D&G Oil Facility	\$18,094.58	\$12,405.91
65.	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station	\$48,596.25	\$43,736.62
66.	1999000204	Berry-Hinckley Industries: Trailside General Store	\$9,756.44	\$8,780.80
67.	1999000243	7-Eleven, Inc.: 7-Eleven #27607	\$45,153.59	\$24,382.93
68.	1999000244	7-Eleven, Inc.: 7-Eleven #22070	\$102,452.25	\$87,824.89
69.	1999000257	University of Nevada: Newlands Agriculture	\$20,621.42	\$20,621.42
70.	1999000273	V.K. Leavitt: The Waterhole	\$68,990.75	\$37,120.00
71.	1999000275	Conoco Phillips Company: Circle K #1248	\$12,422.03	\$10,061.85
72.	1999000276	Robert Harris: Pecos Station Texaco	\$4,643.64	\$4,179.27
73.	2004000013	Jesse Jhawar: Nevada Nanak Petroleum	\$13,210.82	\$7,133.84
74.	2004000025	New Castle Corporation: ARCO #1580	\$90,262.09	\$62,980.34
75.	2004000029	V-R Property Management: Gas-N-Save	\$8,125.85	\$7,313.26
76.	2005000002	Carson Valley Oil Co., Inc.: Carson Valley Oil	\$17,781.93	\$16,003.74
77.	2005000021	B-H Ind. dba Terrible's: Former Berry-Hinckley #95	\$40,366.06	\$36,329.45
78.	2005000025	Bordertown, Inc.: Winner's Corner	\$167,818.97	\$151,037.07
79.	2005000039	Petrosun Fuel, Inc.: Taylor Street Market	\$13,069.77	\$11,762.80
80.	2005000044	Ewing Brothers, Inc.: Ewing Brothers Facility	\$52,958.98	\$53,294.88
81.	2006000007	7-Eleven, Inc.: 7-Eleven #33022	\$9,216.95	\$8,295.26
82.	2007000002	Consolidated Nevada Corp.: Berry-Hinckley #201	\$6,295.76	\$5,656.06
83.	2007000003	7-Eleven, Inc.: 7-Eleven #29648	\$45,076.16	\$23,182.82

**ON GOING CASES/OTHER PRODUCTS: CONTINUED**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
84.	2007000004	7-Eleven, Inc.: 7-Eleven #29660	\$19,049.55	\$13,700.30
85.	2007000014	Ace Cab Company: Ace Cab Company	\$31,458.14	\$28,312.32
86.	2007000016	TOC Holdings Company: Former Time Oil #6-100	\$33,728.80	\$30,355.92
87.*	2008000017	Big Daddy's Oil, LLC: Flamingo AM/PM #82153	\$62,050.09	\$33,151.40
88.	2008000018	B-H Ind. dba Terrible's: Terrible's Store #830	\$21,281.43	\$16,777.89
89.	2008000019	Stop N Shop 2 Land, LLC: Stop N Shop #2	\$12,350.70	\$11,115.63
90.	2008000022	Haycock Petroleum Co.: Haycock Dist. Cardlock	\$3,345.00	\$3,010.50
91.	2008000023	Jacksons Food Stores, Inc.: Jacksons Food Store #27	\$9,216.58	\$8,150.92
92.	2009000008	Parampreet Inv., LLC: Chuck's Circle C Market	\$3,486.61	\$2,495.74

**ON GOING CASES/OTHER PRODUCTS: SUB TOTAL: \$2,432,000.91      \$1,994,426.31**

**REQUESTED      RECOMMENDED**

**CLAIMS TOTAL: \$2,533,019.25      \$2,089,063.50**

**Mr. Wright moved for approval of Item No. VIII, Heating Oil, 1 through 9, New Cases/Other Products, 1, On Going Cases/Other Products, 1 through 92.**  
**Mr. Drozdoff seconded the motion. Discussion followed.**

Mr. Ross disclosed he is a former ARCO and BP employee and still holds stock options, therefore under On Going Cases C, Item Numbers 1, 6, 26 and 36 all pertain to ARCO and BP West Coast Products Facilities. Mr. Ross also announced he is a member of the law firm which represents Ace Cab Company, Item Number 85; however, he stated that this will not affect his vote.

Chairman Haycock disclosed under On Going Cases C, Item Numbers 54 and 56, that he is the managing partner for HP Management LLC. Therefore, he recused himself from voting on those two items.

**Motion carried unanimously.**

## **IX. EXECUTIVE SUMMARY**

Mr. Kottler reported the status of the Fund for the fiscal year 2009, which began July 1, 2008. NDEP has received 23 new cases for evaluation of Petroleum Fund coverage. Since inception of the program, 1,343 cases have been evaluated for reimbursement. There are currently 196 active remediation sites expected to continue with requests for reimbursement. A total of 971 cases have been closed, 112 cases have been denied coverage, and 42 cases have expired (meaning that an initial claim was not submitted within 12 months from the date of discharge discovery and an appeal has not been filed). A total of 22 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 \$148.4 million has been reimbursed. Adding today's reimbursement recommendations, approximately \$150.5 million will have been reimbursed from the Petroleum Fund to date.

The invoicing for tank enrollment into the Fund for fiscal year 2009 commenced on August 20, 2008. 1,435 facilities have been invoiced at \$100 per petroleum tank system; as of May 5, 2009, 97% facilities have paid.

Lastly, Staff is currently withholding the processing of two claims totaling \$65,800.00 from Conoco Pit Stop #7 in Elko NV, which has been determined to be noncompliant by NDEP's Leaking Underground Storage Tank (LUST) program and issued a Findings of Alleged Violation and Order.

Shortly after this meeting in late June, the LUST program will be able to determine if the facility is in compliance. At the September meeting, Fund staff may be able to agendize the matter for the Board to consider if any adjustment in the level of Fund coverage is appropriate.

## **X. SELECTION OF VICE CHAIRMAN**

**Mr. Drozdoff nominated Mr. Ross for Vice-Chairman to the Board.**  
**Ms. Tappan seconded the motion.**

**Mr. Ross accepted the nomination.**

**Motion carried unanimously.**

## **XI. CONFIRMATION OF NEXT MEETING DATE**

It was confirmed that the next meeting date will be Thursday, September 10, 2009.

## **XII. ADJOURNMENT**

There being no further business, the meeting adjourned at 11:32 am.