

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
SEPTEMBER 8, 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 Grant Sawyer Building, 555 E. Washington Ave., Room 4401 and in Carson City at the Legislative Counsel Bureau Building, 401 S. Carson St., Room 2134.

A. BOARD MEMBERS PRESENT

Chairman John Haycock, Representative of independent petroleum dealers
Vice-Chairman George Ross, Representative of petroleum refiners
Maureen Tappan, Representative of the general public
Mr. Michael Cox, Representative of the independent retailers of petroleum
Wayne Seidel, Department of Motor Vehicles

BOARD MEMBERS ABSENT

Colleen Cripps, Ph.D., Nevada Division of Environmental Protection
James Wright, State Fire Marshal's Office

OTHERS PRESENT

Valerie King, Victoria Joncas, Hayden Bridwell, Steve Fischenich, Kevin Sullivan,
Marlene Huderski, Jim Najima, NDEP
Rose Marie Reynolds, State Attorney General's Office – Las Vegas
Peter Krueger, Nevada Petroleum Marketers and Convenience Store Association
Scott Keeseey, Broadbent & Associates, Inc.
Keith Stewart, Stewart Environmental, Inc.
Joe, McGinley, McGinley & Associates
George Hagan, McGinley & Associates
Matt Grandjean, Stantec Consulting Corp.
Amy Pajak, Stantec Consulting Corp.
Stephanie Holst, Broadbent & Associates, Inc.
Neal Tomlinson, Ace Cab Company

IV. PUBLIC FORUM

Note: The Chairman heard item IV before item II as originally listed in the agenda. All other items were heard at the meeting as listed in the agenda.

There were no requests to speak.

II. APPROVAL OF THE AGENDA

Mr. Seidel moved to approve the agenda, including taking item IV out of order and adding another public forum opportunity at the end of the agenda. Mr. Ross seconded the motion. There was no discussion. The motion carried unanimously.

III. APPROVAL OF THE JUNE 9, 2011 MINUTES

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

Note: The Chairman moved Item IV from this location to be heard prior to Item II.

V. STATUS OF THE FUND

Ms. King reported on the status of the State of Nevada Petroleum Fund (Fund) for fiscal year 2012, which runs from July 1, 2011 to June 30, 2012. The total cumulative revenue in the Fund for the current fiscal year was approximately \$3 million, which was largely the balance forwarded from fiscal year 2011. Approximately \$800 in fees were collected for storage tank enrollment into the Fund. Approximately \$2 million was collected from the ¾ cent per gallon Fund fee, and at this time, zero interest was earned. Total expenditures from the Fund were approximately \$2,500. Ms. King stated the remaining Fund balance was approximately \$3 million for the current fiscal year.

Staff is recommending the approval of approximately \$1.7 million in reimbursements, leaving a Fund balance of approximately \$1.3 million if the Board approves all reimbursement recommendations. The monies to be transferred to the Nevada State Highway Fund for fiscal year 2011 will take place after the Controller's Office closes fiscal year 2011 on September 30, 2011. Staff is projecting approximately \$4.76 million will be transferred.

VI. APPEAL OF DENIED COST FOR CASE NO. 2010000001

**Appeal to the Board from Smitten Oil & Tire Company regarding monies that staff had previously disallowed for replacement of a well vault.
The Gas Store, 787 W. Williams Ave., Fallon, NV
Facility ID No. 5-000096, Petroleum Fund Case ID No. 2010000001**

Mr. Fischenich presented this appeal. This appeal to the Board is by Smitten Oil & Tire Company, regarding monies that Fund Staff had previously disallowed for the replacement of a well vault. The monies being appealed are associated with one invoice initially requested as part of a claim for the June 2011 Board meeting.

Board Resolution No. 96-004 (Attachment B) requires Fund staff to recommend denial of costs for: "Accidental damage or work-related accidents." The Appeal provided by the consultant representing Smitten Oil, stated that it appears the well vault was damaged by a vehicle. Because this incident clearly represents an accident, Fund staff is recommending denial of payment for replacement of the damaged vault. Although Fund staff cannot recommend reimbursement for well vault replacement in this case we recognize the Board may see a different intent of Resolution 96-004.

Mr. Joe McGinley the Principal of McGinley & Associates indicated when installing well vaults there are a number of industry standards they comply with. One of which is guidelines put out by NDEP.

A short discussion took place among the Board members present, Mr. McGinley, Ms. King and Steve Fischenich of the Nevada Division of Environmental Protection – Bureau of Corrective Actions, and Rose Marie Reynolds of the State Attorney General's Office.

Vice Chairman Ross moved to approve the Appeal and grant the cost of the new well vault. Mr. Seidel seconded the motion with discussion.

Mr. Seidel noted that he would second the motion with the following summarized comments. If well vaults start failing every 2 years the actual design (detail) will need to be addressed and upgraded as necessary to extend the longevity of these items.

Mr. Fischenich notified the Board that the passage of their motion changed the recommended amount of total claims and provided a new version of Agenda item VII, Adoption of Consent Items that reflected the changes realized by the motion.

Ms. Tappan opposed.

Motion carried.

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 – SEPTEMBER 8, 2011**

<u>HEATING OIL</u>		<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION 1.	1992000102H Lyon County School District: Yerington Elementary	\$50,544.60	\$50,544.60
FOR POSSIBLE ACTION 2.	2006000020H Bruno Benna: Benna Residence	\$9,403.97	\$9,403.97
FOR POSSIBLE ACTION 3.	2007000013H Churchill County School District: Bus Barn	\$5,612.76	\$5,612.76
	HEATING OIL SUB TOTAL:	<u>\$65,561.33</u>	<u>\$65,561.33</u>

NEW CASES, OTHER PRODUCTS

FOR POSSIBLE ACTION 1.	2005000029 ConocoPhillips Company: Circle K #1302	<u>REQUESTED</u> \$15,055.66	<u>RECOMMENDED</u> \$13,548.75
	NEW CASES, OTHER PRODUCTS SUB TOTAL:	<u>\$15,055.66</u>	<u>\$13,548.75</u>

ONGOING CASES/OTHER PRODUCTS

FOR POSSIBLE ACTION 1.	1993000011 7-Eleven, Inc.: 7-Eleven #29646	<u>REQUESTED</u> \$62,430.99	<u>RECOMMENDED</u> \$62,430.99
FOR POSSIBLE ACTION 2.†	1993000080 Shell Oil Products, US: Former Virginia Street Shell	\$0.00	\$22,842.29
FOR POSSIBLE ACTION 3.	1993000102 Rebel Oil Company: Rebel #8	\$3,937.14	\$3,895.45
FOR POSSIBLE ACTION 4.	1993000103 Russell Yardley: Charlie Brown Construction	\$32,650.64	\$21,997.63
FOR POSSIBLE ACTION 5.	1994000003 Allied Washoe: Allied Petroleum	\$4,480.00	\$1,815.00
FOR POSSIBLE ACTION 6.	1994000012 Wirtz Beverage NV.: Former DeLuca Liquor & Wine	\$28,947.72	\$28,937.72
FOR POSSIBLE ACTION 7.†	1994000027 7-Eleven, Inc.: 7-Eleven #19653	\$0.00	\$787.50
FOR POSSIBLE ACTION 8.	1994000037 Param Investments/Broadbent: Gofer Market	\$32,619.31	\$32,619.31
FOR POSSIBLE ACTION 9.	1994000065 Avis Rent-A-Car Systems: Former Avis Rent-A-Car	\$78,058.19	\$68,066.97
FOR POSSIBLE ACTION 10.	1994000086 Falconi Motors, Inc.: Falconi's Tropicana Honda	\$20,622.06	\$6,415.43

ONGOING CASES/OTHER PRODUCTS: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	11.	1994000113	\$38,466.69	\$34,773.32
FOR POSSIBLE ACTION	12.	1994000120	\$16,872.14	\$15,184.93
FOR POSSIBLE ACTION	13.	1994000122	\$43,441.29	\$43,441.29
FOR POSSIBLE ACTION	14.	1995000012	\$44,605.35	\$39,586.82
FOR POSSIBLE ACTION	15.	1995000074	\$23,452.79	\$21,045.08
FOR POSSIBLE ACTION	16.	1995000105	\$6,649.50	\$5,984.55
FOR POSSIBLE ACTION	17.	1995000142	\$8,986.13	\$8,074.48
FOR POSSIBLE ACTION	18.	1996000026	\$39,404.74	\$28,371.41
FOR POSSIBLE ACTION	19.	1996000063	\$4,655.82	\$4,190.23
FOR POSSIBLE ACTION	20.	1996000101	\$41,834.64	\$37,512.43
FOR POSSIBLE ACTION	21.	1996000102	\$8,665.26	\$6,238.99
FOR POSSIBLE ACTION	22.	1997000008	\$3,610.00	\$3,249.00
FOR POSSIBLE ACTION	23.	1997000093	\$1,506.55	\$813.54
FOR POSSIBLE ACTION	24.	1998000046	\$24,017.61	\$19,055.06
FOR POSSIBLE ACTION	25.	1998000053	\$4,476.08	\$806.57
FOR POSSIBLE ACTION	26.	1998000068	\$274,062.72	\$175,228.43
FOR POSSIBLE ACTION	27.	1998000073	\$11,715.57	\$11,715.57
FOR POSSIBLE ACTION	28.	1998000080	\$5,302.00	\$4,771.80
FOR POSSIBLE ACTION	29.	1999000017	\$18,144.68	\$17,316.78
FOR POSSIBLE ACTION	30.	1999000022	\$11,288.30	\$8,534.07
FOR POSSIBLE ACTION	31.	1999000048	\$7,899.54	\$7,820.33
FOR POSSIBLE ACTION	32.	1999000052	\$11,988.39	\$10,734.68
FOR POSSIBLE ACTION	33.†	1999000061	\$0.00	\$4,342.00
FOR POSSIBLE ACTION	34.	1999000066	\$8,902.72	\$8,012.44
FOR POSSIBLE ACTION	35.	1999000086	\$48,426.03	\$39,379.13
FOR POSSIBLE ACTION	36.	1999000090	\$10,718.16	\$9,646.35
FOR POSSIBLE ACTION	37.	1999000104	\$97,366.62	\$86,643.95
FOR POSSIBLE ACTION	38.	1999000114	\$16,235.64	\$3,171.56
FOR POSSIBLE ACTION	39.	1999000115	\$9,977.04	\$8,662.63
FOR POSSIBLE ACTION	40.	1999000135	\$2,343.93	\$2,109.53
FOR POSSIBLE ACTION	41.	1999000137	\$7,496.36	\$6,739.53
FOR POSSIBLE ACTION	42.	1999000167	\$2,808.39	\$2,808.39
FOR POSSIBLE ACTION	43.	1999000186	\$35,002.87	\$31,467.42
FOR POSSIBLE ACTION	44.	1999000199	\$34,236.11	\$33,229.73
FOR POSSIBLE ACTION	45.	1999000257	\$5,008.42	\$5,008.42

ONGOING CASES/OTHER PRODUCTS: CONTINUED

	<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION 46.	\$36,013.56	\$19,440.86
FOR POSSIBLE ACTION 47.	\$9,700.48	\$7,857.39
FOR POSSIBLE ACTION 48.	\$73,796.64	\$50,765.39
FOR POSSIBLE ACTION 49.	\$3,102.69	\$1,675.45
FOR POSSIBLE ACTION 50.	\$11,637.60	\$10,473.84
FOR POSSIBLE ACTION 51.	\$41,976.62	\$37,778.96
FOR POSSIBLE ACTION 52.	\$8,003.99	\$5,762.87
FOR POSSIBLE ACTION 53.	\$16,340.60	\$13,235.88
FOR POSSIBLE ACTION 54.	\$28,516.61	\$18,920.83
FOR POSSIBLE ACTION 55.	\$6,256.47	\$5,630.83
FOR POSSIBLE ACTION 56.	\$49,894.28	\$26,942.91
FOR POSSIBLE ACTION 57.	\$12,527.49	\$9,009.00
FOR POSSIBLE ACTION 58.	\$24,579.73	\$21,883.68
FOR POSSIBLE ACTION 59.	\$32,442.11	\$29,197.90
FOR POSSIBLE ACTION 60.	\$29,550.63	\$21,276.45
FOR POSSIBLE ACTION 61.	\$227,756.32	\$89,281.38
FOR POSSIBLE ACTION 62.	\$28,875.07	\$15,592.53
FOR POSSIBLE ACTION 63.	\$5,094.00	\$3,672.86
FOR POSSIBLE ACTION 64.	\$27,924.74	\$20,190.02
FOR POSSIBLE ACTION 65.	\$21,078.11	\$15,176.24
FOR POSSIBLE ACTION 66.	\$36,498.11	\$32,848.30
FOR POSSIBLE ACTION 67.	\$4,781.50	\$4,303.35
FOR POSSIBLE ACTION 68.	\$36,096.61	\$33,605.20
FOR POSSIBLE ACTION 69.	\$21,899.48	\$18,713.39
FOR POSSIBLE ACTION 70.*	\$4,126.00	\$4,678.07
FOR POSSIBLE ACTION 71.	\$2,452.50	\$2,207.25
FOR POSSIBLE ACTION 72.	\$32,269.33	\$22,896.75
FOR POSSIBLE ACTION 73.	\$58,603.60	\$31,708.45
FOR POSSIBLE ACTION 74.	\$10,957.50	\$9,861.75
FOR POSSIBLE ACTION 75.†	\$0.00	\$12,856.01
FOR POSSIBLE ACTION 76.	\$5,150.64	\$4,166.46

ONGOING CASES/OTHER PRODUCTS SUB TOTAL:

\$2,101,217.14 **\$1,597,088.98**

REQUESTED

RECOMMENDED

CLAIMS TOTAL: \$2,181,834.13

\$1,676,199.06

Mr. Seidel moved for approval of the most recent amount which includes Item No. VII, Heating Oil, 1 through 3, New Cases/Other Products, 1, Ongoing Cases/Other Products, 1 through 76. Mr. Cox seconded the motion. Discussion followed.

Chairman Haycock recused himself from voting under Ongoing Cases C, items numbers 34 and 36 because he is a managing partner of HP Management, LLC.

Vice Chairman Ross recused himself from voting under Ongoing Cases C, item number 58 because he is an employee of the law firm, which represents Ace Cab Company. However, he stated these interests would not affect his voting.

Mr. Cox recused himself from voting under Ongoing Cases C, item number 5 because he is principal in the company.

Motion carried unanimously.

VIII. EXECUTIVE SUMMARY

Ms. King presented the Executive summary. Since July 1, 2011, NDEP has received 1 new case for evaluation of Fund coverage. 1,387 cases have been evaluated for reimbursement since the inception of the Fund. There are currently 234 active remediation sites expected to continue with requests for reimbursement. A total of 983 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 \$167.6 million have been reimbursed. Adding today's reimbursement, approximately \$169.3 million 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. 1,440 facilities have been invoiced at \$100 per storage tank system. 1,357 facilities, or approximately 94.4% of those invoiced, have paid. As of August 22, 2011, 1,438 facilities have been invoiced at \$100 per storage tank system for the upcoming fiscal year 2012.

Ms. King informed the Board NDEP is now required to handle travel claim reimbursement forms differently. Travel claims reimbursed by the Petroleum Fund must be consistent with the State employee reimbursement process. Previously, if a traveler did not request reimbursement above the CONUS rate for lodging, no receipt was required. The recent mandate now requires State employees to provide lodging receipts with their reimbursement claim forms. Therefore, effective immediately, and to be consistent procedurally, NDEP is requiring all claimants requesting Petroleum Fund reimbursement for lodging to provide a receipt with their travel claim reimbursement form. Claimants that are entitled to be reimbursed for the amount incurred for lodging may claim up to the GSA rate plus taxes. The lodging receipt must accompany the travel claim reimbursement form.

IX. PUBLIC FORM

Mr. Peter Krueger, representing the Nevada Petroleum Marketers and Convenience Store Association, provided an update on the review of Board Policy Resolutions, as requested at the June 8, 2011 meeting. Mr. Krueger, Mr. Joe McGinley and members of the industry have met and have begun reviewing the resolutions, and have been in contact with Mr. Jim Najima, Ms. Valerie King and Mr. Kevin Sullivan. Mr. Krueger presented recommendations regarding the resolutions and stated they would like to continue working with staff to discuss specific recommendations. He would like to ask staff and the Board to consider a separate numbering system for the case specific resolutions that differs from the general policy resolutions. Mr. Krueger indicated he would like to come back and discuss the progress at a Board meeting in the near future.

Mr. Krueger briefly touched on the Energy Policy Act which was enacted by the Federal Government. He stated it has certain additional requirements for tank owners and operators which are not currently covered by the Fund. The potential for economic hardship for the smaller tank operators is significant. He indicated it was his hope that by working collectively with staff a joint-recommendation could be brought to the Board that might broaden some of the coverage items not currently covered.

Pursuant to the Board's request at a previous meeting, Ms. King updated the Board on Conoco Phillips' Circle K Stores #1302 and #8650. Store #1302 was granted full coverage and was

among the new claims in agenda item VII. Store #8650 was not provided Fund coverage, which was mutually agreed upon at the administrative level between NDEP and Conoco Philips.

Staff is working on the final 2 Conoco Philips sites which need to be resolved. Staff will be presenting the last 2 Conoco Philips cases at the next Board meeting which will fully resolve all Conoco Philips cases which were presented to the Board last year.

X. CONFIRMATION OF NEXT BOARD MEETING DATE

A tentative date and time of Thursday, December 8, 2011 at 10:00 am was established for the next Board meeting. The date and time may be changed in order to accommodate all Board members.

Chairman Haycock stated the Board is very, very pleased to have Ms. King on board. He congratulated her on a job well done.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 10:48 am.

