

**STATE BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
DECEMBER 10, 2009**

I. CALL TO ORDER

Chairman John Haycock called the meeting to order from the Las Vegas location at 10:00 a.m. The meeting was conducted via videoconference with locations in Las Vegas at the Grant Sawyer Building, 555 E. Washington Ave., Room 4412E and in Carson City at the Nevada Legislative Building, 401 S. Carson St., Room 2135.

A. BOARD MEMBERS PRESENT

Chairman John Haycock, Representative of independent dealers of petroleum

Vice Chairman George Ross, Representative of refiners of petroleum

Leo Drozdoff, Nevada Department of Environmental Protection (NDEP)

Maureen Tappan, Representative of the general public

James Wright, State Fire Marshal's Office

BOARD MEMBERS ABSENT

Dawn Lietz, Department of Motor Vehicles (DMV)

OTHERS PRESENT

Rose Marie Reynolds, State Attorney General's Office - Las Vegas

Carolyn Tanner, State Attorney General's Office – Carson City

Bennett Kottler, Victoria Joncas, Steve Fischenich, Hayden Bridwell,

Art Gravenstein, Jim Najima, Shirley Decrona, Ann McNight and

Marlene Huderski, (NDEP)

Galen Schorsch, Al Park Petroleum

Robert Goicoechea, Goichechea, DiGrazia, Coyle & Stanton, Ltd.,

Representing: Al Park Petroleum

Keith Stewart, Stewart Environmental, Inc.

Erin McMullen, Frias Holding Company

Rex Heppe, ATC Associates, Inc.

Chairman Haycock announced the recent passing of one of our State of Nevada Board to Review Claims (Board) members, Mr. John Meeters. Mr. Meeters had been appointed to the Board on November 9, 2006; he was representing the independent retailers of petroleum. Chairman Haycock wanted to extend to Mr. Meeters his heart-felt admiration for the time that he served on the Board as well as in his community.

Chairman Haycock stated that he would like the record to show that the Board appreciates and acknowledges his service.

Our deepest sympathy goes out to his family.

II. APPROVAL OF THE AGENDA

Ms. Tappan moved to approve the agenda. Mr. Ross seconded the motion. Motion carried unanimously.

III. APPROVAL OF THE SEPTEMBER 10, 2009 MINUTES

Ms. Tappan moved to approve the minutes. Mr. Drozdoff seconded the motion. Motion carried unanimously.

Vice Chairman Ross indicated the misuse of the wording in the September minutes. Vice Chairman Ross is an employee of the law firm where he works, he not a member. The correction was noted and approved by the Board.

IV. PUBLIC FORUM

Mr. Gravenstein briefed the Board regarding the status of federal government stimulus money made available by a Leaking Underground Storage Tank (LUST) Trust Fund Assistance Award from the American Reinvestment & Recovery Act (ARRA) of 2009. Under the work plan, a contractor for the LUST program is looking for orphaned and/or abandoned underground storage tanks within the State of Nevada. Mr. Gravenstein indicated they have recently placed an extensive work plan for this particular project on the (NDEP) web site: http://ndep.nv.gov/recovery/docs/arra_ust_final_work_plan.pdf

V. STATUS OF THE FUND

Mr. Kottler reported on the status of the Fund for fiscal year 2010, which runs from July 1, 2009 through June 30, 2010. He stated the total cumulative revenue in the Fund for the current fiscal year is approximately \$9.5 million. He stated there was a balance forward of which \$6.9 million was the balance forwarded from fiscal year 2009. In addition, approximately \$400,000 was collected from tank enrollment fees for registration of storage tanks, and approximately \$2.1 million was collected from the ¾ cent per gallon Fund fee and approximately \$26,000 is interest earned. Total expenditures from the Fund were approximately \$2.6 million of which \$2.3 million was payment of claims at the September meeting. He stated the remaining Fund balance is approximately \$6.9 million for the current fiscal year.

Mr. Kottler stated staff is recommending the approval of approximately \$2.1 million in reimbursements. There will be a balance of \$4.8 million in the Fund if the Board approves all reimbursement recommendations.

VI. DETERMINATION OF FUND COVERAGE

A. Resolution to Provide Third Party Liability Coverage to Conoco Station #28003, 1420 W Bonanza Rd., Las Vegas, NV, Facility ID No. 8-000253, Petroleum Fund Case ID No. 1998000068, Resolution No. 2009-08

Mr. Kottler indicated there was a claim associated with this resolution and should the Board modify staff's recommendation then the requested and reimbursed amounts will need to be adjusted.

Mr. Kottler stated that the Board previously approved that the subject site receive a million dollars in Fund coverage for cleanup of the release with a 10% co-payment. The owner/operator has requested that the Fund begin charging clean-up costs to the available third party liability coverage because despite being reimbursed nearly \$1 million from the Fund, contamination remains at concentrations in excess of state action levels.

In accordance with Board Resolution No. 2007-10, the owner/operator has acknowledged that using third party liability funds for corrective actions will reduce the remaining funds in the event of a third party lawsuit.

Mr. Kottler stated that NDEP is recommending the subject facility receive additional coverage for third party liability with a 10% co-payment and a maximum \$900,000, which is equal to the cap of a million dollars for the single tank, less the maximum 10% co-payment for the third party liability.

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

B. Resolution to Designate Former Red Rock Mini Mart, 5525 W. Charleston Blvd., Las Vegas, NV as a Small Business, Facility ID No. 8-000161, Petroleum Fund Case ID No. 1996000064, Resolution No. 2009-09

Mr. Kottler stated that the Board previously approved coverage under the Fund for cleanup of a release from two UST's with a 10% co-payment.

Mr. Kottler indicated the owner, the Esslinger Family Trust, has requested that the subject facility be classified as a small business. Granting the request would limit the 10% co-payment to \$50,000 regardless of the number of tanks, as per Nevada Revised Statute (NRS) 590.890. The Esslinger Family Trust has submitted the appropriate documentation.

Fund staff recommended the adoption of Resolution number 2009-09 as proposed.

Mr. Drozdoff moved to approve Item No. VI.B and Ms. Tappan seconded the motion. Motion carried unanimously.

VII. ADOPTION OF CONSENT ITEMS

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

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

**STATE BOARD TO REVIEW CLAIMS
REQUESTED/RECOMMENDED AMOUNTS – DECEMBER 10, 2009**

<u>HEATING OIL</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.	1992000102H	Lyon County School Dist.: Yerington Elementary	\$36,941.64	\$36,935.22
2.	2006000020H	Bruno Benna: Benna Residence	\$513.85	\$513.85
3.	2007000013H	Churchill County School District: Bus Barn	\$14,946.25	\$14,946.25
4.	2010000004H	Jeff Jacobsen: Jacobsen Residence	\$5,829.75	\$4,129.25
5.	2010000008H	Suzanne Meehan: Meehan Property	\$16,682.72	\$15,693.57
HEATING OIL: SUB TOTAL:			<u>\$74,914.21</u>	<u>\$72,218.14</u>

<u>NEW CASES/OTHER PRODUCTS</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.	2009000025	Western Energetix, LLC: Western Energetix Cardlock	\$22,295.70	\$20,066.13
2.	2009000028	John McSweeney: Mick & Mac's Food Mart	\$16,285.14	\$13,923.79
3.	2010000003	Big Wheel Properties, LLC: Big Wheel Travel Center	\$73,054.40	\$65,748.96
NEW CASES, OTHER PRODUCTS: SUB TOTAL:			<u>\$111,635.24</u>	<u>\$99,738.88</u>

<u>ON GOING CASES/OTHER PRODUCTS</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1. †	1992000127	City of Las Vegas: Former Obie's Texaco	\$0.00	\$3,117.00
2.	1993000010	7-Eleven, Inc.: 7-Eleven #20687	\$4,078.75	\$3,670.87
3.	1993000011	7-Eleven, Inc.: 7-Eleven #29646	\$5,888.00	\$5,888.00
4.	1993000015	Avis Budget, LLC: Budget Rent A Car	\$143,672.15	\$114,494.55
5.	1993000102	Rebel Oil Company: Rebel #8	\$16,949.45	\$16,949.43
6.	1993000103	Russell Yardley: Charlie Brown Construction	\$8,346.60	\$8,179.67

ON GOING CASES/OTHER PRODUCTS: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>
7.	1994000003	Allied Washoe: Allied Petroleum	\$13,949.19	\$10,296.07
8.	1994000012	Wirtz Beverage of NV, Inc.: DeLuca Liquor & Wine	\$9,670.00	\$9,670.00
9.	1994000027	7-Eleven, Inc.: 7-Eleven #19653	\$69,225.47	\$69,193.33
10.	1994000029	7-Eleven, Inc.: 7-Eleven #20826	\$19,914.65	\$14,922.76
11.	1994000037	Param Investments and/or Broadbent: Gofer Market	\$64,363.02	\$64,346.20
12.	1994000065	Avis Rent A Car Systems: Avis Rent A Car	\$74,960.47	\$73,884.51
13.	1994000067	Peppermill, Inc.: Former Peppermill Truck Stop	\$46,725.55	\$46,725.55
14.	1994000086	Falconi Motors, Inc.: Falconi's Tropicana Honda	\$86,702.72	\$86,696.34
15.†	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop	\$14,130.62	\$15,530.22
16.	1994000120	Conoco Phillips Company: Union 76 #3846	\$30,291.70	\$27,262.53
17.	1994000122	Ron or Gary Michelsen: Mike's Gas-A-Mart	\$36,819.02	\$36,819.02
18.	1994000125	Conoco Phillips Company: Union 76 #5558	\$18,954.82	\$18,954.82
19.	1995000012	Model T Casino: Parker's Model T	\$78,483.94	\$70,623.38
20.	1995000028	Gita Corporation: Gita Corporation Facility	\$11,273.59	\$10,146.23
21.	1995000042	FBF, Inc.: Fayeghi Texaco	\$8,749.27	\$7,874.35
22.	1995000094	Harrah's Operating Company: Former Caesar's Tahoe	\$58,961.00	\$50,534.10
23.	1995000105	Redman Petroleum Corp.: Redman Petroleum	\$7,524.13	\$6,771.72
24.	1996000007	Seven Crown Resorts, Inc.: Lake Mead Marina	\$4,882.50	\$4,394.25
25.	1996000063	Joan Pennachio: V&V Automotive	\$21,287.80	\$19,159.02
26.	1996000101	Conoco Phillips Company: Circle K #695	\$29,196.94	\$26,736.42
27.	1996000102	Conoco Phillips Company: Circle K #542	\$26,141.99	\$18,822.22
28.	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility	\$5,685.00	\$5,116.50
29.	1997000093	Conoco Phillips Company: Union 76 #5257	\$5,787.96	\$3,125.50
30.	1998000046	Willdens Automotive Holdings: Allstate Rent A Car	\$35,027.12	\$31,418.18
31.*	1998000068	Conoco Phillips Company: Conoco #28003	\$22,319.85	\$20,087.87
32.	1998000073	City of Reno: City of Reno Police Station	\$6,847.24	\$6,847.24
33.	1998000075	Anne Dufurrena: McDermitt Service Motel	\$998.75	\$898.87
34.	1998000080	Seven Crown Resorts: Echo Bay Resort	\$18,514.55	\$16,663.09
35.	1999000011	Terrible Herbst Oil Company: Terrible Herbst #133	\$7,033.30	\$6,329.97
36.	1999000015	Terrible Herbst Oil Company: Terrible Herbst #144	\$6,204.55	\$5,643.49
37.	1999000017	Reed, Inc.: Reed R-Place Shell	\$24,573.61	\$21,715.50
38.	1999000022	Terrible Herbst Oil Company: Terrible Herbst #129	\$27,302.27	\$24,572.04
39.	1999000029	Terrible Herbst Oil Company: Terrible Herbst #136	\$14,732.66	\$13,313.85
40.†	1999000048	Estate of Robert Cowan: Former Lightning Lube	\$31,609.87	\$73,605.31
41.	1999000052	Estate of Martin Wessel: Ted's Chevron	\$5,672.40	\$5,105.16
42.	1999000061	Rich Sorani: Former Rich's Unocal	\$7,491.27	\$7,491.27
43.	1999000066	HP Management, LLC: Former Haycock Petroleum	\$10,358.38	\$9,322.55
44.	1999000086	Terrible Herbst Oil Company: Terrible Herbst #126	\$25,197.06	\$23,685.78

ON GOING CASES/OTHER PRODUCTS: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>
45.	1999000090	HP Management, LLC: Former Haycock Petroleum	\$12,345.78	\$11,070.70
46.	1999000104	Terrible Herbst Oil Company: Terrible Herbst #118	\$14,146.60	\$12,830.94
47.	1999000115	Shell Oil Products, US: Former Shell, Zephyr Cove	\$6,294.93	\$4,823.65
48.	1999000135	Terrible Herbst Oil Company: Terrible Herbst #106	\$7,031.00	\$6,327.90
49.	1999000137	Terrible Herbst Oil Company: Terrible Herbst #152	\$5,446.05	\$4,901.45
50.	1999000155	Varney Padgett: Old Washoe Station	\$1,201.45	\$1,081.30
51.	1999000162	Terrible Herbst Oil Company: Terrible Herbst #159	\$1,940.60	\$1,746.54
52.	1999000167	City of Las Vegas: Fire Station #1	\$5,534.38	\$5,534.38
53.	1999000186	Gloria Pilger: Former D&G Oil Facility	\$27,405.43	\$24,638.51
54.	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station	\$44,015.96	\$39,519.94
55.	1999000243	7-Eleven, Inc.: 7- Eleven #27607	\$36,870.26	\$19,909.95
56.†	1999000244	7-Eleven, Inc.: 7-Eleven #22070	\$0.00	\$6,347.19
57.	1999000257	University of Nevada: Newlands Agriculture	\$18,668.84	\$18,418.84
58.	1999000273	V.K. Leavitt: The Waterhole	\$28,432.44	\$9,967.00
59.	1999000275	Conoco Phillips Company: Circle K #1248	\$10,846.83	\$8,785.93
60.	1999000276	Robert Harris: Pecos Station Texaco	\$2,450.20	\$2,205.18
61.	2004000011	William Rodriguez: Four Way Truck Stop	\$58,134.67	\$41,777.29
62.	2004000013	Jesse Jhawar: Nevada Nanak Petroleum	\$3,460.18	\$1,868.50
63.	2004000039	Clark Co. Dept. of Aviation: Former Ntl. Car Rental	\$18,744.80	\$18,559.80
64.	2005000002	Carson Valley Oil Co., Inc.: Carson Valley Oil	\$17,875.27	\$15,246.24
65.	2005000004	7-Eleven, Inc.: 7-Eleven #21285	\$2,685.50	\$2,079.68
66.	2005000018	BP West Coast Products, LLC: ARCO #1718	\$28,148.18	\$25,329.11
67.	2005000021	B-H Ind. dba Terrible's: Former Berry-Hinckley #95	\$3,316.28	\$2,984.65
68.	2005000025	Bordertown, Inc.: Winner's Corner	\$42,283.80	\$38,055.42
69.	2005000039	Petrosun Fuel, Inc.: Taylor Street Market	\$9,300.70	\$8,370.63
70.	2005000044	Ewing Brothers, Inc.: Ewing Brothers Facility	\$21,736.18	\$17,606.31
71.	2006000007	7-Eleven, Inc.: 7-Eleven #33022	\$3,849.95	\$3,464.95
72.†	2006000016	Dansk Inv. and/or Broadbent: USA Pet. Station #207	\$105,278.25	\$133,523.08
73.	2006000017	7-Eleven, Inc.: 7-Eleven #26994	\$4,642.45	\$3,342.56
74.	2007000002	Consolidated Nevada Corp.: Berry-Hinckley #201	\$6,169.15	\$5,552.24
75.†	2007000003	7-Eleven, Inc.: 7-Eleven #29648	\$0.00	\$1,158.30
76.	2007000004	7-Eleven, Inc.: 7-Eleven #29660	\$10,095.61	\$7,268.84
77.	2007000014	Ace Cab Company, Inc.: Ace Cab Company	\$37,390.84	\$33,606.75
78.	2007000016	TOC Holdings Company: Former Time Oil #6-100	\$6,815.90	\$6,134.31
79.	2008000017	Big Daddy's Oil, LLC: Flamingo AM/PM #82153	\$21,012.00	\$11,346.48
80.	2008000018	B-H Ind. dba Terrible's: Terrible's Store #830	\$23,461.83	\$20,593.65
81.†	2009000009	Tom Schwarz: Zak's Mini Mart	\$23,154.76	\$25,579.27
82.	2009000017	D&J Holdings, LLC: Convenience Corner Shell	\$4,136.03	\$3,560.43

ON GOING CASES/OTHER PRODUCTS: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>
83.†	2009000020	Western Energetix, LLC: Western Energetix Bulk Plant	\$16,590.43	\$19,636.14
84.	2009000024	Parampreet Investment, LLC: Chuck's Circle C	\$204,382.74	\$183,189.08

ON GOING CASES/OTHER PRODUCTS: SUB TOTAL: \$2,061,795.43 \$1,924,547.84

REQUESTED RECOMMENDED

CLAIMS TOTAL: \$2,248,344.88 \$2,096,504.86

Mr. Ross moved for approval of Item No. VII, Heating Oil, 1 through 5, New Cases/Other Products, 1 through 3, On Going Cases/Other Products, 1 through 84. Mr. Drozdoff seconded the motion. Discussion followed.

Vice Chairman Ross disclosed he is a former ARCO and BP employee and still holds stock options pertaining to ARCO and BP West Coast Products Facilities under On Going Cases C, Item Number 66. Mr. Ross also announced he is an employee of the law firm, which represents Ace Cab Company, Item Number 77. However, he stated these interests would not affect his voting.

Chairman Haycock disclosed under On Going Cases C, Item Numbers 43 and 45, that he is a managing partner for HP Management LLC. Therefore, he recused himself from voting on those two items.

Motion carried unanimously.

VIII. REQUEST TO RECONSIDER PAST BOARD DETERMINATIONS

Note: The Chairman chose to hear this item as Item VIII rather than Item IX as it was originally listed in the agenda. All subsequent items have been renumbered to reflect the order in which they were actually heard at the meeting.

Carolyn Tanner of the State Attorney General's Office spoke to the Board regarding an umbrella litigation settlement agreement for three Al Park Petroleum sites. The sites are as follows:

Crescent Valley Market, Highway 306 at 2nd Street, Crescent Valley, NV,
Facility ID No. 6-000318, Petroleum Fund Case ID No. 1995000039,

Conoco Pit Stop #7, 1600 Idaho Street, Elko, NV
Facility ID No. 6-000009, Petroleum Fund Case ID No. 1999000014, and

Conoco Pit Stop, 501 East Front Street, Battle Mountain, NV,
Facility ID No. 5-000326, Petroleum Fund Case ID No. 1999000064.

Ms. Tanner indicated as part of a negotiated consolidated settlement of all three cases, NDEP agreed to recommend to the Board that any reimbursement due to Al Park from the date of signing the proposed stipulated settlement agreements forward be paid at the full rate of 90% on all three sites. Failure to comply on any one site will equate to violation of the entire agreement.

An extended discussion took place among the Board members present, Carolyn Tanner and Rose Marie Reynolds of the State Attorney General's Office, Robert Goichechea from Goichechea, DiGrazia, Coyle & Stanton, Ltd. and representing: Al Park Petroleum, Galen Schorsch from Al Park Petroleum, as well as Art Gravenstein of the Nevada Division of Environmental Protection - Bureau of Corrective Action.

During the voting process, two Board members voted yea, two Board members vote nay and one abstained from voting. The motion did not pass.

IX. EXECUTIVE SUMMARY

Mr. Kottler reported on the status of the Fund for fiscal year 2010, which began July 1, 2009. NDEP has received 18 new cases for evaluation of coverage. Since the inception of the program, 1,355 cases have been evaluated for reimbursement. There are currently 214 active remediation sites expected to continue with requests for reimbursement. A total of 968 cases have been closed, 111 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 20 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 \$152.8 million has been reimbursed. Adding today's reimbursement recommendations, approximately \$154 million will have been reimbursed from the Petroleum Fund to date.

X. CONFIRMATION OF NEXT MEETING DATE

It was confirmed that the next meeting date would be Wednesday, March 10, 2010.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 11:28 am.