

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
JUNE 9, 2011**

I. CALL TO ORDER

Chairman John Haycock called the meeting to order at 10:00 a.m. from the Las Vegas location. The meeting was conducted via videoconference with locations in Las Vegas, at the Nevada Division of Environmental Protection (NDEP), 2030 East Flamingo Road, Suite 230 and in Carson City at the Department of Conservation and Natural Resources, Bryan Building, 901 South Stewart Street, Tahoe Hearing Room.

A. BOARD MEMBERS PRESENT

Chairman John Haycock, Representative of independent petroleum dealers
Colleen Cripps, Ph.D., Nevada Division of Environmental Protection
Maureen Tappan, Representative of the general public
James Wright, State Fire Marshall
Wayne Seidel, Department of Motor Vehicles

BOARD MEMBERS ABSENT

Vice-Chairman George Ross, Representative of petroleum refiners
Mr. Michael Cox, Representative of the independent retailers of petroleum

OTHERS PRESENT

Bennett Kottler, Hayden Bridwell, Steve Fischenich, Gail White, Kevin Sullivan,
Xavier Tarango-Castorena, Michael Cabbie, Marlene Huderski, Todd
Croft, Chad Schoop, Jim Najima, NDEP
Rose Marie Reynolds, State Attorney General's Office – Las Vegas
Jasmine Mehta, State Attorney General's Office – Carson City
Peter Krueger, Nevada Petroleum Marketers and Convenience Store Association
Darin Galloway, Broadbent & Associates, Inc.
Scott Keesey, Broadbent & Associates, Inc.
Jeremy Holst, Broadbent & Associates, Inc.
Lawrence Banks, ATC Associates, Inc.
Keith Stewart, Stewart Environmental, Inc.
Daron Dorsey, Attorney representing Ace Cab
Russell Yardley, Charlie Brown Construction Company

II. APPROVAL OF THE AGENDA

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

III. APPROVAL OF THE MARCH 10, 2011 MINUTES

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

IV. PUBLIC FORUM

Mr. Peter Krueger, representing the Nevada Petroleum Marketers and Convenience Store Association spoke, and provided an update regarding review of Board Resolutions, as requested at the March 2011 meeting. Mr. Krueger and members of the industry have met and have begun reviewing the resolutions, and have been in contact with Mr. Jim Najima and Mr. Bennett Kottler. Mr. Krueger will present recommendations regarding the resolutions at the next Board meeting.

V. STATUS OF THE FUND

Mr. Kottler reported on the status of the State of Nevada Petroleum Fund (Fund) for fiscal year 2011, which runs from July 1, 2010 to June 30, 2011. The total cumulative revenue in the Fund for the current fiscal year was approximately \$17.3 million. Approximately \$8.5 million was the balance forwarded from fiscal year 2010. Approximately \$413,000 in fees were collected for storage tank enrollment into the Fund. Approximately \$8.3 million was collected from the ¾ cent per gallon Fund fee, and approximately \$29,000 is from interest earned. Total expenditures from the Fund were approximately \$7.5 million, of which approximately \$5.9 million was for payment of reimbursement claims.

Staff is recommending the approval of approximately \$2 million in reimbursements, leaving a Fund balance of approximately \$7.75 million if the Board approves all reimbursement recommendations. The amount of monies transferred to the Nevada State Highway Fund pursuant to fiscal year 2011 will be reported at the December meeting.

VI. DETERMINATION OF FUND COVERAGE

**A. Resolution No. 2011-02
Proposed Resolution to Provide Third Party Liability Coverage to
Charlie Brown Construction, 801 Colton Avenue, North Las Vegas, NV
Facility ID No. 8-000949, Petroleum Fund Case ID No. 1993000103**

Mr. Fischenich presented this Resolution. The Board originally granted Fund coverage to the site for a release from one storage tank system with a 2% reduction and a \$10,000 deductible, for a maximum reimbursable amount of \$970,000. As of this Board meeting the subject site has received approximately \$945,000 in Fund reimbursement. Contamination has spread offsite and further remediation is warranted. The owner/operator of the site has acknowledged that using third party liability funds for corrective actions will reduce the remaining funds in the event of a third party lawsuit.

NDEP recommends that the subject facility receives additional Fund coverage for third party liability with a maximum additional reimbursable amount of \$970,000.

Mr. Jeremy Holst from Broadbent & Associates, Inc., the certified environmental manager (CEM) for the site, stated that there were no objections regarding the resolution.

Ms. Cripps moved to approve Resolution 2011-02. Mr. Wright seconded the motion. There was no discussion. The motion carried unanimously.

**B. Resolution No. 2011-03
Proposed Resolution to Provide Third Party Liability Coverage to
Ace Cab Company, 5010 South Valley View Blvd., Las Vegas, NV
Facility ID No. 8-000204, Petroleum Fund Case ID No. 2007000014**

Mr. Fischenich presented this Resolution. The Board originally granted full Fund coverage to the site with a 10% copayment, for a maximum reimbursable amount of \$900,000. As of this Board meeting the subject site has received approximately \$827,000 in Fund reimbursement. Despite the progress that has been made remediating the site, contamination exceeding state action levels remains both onsite and offsite. The owner/operator of the site has acknowledged that using third party liability funds for corrective actions will reduce the remaining funds in the event of a third party lawsuit.

NDEP recommends that the subject facility receives additional Fund coverage for third party liability with a maximum additional reimbursable amount of \$900,000.

Mr. Daron Dorsey, an attorney representing Ace Cab, stated that there were no objections regarding the resolution.

Ms. Tappan moved to approve Resolution 2011-03. Ms. Cripps seconded the motion. There was no discussion. The motion carried unanimously.

**C. Resolution No. 2011-04
Proposed Resolution to Provide Reduced Petroleum Fund Coverage to the Former
Flying J Travel Plaza, 1880 West Winnemucca Blvd., Winnemucca, NV
Facility ID No. 5-000254, Petroleum Fund Case ID No. 2008000009**

Mr. Fischenich presented this resolution. The site is an operating truck stop in Winnemucca and is currently owned and operated by Pilot Travel Centers, LLC. (Pilot). The subject releases occurred under prior ownership by Flying J, Inc. Pilot is taking responsibility for remediating the site. The site has had releases from four UST systems. Releases from two diesel UST systems have been granted full Fund coverage.

In November, 2007, contamination associated with the gasoline releases, which emanated from faulty spill buckets on two UST systems, was discovered. The leaking spill buckets were not replaced until January and May of 2009. In January, 2008, NDEP forwarded a third letter of non-compliance to Flying J stating that they were in violation of regulations requiring investigation of the gasoline release in a reasonable time period pursuant to federal regulations.

Board Resolution No. 94-023 requires Fund staff to recommend reduced coverage for facilities that were out of compliance with applicable UST regulations at the time of release discovery. Resolution No. 94-023 recommends a 40% reduction in coverage for non-compliance with release investigation regulations. Fund staff, therefore, recommends coverage for the two gasoline UST system releases with a 40% reduction.

Mr. Scott Keesey from Broadbent & Associates, Inc., the CEM for the site, stated that there were no objections regarding the resolution.

Mr. Seidel moved to approve Resolution 2011-04. Mr. Wright seconded the motion. There was no discussion. Motion carried unanimously.

VII. ADOPTION OF CONSENT ITEMS

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

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

STATE BOARD TO REVIEW CLAIMS REQUESTED/RECOMMENDED AMOUNTS – JUNE 9, 2011

<u>HEATING OIL</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.	1992000102H	Lyon County School District: Yerington Elementary	\$16,350.67	\$16,290.67
2.	2006000020H	Bruno Benna: Benna Residence	\$1,607.50	\$1,607.50
3.	2007000013H	Churchill County School District: Bus Barn	\$5,120.01	\$5,107.66
4.	2011000008H	Janet Doescher: Doescher Property	\$9,709.22	\$9,459.22
HEATING OIL SUB TOTAL:			<u>\$32,787.40</u>	<u>\$32,465.05</u>
<u>NEW CASES, OTHER PRODUCTS</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.*	2008000009	Pilot Travel Centers: Former Flying J Travel Plaza	\$90,069.80	\$64,160.50
2.	2011000002	Meldrum Family Trust: Former S. Nevada Paving	\$45,291.08	\$27,905.96
NEW CASES, OTHER PRODUCTS SUB TOTAL:			<u>\$45,291.08</u>	<u>\$92,066.46</u>
<u>ONGOING CASES/OTHER PRODUCTS</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.	1993000015	Avis Budget, LLC: Budget Rent-A-Car	\$39,775.28	\$35,689.95
2.	1993000102	Rebel Oil Company: Rebel #8	\$5,568.00	\$5,568.00
3.*	1993000103	Russell Yardley: Charlie Brown Construction	\$37,476.10	\$34,840.08
4.†	1994000003	Allied Washoe: Allied Petroleum	\$5,384.50	\$5,433.35
5.	1994000012	Wirtz Beverage NV.: Former DeLuca Liquor & Wine	\$28,099.04	\$27,333.96
6.	1994000027	7-Eleven, Inc.: 7-Eleven #19653	\$114,516.50	\$112,928.50
7.†	1994000028	7-Eleven, Inc.: 7-Eleven #20084	\$0.00	\$6,989.00
8.	1994000029	7-Eleven, Inc.: 7-Eleven #20826	\$13,953.02	\$10,464.76
9.	1994000037	Param Investments/Broadbent: Gofer Market	\$23,207.88	\$23,207.88
10.†	1994000065	Avis Rent-A-Car Systems: Avis Rent-A-Car	\$88,763.15	\$90,266.06
11.	1994000067	Peppermill, Inc.: Former Peppermill Truck Stop	\$10,148.92	\$9,960.92
12.†	1994000086	Falconi Motors, Inc.: Falconi's Tropicana Honda	\$14,306.83	\$16,001.08
13.	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop	\$25,275.54	\$25,275.54
14.	1994000122	Ron or Gary Michelsen: Mike's Gas-A-Mart	\$31,929.01	\$31,915.78
15.	1995000012	N. Nevada Asset Holdings: Parker's Model T	\$46,079.77	\$43,312.29
16.	1995000039	Al Park Petroleum, Inc.: Crescent Valley Market	\$27,274.53	\$23,044.21
17.	1995000074	Vera Hester: Glendale Service Facility	\$27,882.85	\$24,798.67
18.	1995000105	Redman Petroleum Corp.: Redman Petroleum	\$3,728.00	\$3,355.20
19.	1996000026	Moapa Valley Credit Union: Former Russ Auto Repair	\$3,040.50	\$2,189.16
20.	1996000063	Joan Pennachio: V&V Automotive	\$4,840.50	\$4,356.45
21.†	1996000064	H&A Esslinger, LLC: Red Rock Mini Mart	\$0.00	\$1,175.59
22.	1996000101	ConocoPhillips Company: Circle K #695	\$363.75	\$327.38
23.	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility	\$3,547.50	\$3,192.75
24.	1998000046	Willdens Automotive Holdings: Allstate Rent A Car	\$133,035.46	\$119,731.92

<u>ONGOING CASES/OTHER PRODUCTS: CONTINUED</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
25.	1998000080	Seven Crown Resorts: Echo Bay Resort	\$22,331.50	\$20,062.35
26.	1999000011	Terrible Herbst Oil Company: Terrible Herbst #133	\$11,928.79	\$5,503.54
27.	1999000014	Al Park Petroleum: Conoco Pit Stop #7	\$9,519.75	\$8,459.77
28.†	1999000017	Reed, Inc.: Reed R-Place Shell	\$20,035.30	\$25,006.24
29.	1999000022	Terrible Herbst Oil Company: Terrible Herbst #129	\$1,684.75	\$1,516.27
30.	1999000029	Terrible Herbst Oil Company: Terrible Herbst #136	\$6,180.12	\$5,495.05
31.	1999000037	Longley Construction Company: Longley Construction	\$13,242.00	\$11,917.80
32.	1999000048	Estate of Robert Cowan: Former Lightning Lube	\$15,521.11	\$15,465.11
33.	1999000052	Estate of Martin Wessel: Ted's Chevron	\$16,288.39	\$14,705.46
34.	1999000061	Rich Sorani: Former Rich's Unocal	\$22,910.77	\$18,568.77
35.	1999000066	HP Management, LLC: Former Haycock Petroleum	\$9,520.54	\$8,568.49
36.	1999000086	Terrible Herbst Oil Company: Terrible Herbst #126	\$30,690.88	\$27,621.79
37.	1999000090	HP Management, LLC: Former Haycock Petroleum	\$10,240.66	\$9,216.59
38.	1999000104	Terrible Herbst Oil Company: Terrible Herbst #118	\$55,553.09	\$39,799.13
39.	1999000114	City of Fallon: Fallon Maintenance Yard	\$7,244.63	\$6,520.17
40.	1999000137	Terrible Herbst Oil Company: Terrible Herbst #152	\$1,335.50	\$1,201.95
41.	1999000167	City of Las Vegas: Fire Station #1	\$11,103.73	\$11,103.73
42.	1999000186	Gloria Pilger: Former D&G Oil Facility	\$62,528.52	\$56,257.69
43.†	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station	\$29,440.44	\$30,451.92
44.	1999000243	7-Eleven, Inc.: 7-Eleven #27607	\$40,336.74	\$21,609.21
45.	1999000244	7-Eleven, Inc.: 7-Eleven #22070	\$39,002.98	\$35,102.69
46.	1999000257	University of Nevada: Newlands Agriculture	\$1,846.24	\$1,846.24
47.	1999000273	V.K. Leavitt: The Waterhole	\$26,477.00	\$18,286.24
48.	1999000275	ConocoPhillips Company: Circle K #1248	\$232.50	\$188.32
49.	2004000013	Nevada Nanak Petroleum, Inc.: NV Nanak Petroleum	\$3,061.23	\$1,650.37
50.	2004000039	Clark Co. Dept. of Aviation: Former Ntl. Car Rental	\$125,364.62	\$125,063.82
51.	2005000002	Carson Valley Oil Co., Inc.: Carson Valley Oil	\$18,361.14	\$16,525.02
52.	2005000004	7-Eleven, Inc.: 7-Eleven #21285	\$43,550.77	\$39,195.45
53.	2005000025	Bordertown, Inc.: Winner's Corner	\$64,421.42	\$57,979.28
54.	2005000036	ConocoPhillips Company: Circle K #1791	\$239,272.53	\$81,205.94
55.†	2005000044	Ewing Brothers, Inc.: Ewing Brothers Facility	\$36,699.23	\$40,552.07
56.	2007000002	Consolidated Nevada Corp.: Berry-Hinckley #201	\$3,321.41	\$2,989.26
57.	2007000003	7-Eleven, Inc.: 7-Eleven #29648	\$27,729.14	\$14,973.73
58.	2007000004	7-Eleven, Inc.: 7-Eleven #29660	\$32,179.29	\$23,169.08
59.*	2007000014	Ace Cab Company, Inc.: Ace Cab Company	\$209,617.65	\$188,364.75
60.	2007000016	TOC Holdings Company: Former Time Oil #6-100	\$21,216.72	\$19,412.75
61.	2008000017	Big Daddy's Oil, LLC: Flamingo AM/PM #82153	\$24,232.00	\$13,085.28
62.	2008000018	B-H Ind. dba Terrible's: Terrible Herbst #830	\$5,081.00	\$4,572.90
63.	2008000019	Stop N Shop 2 Land, LLC: Stop N Shop #2	\$13,128.37	\$11,747.44
64.	2009000009	Tom Schwarz: Zak's Mini Mart	\$15,670.64	\$10,922.86
65.	2009000017	D&J Holdings, LLC: Convenience Corner Shell	\$40,635.35	\$36,889.51
66.	2009000020	Western Energetix, LLC: Western Energetix Bulk Plant	\$6,125.50	\$5,512.95
67.	2009000024	Parampreet Investment, LLC: Chuck's Circle C	\$42,512.66	\$37,143.14
68.	2009000028	Vegas Rainbows, Inc.: Mick & Mac's Food Mart	\$44,304.06	\$37,798.92
69.	2010000001	Smitten Oil & Tire Company: The Gas Store	\$6,619.04	\$4,968.66
70.	2010000003	Big Wheel Properties, LLC: Big Wheel Travel Center	\$3,489.13	\$3,140.21
71.	2010000005	7-Eleven, Inc.: 7-Eleven #27071	\$15,164.43	\$13,647.99
72.	2010000007	Pecos Express, Inc.: Pecos Express	\$24,532.81	\$21,787.03
73.	2010000013	Argyris Enterprises, LLC: City Stop #12	\$21,596.75	\$19,437.07
74.	2011000001	Short Line Express Market: Short Line Express	\$17,646.69	\$15,720.02
75.†	2011000003	7-Eleven, Inc.: 7-Eleven #29662	\$12,373.43	\$14,198.78

ONGOING CASES/OTHER PRODUCTS SUB TOTAL:	<u>\$2,271,299.57</u>	<u>\$1,917,487.28</u>
	<u>REQUESTED</u>	<u>RECOMMENDED</u>
CLAIMS TOTAL:	<u>\$2,349,378.05</u>	<u>\$2,042,018.79</u>

Ms. Tappan moved to approve the consent items. Ms. Cripps seconded the motion. Discussion followed.

Mr. Haycock recused himself from voting on items numbers 35 and 37 because he is a managing partner of HP Management, LLC.

Motion carried unanimously.

VIII. EXECUTIVE SUMMARY

Mr. Kottler presented the Executive summary. Since July 1, 2010, NDEP has received 10 new cases for evaluation of Fund coverage. 1,374 cases have been evaluated for reimbursement since the inception of the Fund. There are currently 233 active remediation sites expected to continue with requests for reimbursement. A total of 972 cases have been closed, 113 cases were denied coverage, 42 cases have expired and 14 cases are in pending status awaiting staff review or additional information.

Not including today's Board authorization, approximately \$165.6 million has been reimbursed. Adding today's reimbursement recommendations, approximately \$167.6 million will have been reimbursed from the Fund to date.

The invoicing for storage tank Fund enrollment for fiscal year 2011, which runs from October 1, 2010 through September 30, 2011, commenced on August 5, 2010. 1,438 facilities have been invoiced at \$100 per storage tank system. As of May 4, 2011, 1,358 facilities, or approximately 94% of those invoiced, have paid.

Mr. Kottler indicated that this is his last meeting because he was leaving NDEP. Mr. Haycock expressed appreciation and wished him luck.

IX. CONFIRMATION OF NEXT BOARD MEETING DATE

A tentative date of Thursday September 8, 2011 was established for the next Board meeting. The date may be changed in order to accommodate all Board members.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 10:25 am.