

**STATE BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
DECEMBER 15, 2010**

I. CALL TO ORDER

Chairman John Haycock called the meeting to order from the Las Vegas location at 2:00 p.m. The meeting was conducted via videoconference with locations in Las Vegas, at the Nevada Department of Transportation, 123 E. Washington Ave., Bldg. A, Room A and in Carson City at the Nevada Department of Transportation, 1263 S. Stewart St., Room 302.

A. BOARD MEMBERS PRESENT

Chairman John Haycock, Representative of independent petroleum dealers
Vice Chairman George Ross, Representative of petroleum refiners
Colleen Cripps, Ph.D., Nevada Division of Environmental Protection (NDEP)
Maureen Tappan, Representative of the general public
James Wright, State Fire Marshal
Michael Cox, Representative of the independent retailers of petroleum
Dawn Lietz, Department of Motor Vehicles

OTHERS PRESENT

Bennett Kottler, Victoria Joncas, Steve Fischenich, Hayden Bridwell,
Jim Najima, Shirley DeCrona, Kevin Sullivan, Marlene Huderski,
JD Dotchin, Chad Schoop and Todd Croft (NDEP)
Rose Marie Reynolds, State Attorney General's Office - Las Vegas
Randy Miller, Broadbent and Associates, Inc.
Rex Heppe, ATC Associates, Inc.
Peter Krueger, Nevada Petroleum Marketers and Convenient Store Association
Keith Stewart, Stewart Environmental, Inc.
Erin McMullen, Frias Holding Company/Snell and Wilmer, LLP
Jon Bell, Broadbent and Associates, Inc.
Allan Faust, Fairway Chevrolet
Matt Grandjean, Stantec Consulting Corporation

II. APPROVAL OF THE AGENDA

Vice Chairman Ross moved to approve the agenda. Ms. Cripps seconded the motion. Motion carried unanimously.

Mr. Kottler informed the Board that the agenda had the wrong street listed for Carson City. The location was corrected and the modified agenda was approved by the Board.

III. APPROVAL OF THE SEPTEMBER 8, 2010 MINUTES

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

IV. PUBLIC FORUM

Mr. Krueger representing the Nevada Petroleum Marketers and Convenient Store Association (Association) indicated that it would be helpful to the public, the regulated community, Certified Environmental Managers (CEMs), staff and Board members to take a look at the policies, resolutions, and regulations that have been adopted during the 20 years since the Board was established. Mr. Krueger requested on behalf of the Association that the Board and staff review at this point all the policy resolutions that govern how this Board works and makes its determinations, and how the staff makes recommendations to the Board members. Lastly, he also praised the cost-efficiency of the Nevada State Petroleum Fund relative to that of other Western U.S. States.

When Vice Chairman Ross asked for clarification of his main concern, Mr. Krueger indicated his interest was in a review of the policies, although he did note the importance of public access to Board regulations, policies and procedures as per NAC 233B.. Later, in response to the Vice Chairman's query about the role that technological changes during the past 20 years may play in the need for policy change, Mr. Krueger stated that motivation for the review was to revisit the origin and purpose of the Fund for the benefit of the relatively new Board staff members.

When asked by the Chairman for staff input, Mr. Kottler indicated that staff would begin reviewing the resolutions within the Fund branch and consult with the Fund's sister branches in the underground storage tank (UST) and leaking underground storage tank (LUST) programs. He noted that the staff would need to review 20 years of Board resolutions and subsequently present any recommended modifications to the Board for approval. He added that consultation with legal counsel would be appropriate if additional changes were warranted. Later, Mr. Kottler added that by the June 2011 meeting, he anticipated that staff could begin presenting to the Board the first of its resolutions recommended for modification.

Mr. Krueger emphasized that he would like to see the regulated community including tank owners/operators and CEMs involved in the review process.

Mr. Wright commented that the idea of a program review is a good idea in light of the new administration taking office in Nevada and any potential future review of all Nevada State Boards and Commissions.

Chairman Haycock stated that it was incumbent on the Board and staff to review the Board's policies, procedures, and resolutions. He also expressed an interest in having staff create appropriate forums to conduct such a review, discuss the relevancy of the rules and regulations, and consider the culture and history of the Board.

V. STATUS OF THE FUND

Mr. Kottler reported on the status of the Fund for fiscal year 2011, which runs from July 1, 2010 through June 30, 2011. He stated the total cumulative revenue in the Fund for the current fiscal year was approximately \$11 million. He stated \$8.5 million was the balance forwarded from the previous fiscal year 2010. Approximately \$400,000 in fees were collected for tank enrollment into the Fund for storage tanks, and approximately \$2.2 million was collected from the ¾ cent per gallon Fund fee and approximately \$9,000 is interest earned. Total expenditures from the fund were approximately \$3 million of which just under \$1.9 million was payment of claims at the September meeting. Approximately \$793,000 was the second and final transfer to the Nevada State Highway Fund for this fiscal year. Mr. Kottler stated the remaining Fund balance was approximately \$8.1 million for the current fiscal year.

Mr. Kottler stated staff is recommending the approval of approximately \$1.4 million in reimbursements and that there will be a balance of \$6.7 million in the Fund if the Board approves all reimbursement recommendations.

VI. DETERMINATION OF FUND COVERAGE

A. Resolution No. 2010-07

Resolution to Waive the 12 Month final Claim Submittal Deadline for 7-Eleven #21850, 3575 E. Lake Mead Blvd., N. Las Vegas, NV, Facility ID No. 8-000603, Petroleum Fund Case ID No. 1997000007

Mr. Bridwell indicated pursuant to NAC 590.780(1), a final reimbursement claim cannot be accepted later than 12 months following completion of corrective actions unless good cause for the delay is provided. The final claim for this case was received by NDEP more than 12 months following the cessation of corrective actions at the site. 7-Eleven had indicated the late submittal of the claim was a result of a delay in the removal of the remediation system due to its size.

Mr. Bridwell stated that NDEP's findings indicate there was no cost savings for 7-Eleven, nor were there any additional cost to the Fund due to the late submittal. Therefore, NDEP is recommending that the Board finds good cause to waive the final claim submittal deadline.

Mr. Bridwell indicated that this claim is agenized as a non-consent item. Should the Board adopt this resolution, 7-Eleven will receive \$5,568.99 in reimbursement for the final claim.

Vice Chairman Ross moved to approve Resolution 2010-07 and Ms. Cripps seconded the motion. Motion carried unanimously.

**B. Resolution No. 2010-08
Resolution to Provide Reduced Petroleum Fund Coverage to Circle K #1791,
3901 E. Lake Mead Blvd., Las Vegas, NV,
Facility ID No. 8-000329, Petroleum Fund Case ID No. 2005000036**

Mr. Kottler stated that on March 10, 2004 during an environmental site assessment prior to the sale of the property, soil and groundwater contamination were discovered near the dispenser island and underground storage tanks (USTs).

After subsequent checks of the three USTs at the facility did not identify a release source, historical records were checked. Records indicated that on July 11, 2001, Southern Nevada Health District, formerly Clark County Health District, noted during an annual inspection that the turbine sump of the 89 plus UST was filled with gasoline. Work orders dated July of 2001 state the sump was emptied of liquid, and a release was found at the leak detector, which was subsequently repaired. In August 2001 a test confirmed the subject UST system was no longer leaking. In a coverage application dated March 18, 2005, the responsible party noted that soil and groundwater data indicated at least two release points from both the dispensers and the USTs.

Mr. Kottler indicated that in subsequent discussions with the responsible party, it was recommended that 20% of the contamination may be associated with non-reimbursable events. Therefore, NDEP staff is recommending to the Board that the subject facility receives Fund coverage with a 20% reduction. In a letter dated November 10, 2010 the responsible party confirmed support for the recommendation.

Mr. Heppe of ATC Associates, Inc. representing ConocoPhillips Company reiterated ConocoPhillips support of staff's recommendation.

Ms. Lietz moved to approve Resolution No. 2010-08 and Mr. Wright seconded the motion. Motion carried unanimously.

**C. Resolution No. 2010-09
Resolution to Provide Third Party Liability coverage to 7-Eleven #27607,
600 N. Las Vegas Blvd., Las Vegas, NV,
Facility ID No. 8-001149, Petroleum Fund Case ID No. 1999000243**

Mr. Kottler stated that the Board previously approved that the subject site receives a maximum of \$540,000 in Fund coverage for first party liability claims. This represents \$1 million in Fund coverage for one UST system minus a 40% reduction and minus a 10% co-payment.

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 recommends that the subject facility receives additional coverage for third party liability with a maximum of \$540,000, which is the cap of a million dollars for a single tank, less the 40% reduction and a 10% co-payment.

Ms. Tappan moved to approve Resolution No. 2010-09 and Mr. Cox 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 15, 2010**

<u>HEATING OIL</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.	1992000102H	Lyon County School District: Yerington Elementary	\$33,024.60	\$33,024.60
2.	2006000020H	Bruno Benna: Benna Residence	\$705.00	\$705.00
3.	2007000013H	Churchill County School District: Bus Barn	\$5,409.00	\$5,409.00

HEATING OIL: SUB TOTAL: \$39,138.60 \$39,138.60

<u>NEW CASES/OTHER PRODUCTS</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.	2010000013	Argyris Enterprises, LLC: City Stop #12	\$43,284.45	\$37,381.36

NEW CASES, OTHER PRODUCTS: SUB TOTAL: \$43,284.45 \$37,381.36

<u>ONGOING CASES/OTHER PRODUCTS</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
1.†	1993000080	Shell Oil Products, US: Former Shell, Reno	\$0.00	\$6,244.62
2.	1993000102	Rebel Oil Company: Rebel #8	\$7,958.70	\$7,958.70
3.	1993000103	Russell Yardley: Charlie Brown Construction	\$22,466.24	\$22,016.92
4.	1993000115	City of Fallon: Former Bootlegger Texaco	\$10,018.60	\$10,018.60
5.	1994000003	Allied Washoe: Allied Petroleum	\$7,140.78	\$5,570.78
6.	1994000012	Wirtz Beverage NV.: Former DeLuca Liquor & Wine	\$17,676.50	\$17,676.50
7.	1994000037	Param Investments and/or Broadbent: Gofer Market	\$55,320.15	\$55,135.15
8.	1994000065	Avis Rent A Car Systems: Avis Rent A Car	\$26,142.99	\$23,003.49
9.	1994000086	Falconi Motors, Inc.: Falconi's Tropicana Honda	\$18,617.24	\$17,905.11
10.	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop	\$156,084.39	\$156,084.30
11.	1994000120	ConocoPhillips Company: Union 76 #3846	\$6,653.65	\$5,988.29

ONGOING CASES/OTHER PRODUCTS: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>
12.†	1994000122	Ron or Gary Michelsen: Mike's Gas-A-Mart	\$25,871.73	\$31,936.65
13.	1995000012	N. Nevada Asset Holdings: Parker's Model T	\$79,755.35	\$71,142.93
14.	1995000042	FBF, Inc.: Former Fayeghi Texaco	\$4,371.76	\$3,934.59
15.	1995000074	Vera Hester: Glendale Service Facility	\$76,730.64	\$73,145.02
16.	1995000105	Redman Petroleum Corp.: Redman Petroleum	\$7,060.74	\$6,354.66
17.	1995000110	Chevron USA Products Company: Chevron #9-2836	\$60,972.85	\$50,453.59
18.	1996000063	Joan Pennachio: V&V Automotive	\$31,788.26	\$28,609.44
19.	1996000101	ConocoPhillips Company: Circle K #695	\$22,867.53	\$20,580.77
20.	1996000102	ConocoPhillips Company: Circle K #542	\$4,120.68	\$2,613.19
21.	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility	\$5,042.50	\$4,362.75
22.	1997000093	ConocoPhillips Company: Union 76 #5257	\$5,949.56	\$3,739.26
23.	1998000046	Willdens Automotive Holdings: Allstate Rent A Car	\$52,305.49	\$44,040.94
24.	1998000068	ConocoPhillips Company: Conoco #28003	\$8,109.15	\$7,261.38
25.	1998000073	City of Reno: City of Reno Police Station	\$17,111.21	\$17,054.26
26.	1998000080	Seven Crown Resorts: Echo Bay Resort	\$21,633.82	\$19,470.43
27.*	1999000007	7-Eleven, Inc.: 7-Eleven #21850	\$6,187.77	\$5,568.99
28.	1999000017	Reed, Inc.: Reed R-Place Shell	\$30,836.57	\$26,543.64
29.	1999000048	Estate of Robert Cowan: Former Lightning Lube	\$15,769.24	\$15,760.09
30.	1999000052	Estate of Martin Wessel: Ted's Chevron	\$7,625.04	\$6,862.54
31.	1999000061	Rich Sorani: Former Rich's Unocal	\$13,654.94	\$13,654.94
32.	1999000066	HP Management, LLC: Former Haycock Petroleum	\$11,500.88	\$10,350.80
33.	1999000090	HP Management, LLC: Former Haycock Petroleum	\$18,488.38	\$16,639.54
34.	1999000114	City of Fallon: Fallon Maintenance Yard	\$4,977.76	\$4,479.98
35.	1999000167	City of Las Vegas: Fire Station #1	\$14,143.94	\$14,143.94
36.	1999000186	Gloria Pilger: Former D&G Oil Facility	\$26,001.42	\$23,401.28
37.	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station	\$44,369.68	\$44,219.68
38.	1999000257	University of Nevada: Newlands Agriculture	\$3,066.48	\$3,066.48
39.	1999000273	V.K. Leavitt: The Waterhole	\$37,798.57	\$20,640.72
40.	1999000275	Conoco Phillips Company: Circle K #1248	\$3,711.92	\$3,006.66
41.	2004000013	Nevada Nanak Petroleum, Inc.: NV Nanak Petroleum	\$2,479.74	\$1,339.06
42.†	2005000002	Carson Valley Oil Co., Inc.: Carson Valley Oil	\$15,621.24	\$16,597.14
43.	2005000025	Bordertown, Inc.: Winner's Corner	\$30,794.20	\$27,714.78
44.	2005000039	Petrosun Fuel, Inc.: Taylor Street Market	\$2,937.00	\$2,643.30
45.	2005000044	Ewing Brothers, Inc.: Ewing Brothers Facility	\$18,704.63	\$13,802.76
46.	2007000002	Consolidated Nevada Corp.: Berry-Hinckley #201	\$4,588.00	\$3,037.95
47.	2007000014	Ace Cab Company, Inc.: Ace Cab Company	\$147,018.00	\$131,345.55
48.	2007000016	TOC Holdings Company: Former Time Oil #6-100	\$7,104.64	\$6,394.18
49.	2007000023	7-Eleven, Inc.: 7-Eleven #29643	\$24,430.24	\$17,589.77
50.	2008000017	Big Daddy's Oil, LLC: Flamingo AM/PM #82153	\$27,899.92	\$16,312.22

<u>ONGOING CASES/OTHER PRODUCTS: CONTINUED</u>			<u>REQUESTED</u>	<u>RECOMMENDED</u>
51.	2009000009	Tom Schwarz: Zak's Mini Mart	\$23,171.55	\$16,683.51
52.	2009000017	D&J Holdings, LLC: Convenience Corner Shell	\$4,844.31	\$4,359.88
53.	2009000020	Western Energetix, LLC: Western Energetix Bulk Plant	\$15,531.00	\$13,977.90
54.	2009000023	Samir Shushani: Stop & Save Mini Mart	\$15,224.50	\$7,631.28
55.	2009000024	Parampreet Investment, LLC: Chuck's Circle C	\$101,554.44	\$91,398.99
56.	2009000028	Vegas Rainbows, Inc.: Mick & Mac's Food Mart	\$14,118.25	\$12,057.64
57.	2010000001	Smitten Oil & Tire Company: The Gas Store	\$5,946.88	\$5,352.19
58.	2010000003	Big Wheel Properties, LLC: Big Wheel Travel Center	\$1,380.00	\$1,242.00
59.	2010000007	Pecos Express, Inc.: Pecos Express	\$9,079.23	\$8,171.30
60.	2010000010	Petrosun Fuel, Inc.: Victorian Food Mart	\$2,573.25	\$2,315.93
61.†	2011000001	Short Line Express Market: Short Line Express	\$26,543.50	\$30,714.52

ONGOING CASES/OTHER PRODUCTS: SUB TOTAL: \$1,491,447.62 \$1,351,323.45

REQUESTED RECOMMENDED
CLAIMS TOTAL: \$1,573,870.67 \$1,427,843.41

Ms. Cripps moved for approval of Item No. VII, Heating Oil, 1 through 3, New Cases/Other Products, 1, Ongoing Cases/Other Products, 1 through 61. Mr. Wright seconded the motion. Discussion followed.

Vice Chairman Ross disclosed under Ongoing Cases C, Item Number 47, that he is an employee of the law firm, which represents Ace Cab Company. However, he stated these interests would not affect his voting.

Chairman Haycock disclosed under Ongoing Cases C, Item Numbers 32 and 33, that he is a managing partner for HP Management LLC. Therefore, he recused himself from voting on those two items.

Mr. Cox disclosed under Ongoing Cases C, Item Number 5, that he is the principal in the company. Therefore, he recused himself from voting on the item.

Motion carried unanimously.

VIII. EXECUTIVE SUMMARY

Mr. Kottler reported on the status of the Fund for fiscal year 2011, which began July 1, 2010. NDEP has received 6 new cases for evaluation of coverage. Since the inception of the program, 1,369 cases have been evaluated for reimbursement. There are currently 229 active remediation sites expected to continue with requests for reimbursement. A total of 970 cases have been closed, 112 cases have been denied coverage, and 42 cases have expired. A total of 16 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 \$161.8 million has been reimbursed. Adding today's reimbursement recommendations, approximately \$163.2 million will have been reimbursed from the Petroleum Fund to date.

The invoicing for tank enrollment into the Fund for fiscal year 2011, which runs from October 1, 2010 through September 30, 2011, commenced on August 5, 2010. 1,437 facilities have been invoiced at \$100 per petroleum tank system. As of November 8, 2010, 92% of the facilities have paid.

Ms. Lietz asked for a clarification regarding the date of when the invoicing for tank enrollment commenced. The executive summary report states it commenced on August 20, 2010, when Mr. Kottler gave his report he stated August 5, 2010. Mr. Kottler stated he would need to verify the date and inform the Board at the next meeting.

IX. CONFIRMATION OF NEXT MEETING DATE

It was confirmed the next meeting date would be Thursday, March 10, 2011.

Mr. Kottler introduced Mr. Kevin Sullivan as the new underground storage tank (UST) and Leaking UST program Supervisor. Mr. Kottler informed the Board that Mr. Sullivan has replaced Mr. Art Gravenstein. The Board welcomed Mr. Sullivan.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 2:41 pm.