

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
SEPTEMBER 14, 2017**

1. CALL TO ORDER

Chairman Ross called the meeting to order at 10:00 a.m. from Carson City at the Laxalt Building, 401 North Carson Street, 2nd Floor Chambers. The meeting was also conducted via videoconference with Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Governor's Conference Room 5100.

A. BOARD MEMBERS PRESENT

Chairman George Ross - Representative of Petroleum Refiners
Vice-Chairman Maureen Tappan - Representative of the General Public
Dawn Lietz - Department of Motor Vehicles
John Saxon - Representative of Independent Petroleum Dealers
Greg Lovato - Nevada Division of Environmental Protection
Bart Chambers - State Fire Marshal

BOARD MEMBERS NOT PRESENT

Michael Cox - Representative of the Independent Retailers of Petroleum

OTHERS PRESENT

Peter Keegan - State Attorney General's Office, Carson City
Jeff Kinder, Jeff Collins, Valerie King, Victoria Joncas, Kim Valdez, Don Warner, Megan Slayden, Raquel Diedrichsen, Jovani Valdivia, Todd Croft, Chuck Enberg, Diondrae White, and Karen Kovacs - Nevada Division of Environmental Protection (NDEP)
Jon Bell - Broadbent Inc.
Kirk Stowers - Broadbent Inc.
Joe McGinley - McGinley & Associates
Ryan Defilippi - McGinley & Associates
Rodney Arbogast - Reno Drain Oil Service
Richard Channel - Reno Drain Oil Service
Steve Aguilar - Reno Drain Oil Service
Peter Krueger - NV Petroleum Marketers & Convenience Store Association (NPM&CSA)
Wayne Chimarusti - Member of the public
Kathleen Johnson - The Westmark Group
Keith Stewart - Stewart Environmental

2. PUBLIC COMMENT

There were no requests to address the Board.

3. APPROVAL OF THE JUNE 8, 2017 MINUTES

Mr. Lovato stated he felt the minutes were excellent. Chairman Ross also added the minutes were very thorough with interesting and well-captured discussion.

Mr. Lovato moved to approve the June 8, 2017 minutes. Mr. Saxon seconded the motion. Motion carried unanimously.

4. **STATUS OF THE FUND**

Mr. Warner reported on the status of the State of Nevada Petroleum Fund and stated that the balance forward from 2016 was \$7.5 million with approximately \$415,500 collected for storage tank enrollment. Approximately \$13,636,000 was collected from the \$0.0075 per gallon fee and the interest accrued was just under \$71,500. The balance forward to fiscal year 2018 is a negative revenue of \$7.5 million with a cumulative revenue of \$14,122,665.63.

Mr. Warner reported transfer to the NDEP was just over \$1.125 million, which facilitates administration of the program as well as interactive database development. Transfer to the Highway Fund was just over \$3.9 million, with an additional transfer to the DMV of approximately \$12,700 for administration of the Petroleum fee. If all claims are approved at today's Board meeting, the reimbursement total will be approximately \$8.8 million. Reportable liabilities are minimal and the Petroleum Board Cost for fiscal year 2017 was \$10,521.34. Pending obligated claims are just over \$8,700.00, with total remaining obligations at just over \$19,000.00.

5. **SITE SPECIFIC BOARD DETERMINATION FOR PETROLEUM FUND COVERAGE WITH REDUCTIONS**

Mr. Warner presented proposed Site Specific Board Determination (SSBD) No. C2017-04 recommends Petroleum Fund coverage with a 20% reduction to 24x7 Mini Mart owned by Mr. Ted Rosenstein, located at 4030 West Charleston Boulevard, Las Vegas, Nevada. Facility ID No. 8-001471, Petroleum Fund ID No. 2017-000015

Mr. Warner stated on May 3, 2017 NDEP received an Application for Coverage on behalf of 24x7 Mini Mart which was subsequently reviewed by the UST Compliance Branch and completed on May 9, 2017. At that time a non-compliance issue was identified including failure to comply with general requirements for all three UST systems in use at the site associated with the release detection.

Mr. Warner stated the Southern Nevada Health District (SNHD) conducted an inspection of the facility on January 11, 2016 in response to NDEP Spill Report #151230-01 indicating a potential leak. The SNHD requested further investigation and reported documenting findings at that time. On January 12, 2016, an annual line tightness test was conducted by certified UST systems tank handler, Petroleum Systems & Maintenance, Inc. (PSMI). The systems tested tight, indicating compliance. The next required annual line tightness test was to be conducted by mid-January 2017, per title 40 of the Code of Federal Regulations Section 280.41. Mr. Warner noted that 24x7 Mini Mart failed to conduct the required annual line tightness test by the end of January 2017 and was therefore out of compliance.

On February 22, 2017, Broadbent & Associates Inc. (Broadbent) conducted a requested site characterization study on behalf of the SNHD. Dispensers onsite were inspected at which time the shear valve at dispenser 5/6 was observed to have been the source of a potential leak. A soil sample was collected from a depth of 6 inches beneath dispenser 5/6 with laboratory results indicated TPH concentrations of 4,700 ppm, further suggesting release from the dispenser.

On March 2, 2017, PSMI inspected dispenser 5/6 and found leaking shear valves on the mid-grade line and the vapor recovery line. As a result, the dispenser was taken out of service.

On March 16, 2017, SNHD inspected the facility and noted noncompliance of leak detection requirements. An annual line tightness test, annual mechanical line leak detector test, and twelve months of leak detection records were requested.

On March 20, 2017, PSMI returned to the facility and replaced both shear valves. At that time, Broadbent collected additional soil samples from both 18 and 24 inches below dispenser 5/6. Laboratory results indicated TPH concentrations as high as 24,000 ppm, confirming a release had occurred. Upon confirmation of a release on March 20, 2017, the facility was deemed out of compliance.

On March 30, 2017, PSMI conducted line tightness testing on the three UST systems which reported that all three passed tightness testing, indicating a repair to the source of the leak.

Mr. Warner stated Title 40 of the Code of Federal Regulations (40 CFR) Section 280.41 Requirements for petroleum UST systems, states: "Owners and operators of UST systems must provide release detection for tanks and piping...and have an annual line tightness test conducted in accordance with Section 280.44(b) or have monthly monitoring conducted in accordance with Section 280.44(c)."

Mr. Warner stated Board Policy Resolution No. 94-023, states: "Non-compliance with certain regulations may not necessarily be proximate cause for a discharge...but may still result in increased costs for site remediation." Resolution 94-023, states: "When a determination of non-compliance is made, the staff of the Nevada Division of Environmental Protection will recommend to the Board that any reimbursement awarded be reduced in accordance with the Reimbursement Reduction Schedule." Pursuant to Board Policy Resolution No. 94-023, the noncompliance issue associated with this case is: Failure to comply with General Requirements for all UST Systems, Release Detection - 20% Reduction.

Mr. Warner concluded with NDEPs recommendation that the Board Adopt Site Specific Board Determination No. C2017-04 as proposed. Adoption of this resolution grants coverage under the State of Nevada Petroleum Fund to 24x7 Mini Mart for one UST system and its associated underground piping with a 20% reduction for violation of Federal Regulations 40 CFR, Section 280.41, minus the required 10% copayment. Fund coverage for the UST system would be a maximum of \$720,000.00.

Chairman Ross stated there was a leak and noncompliance, not necessarily a connection between the noncompliance and the leak, but clearly a leak had occurred. He inquired if a cause of the leak was determined or if there was a connection with the failed initial tightness test.

Mr. Bell, with Broadbent and Associates, stated Broadbent was at the site owned by their client, Mr. Ted Rosenstein, and conducted characterization associated with ground water issues, including potential system failures. He stated that at that time an issue with the shear valves in the dispenser were found.

Mr. Bell stated his client is the owner; however, a private operator runs the facility. Based upon an agreement between Mr. Rosenstein and the operator, the operator is to be maintaining required compliance records and Mr. Rosenstein was not aware of the line tightness testing which was disclosed during submission of the coverage application. Mr. Bell stated the release was not discovered due to failure of the line tightness test, rather, discovery of the leak lead to the facility's noncompliance.

Chairman Ross stated that a checklist is required and indicated that if the Board forgives this oversight, then additional facilities may lag in future record keeping. There is a clear reason for tightness testing and it is important for owner/operators to understand the Board takes this seriously.

Mr. Bell asked the Board to take into consideration that Mr. Rosenstein realizes the importance of maintaining compliance records and accepts that it is his responsibility, as opposed to his tenants. He felt the situation was out of his hands, but does understand the magnitude of these tests and staying in compliance.

Mr. Saxon stated he agreed with Chairman Ross and that the Board needs to be careful in consideration. He further stated that a 20% reduction, along with the 10% copay, would be sufficient.

Mr. Chambers had concerns that this situation be addressed appropriately and stated the issue should be addressed, regardless of who was operating the site and whether the owner had knowledge of the incident or not.

Ms. Lietz made a motion to Adopt SSBD No. C2017-04, as proposed. Mr. Lovato seconded the motion. The motion was unanimously approved.

6. **AMENDMENT TO THE CEM COST GUIDELINES – TASK TABLE J.1**

Ms. King presented a Proposed Amendment to CEM Cost guidelines explaining that a vulnerability was discovered in the Task Table approved in March 2016 regarding heating oil tanks and their initial abatement. The Task Table provides a calculation for Non-CEM costs using excavated soil tonnage as the variable for the maximum reimbursable amount allowed. Currently, case officers are allowed to approve overages of the total removed soil in order to ensure efficiency while attempting to get sites to closure more quickly. These efforts were determined to be a cost effective alternative for the Fund.

Ms. King stated the proposed change to the Policy Resolution would allow case officers to incrementally increase Non-CEM costs so that actual costs may be covered where tonnage is small, but the Non-CEM costs are greater than afforded by the current calculation.

Ms. King provided examples of instances that this would be beneficial. They included a CEM working at a residential site where it is difficult to access the contamination and may need special equipment rentals, resulting in a cost greater than the calculation allows. If the residence is in a rural area, travel cost associated with that site may also be more than the calculation allows. The change in Policy Resolution would grant the case officer flexibility to approve these types of small overages.

Ms. King discussed the proposed language in the Policy Resolution.

Ms. Maureen Tappan made a motion to approve the Amended Task Table, as proposed. Ms. Lietz seconded the motion. The motion was unanimously approved.

7. **PRESENTATION OF DRAFT POLICY RESOLUTION 2017-02 PROVIDING BOARD AUTHORIZATION TO NDEP FOR DIRECT PAYMENT OF UNCONTESTED CLAIMS**

Ms. King presented Draft Policy Resolution 2017-02 and explained that adoption was not being requested at this meeting; it was simply to introduce the policy resolution. For approximately three decades, NDEP and the Petroleum Fund Board have worked together to reimburse claims associated with environmentally beneficial cleanup projects. Over 1,200 cases have been closed with assistance from NDEP and the Board. Currently, claims are processed and presented to the Board for approval on a quarterly basis. The new interactive database has afforded NDEP an approximate 30% increase in efficiency with day-to-day operations. The current process for paying claims on a quarterly basis works; however, the interactive database will allow for continuous payment processing resulting in continuous, uninterrupted cleanup, thereby eliminating a CEM halting work while awaiting quarterly payment.

Ms. King stated that the AG's Office had been contacted to determine if the Board has authorization to delegate authority to NDEP for processing direct payments of uncontested claims. Mr. Peter Keegan responded on behalf of the AG's Office that the Board can delegate that authority to NDEP. Ms. King stated that if the Board determines that delegation of authority to NDEP to make direct payments is in the best interest of the Petroleum Fund program, then NDEP will recommend that the Board adopts the Policy Resolution during the December 2017 meeting. If adopted, batch payments will be eliminated, allowing for continuous cleanup of contaminated sites which allows cases to close more quickly. This benefits the environment, the environmental consultants and the Petroleum Fund because efficient closures cost less.

Ms. King introduced Mr. Kirk Stowers, with Broadbent and Associates Inc (Broadbent), and Mr. Joe McGinley, of McGinley and Associates Inc. (McGinley), to share their opinion of the proposed Policy Resolution to be heard at the December 2017 meeting.

Mr. Stowers explained that major oil companies have greater resources and may absorb initial costs, but mid-level and small operators will find continuous reimbursement helpful in order to continue work at their sites. Under the current system, claimants have waited for Board approval, and occasionally, deadlines are missed when claims are not being approved as expeditiously as possible. Anything that expedites cleanup decreases the amount of contamination in the subsurface. If the source area is not addressed, additional costs are incurred on the back end. On behalf of his company and CEMs in general, he stated that if the Resolution is adopted, it will substantially streamline the process and his company is completely in favor.

Mr. McGinley noted that his firm has been involved in numerous Petroleum Fund projects over the years and he would like to express strong support for this resolution. A particular benefit will be for small operators, such as those located in rural Nevada. He thanked staff and Ms. King for their efforts in putting this together.

Mr. Peter Krueger, representing the Nevada Petroleum Marketers Convenience Store Association, stated they also support adoption of this resolution in December 2017.

Chairman Ross noted the proposed resolution is an outstanding idea. He questioned NDEP had noted any problems with the proposal.

Ms. King stated NDEP had received no negative responses and pending Board approval, NDEP would determine logistics of the program going forward.

Ms. King briefly presented the proposed Resolution to be heard at the December 2017 meeting. Ms. King noted that Page 3 contained points for consideration, including the statement that the Board will delegate authority to NDEP for disbursing direct payments of uncontested claims. She stated that upon adoption, NDEP will inform the Board of claimants paid and that contested claims

and Site Specific Board Determinations will continue to be individually presented to the board for consideration.

Ms. King noted that NDEP would receive and process one claim at a time through the database. To receive direct payment, the claimant must declare the claim is uncontested which starts the 30-day clock for submitting proof of payment. Upon submitting a valid proof of payment the claimant may submit its next claim, allowing them to remain in the automated payment process. At this time, an identified procedural downside or detriment to stakeholders has not been identified and logistically, NDEP has the tools to implement this resolution.

Chairman Ross stated there were no known downsides identified by the Board and that this appears to be an outstanding addition to the program. Chairman Ross encouraged NDEP to continue work on the resolution for consideration at the December 2017 Board meeting.

8. PROPOSED PERMANENT REGULATORY PETITION R032-17

Chairman Ross stated Proposed Regulatory Petition R032-17 would implement the Grant Program authorized in SB 251, which was approved at the latest legislative session.

Ms. King stated that in October of 2018, new UST Regulations with requirements to conduct routine testing of STP sumps and spill buckets will go into effect. Noncompliance is anticipated, and owner/operators will be required to adhere to new compliance requirements by updating, repairing or replacing equipment. SB 251 was introduced into legislation and sponsored by Senator Goicoechea and Senator Settelmeyer. Chairman Ross helped to push the bill through. SB 251 creates a grant program to assist noncompliant owner/operators purchase required upgrades to become compliant. In addition, SB 251 adds a Technical Assistance Program whereby the NDEP will contract with a third party to supply educational and outreach information while ensuring sustainable compliance by providing assistance to owner/operators throughout the State. Upon SB 251 becoming law on June 14th, 2017, the Board became responsible for adopting regulations that allow NDEP to implement the two programs.

Ms. King reported that public workshops were held in Carson City, Las Vegas and Elko to discuss regulations proposed in SB251. As a result of comments received during the workshops, changes were implemented, including a recommendation made by Chairman Ross to increase required tax documentation provided by the applicant from one year, to three years. Mr. Krueger recommended increased confidentiality with respect to financial information submitted in Grant Applications. Lastly, a statement noting that a company's Principal Office must be domiciled in Nevada was removed. On July 14th, 2017, NDEP drafted regulations, received internal and external review, and sent those proposed regulations to LCB for legal drafting.

Ms. King provided a brief overview of the regulations and emphasized the source of the funding would be from the money that is typically transferred to the NDOT Highway Fund. She discussed that eligibility requirements for grant applicants would depend upon tank registration and a verifiable small business status. There would be general information required regarding the number of tanks and required upgrades. She also discussed the ranking of applications that will be consistent with the original language in SB 251 and that applicants will be required to provide financial information, the volume of fuel dispensed over the last two years and a list of public gas stations within 15 miles of the applicant's station.

Ms. King stated available grant funding would be awarded to the highest ranked facilities until exhaustion of allotted funds for that award period. The award cycle would resume upon grant

funding approval the following fiscal year. Grant allocations for a single storage tank include an award of no more than \$38,000, two storage tanks may not exceed \$64,000 and three storage tanks may not exceed \$90,000. The figures noted were calculated after receiving itemized cost information for spill prevention equipment from certified tank handlers. The approximate cost for a spill bucket is \$6,000 and an STP is approximately \$20,000. A possible \$12,000 base cost was provided for mobilization of equipment to rural areas.

Ms. King stated when a grant-funded project is complete, NDEP must verify the funds allocated by the Board have been used in accordance with an approved work plan. Grant recipients must provide vendor payment verification to NDEP within 30-days of project completion. Grant funds awarded by the Board must be used for approved upgrades only. If funds are not used in their entirety or are used for unauthorized expenditures, NDEP will notify the award recipient those funds are to be refunded to NDEP, at which time the recipient has 30 days from the date of notification to return the funds. Upon adoption of the regulation, NDEP will have authority to red-tag recipients who fail to comply with the request for refund. When the NDEP receives the requested funds, the red tag will be removed, allowing the recipient to receive fuel delivery.

Chairman Ross noted this was an excellent presentation and inquired if the proposal will be heard by the Board for approval at the December 2017 meeting.

Ms. King confirmed.

Mr. Lovato commented that Grant funding might be used for a broad section of items covered in the Nevada Administrative Code. Regarding a statement made by Ms. King about the 2018 requirements for leak detectors on STP sumps and spill bucket upgrades, Mr. Lovato stated he believed this section of the NAC may be interpreted more broadly. He was unclear if the intention of the Fund was to use Grant funds only for new regulations, or for any upgrade. He encouraged NDEP staff to ensure the language clearly states what is encompassed and why.

Ms. King stated the intention of NDEP staff was to leave language broad in the event of future program expansion, thus allowing the Board to approve necessary future adjustments.

Mr. Lovato stated additional outreach may afford applicants a clear expectation of funded items and expressed appreciation that the amendment holds financial matters confidential. It was understood that during LCB review, the Public Records Act would be used to determine allowable confidentiality. Mr. Lovato noted the importance of stating that NDEP would hold certain records confidential while an interpretation of the Public Records Act may require disclosing that information in the event of a public inquiry.

Ms. King stated LCB received the draft regulations after NDEP workshops were held and that NDEP communicated the confidentiality requirements with LCB. LCB is currently reviewing the regulations and will be addressing this issue.

Ms. Tappan inquired about NDEP being inundated with applications.

Ms. King responded that NDEP is prepared to receive applications and are developing procedures to rank and sort using an electronic, unbiased procedure through the database. The result will be a ranked list based upon stated criteria and NDEP distributing the grant funds to the top ranked facilities. Upon exhaustion of available funding, NDEP will halt grant payments until the next fiscal cycle when funding again becomes available.

Ms. Tappan inquired if applicants who do not receive grant funds during the first year are then considered to be out of compliance. If during the following grant cycle an applicant is provided

requested grant funding, are they considered out of compliance at any time for halting repairs in anticipation of receiving grant funds?

Ms. King stated NDEP has discussed compliance for those facilities yet to receive requested grant funding. Facilities unable to afford required upgrades without first receiving grant funds will work with NDEP to develop a schedule of compliance while remaining in operation. It is the intent of NDEP to both protect the environment and work with facilities to ensure compliance.

Chairman Ross stated that upon discussion with legislators, there was concern regarding ensuring grant funds are not solely intended to assist rural stations. Chairman Ross stated that as a result of discussion, a change was made to the original draft, taking into account urban stations may also qualify and that this should not be noted as only a rural program.

Chairman Ross noted that Clark County pays a majority of the taxes for the State, as well as the bulk of the gasoline tax fee. It was emphasized that going forward, this program should be considered a bill for the whole of Nevada. In discussion it is advisable to refer to the grant program in regards to all of Nevada, rather than exclusively rural Nevada.

Chairman Ross stated that it is important to note this regulation is required to go before the Legislative Commission prior to becoming a regulation.

Mr. Lovato commented that during the September 2017 Board meeting, there was discussion regarding reimbursement recipients receiving 1099 forms from the Treasurer's Office. Clear instruction in regards to an available exemption will be helpful as the program is established.

Mr. Keegan replied that this comment would be addressed in agenda item number nine.

Mr. Krueger, with the Nevada Petroleum Marketers, reiterated support for SB 251 and recognized the efforts of Chairman Ross. Mr. Krueger did not believe that the NDEP would be inundated with applications but that it was important for the information to be released properly. He committed to provide information to retailers regarding the program.

Mr. Lovato stated the importance of clearly stated criteria regarding the ranking of applicants by setting transparent expectations in methodology.

Chairman Ross commented that when lobbying SB 251, several inquiries were received regarding why this was not drafted as a loan program. The response was that if facilities were financially able to receive a bank loan, this type of program would not be required. SB 251 is intended to assist small businesses that potentially would not qualify for a bank loan.

Mr. Keegan commented that if he understood the regulation correctly, there is a possibility that the Director may exempt a facility in anticipation of upgrade installations. When an application is deemed valid, but grant funds are exhausted, would a waiver be granted pending funding availability in the next fiscal year?

Ms. King responded that UST systems must be in compliance to qualify for the grant. The exemption would allow for a UST system to be out of compliance if the upgrades made using the grant money put the system back in compliance.

Mr. Keegan inquired about eligibility for such a waiver granted to applicants that do not receive grant funds. What position would a facility be in if they did not receive grant funds, yet there are upgrades required in order to be deemed in compliance?

Ms. King stated if a facility is ranked high enough to receive grant funds, and is considered to be out of compliance for cost-eligible items, including the spill bucket and STP sump, they would receive funds. If found to be out of compliance for other items outside of the new UST regulation requirements, then that applicant would not be eligible for grant funding. It is noted that the regulations are not final; therefore, if language requires adjustment, there is time to make the necessary changes and resubmit to LCB. However, if changes are significant, the NDEP will be required to re-workshop the adjusted regulations.

9. ISSUANCE OF INTERNAL REVENUE SERVICE FORM 1099

Deputy Attorney General Mr. Peter Keegan informed the Board of progress and noted identification of a direct application submission contact within the USDA Office of General Counsel.

Mr. Keegan stated guidance was not provided in 7 CFR 14.7, Subsection D, which only stated an application must be submitted to the Secretary of Agriculture. Mr. Keegan spoke with several individuals in the Offices of General Counsel in order to identify a contact familiar with this program. Seeking a primary propose determination of non-federal programs, such as Nevada's Petroleum Claim Fund Board, the payments thereof, and making a determination that they are for the proposes of cleaning up soils, protecting waters, habitat and the environment.

Mr. Keegan stated that items addressed regarding the Grant Program would be an additional piece of information required to be submitted with an application, which are separate payments from the actual cleanup costs reimbursed by the Board and therefore subject of the original application. The objective is to have the application submitted for Determination by the Secretary of Agriculture, and published in the Federal Register before the 2017 tax year in April of 2018. This will be helpful for Fund recipients; however, there is not a substantive product for the Board to review at this time.

Mr. Kegan further noted that the application requires inclusion of six copies of everything the Board has done including all Policy Resolutions and Regulations.

Mr. Krueger mentioned concerns regarding the impact of a look back provision, stating most IRS requirements are for only seven years. If a recipient of claimed money from five to seven-years ago now has a tax obligation based on received funds, it would be disruptive. He believed a look back provision is scary regarding reimbursement funds, as they are not revenue or a gift from the State, rather they are strictly a reimbursement for costs.

Mr. Keegan stated this particular program is administered by the Secretary of Agriculture. A non-federal program in the business of providing funding for the protection of the environment and water in the State of Nevada, in regards to the cleanup of petroleum spills, are factors identified in 7 CFR 14.7 that validate a program and can receive a determination regarding the primary purpose of the program. Mr. Keegan stated that one of the legislative findings believed to be included in NRS 445C.210 or 310 is that this is the purpose specifically identified of this Board. The objective here would be to receive that Determination and have it published in the Federal Register, thus allowing all Funds received by individuals to be determined exempt from gross income calculations. It is understood, at this time, to be a 1099G form indicating receipt of government funds. A copy of the letter to be published by the Secretary of Agriculture in the Federal Register indicating that this program was determined to be one that qualifies for that particular exemption would be submitted with individual or business tax returns. The intent is to alert the IRS and the Treasury that these Funds were used for the primary purpose of cleanup and should be exempted from gross income calculations and tax returns.

Mr. Lovato stated the Board had been alerted that the Controller's Office was sending 1099 Forms notifying individuals of the need to report the income and that details regarding this requirement were unclear. Mr. Keegan researched, on behalf of the Board, and determined that the State of Wisconsin had obtained this type of letter. With those details in mind, and the completed analysis, it is expected our application will be successful; however, a period for approval is unknown at this time.

10. PRESENTATION: OVERVIEW OF THE ADMINISTRATION OF THE PETROLEUM FUND PROGRAM

Ms. Slayden and Mr. Warner gave a PowerPoint presentation to the Board regarding a brief overview of the Petroleum Fund program. This agenda item was requested by the Board to be heard at the end of agenda item number 12.

11. 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.

An omega (Ω) indicates Board approved reimbursement monies have been subtracted from the amount requested due to new information.

**STATE BOARD TO REVIEW CLAIMS
REQUESTED/RECOMMENDED AMOUNTS –SEPTEMBER 14, 2017**

HEATING OIL

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1	1993000020	University Of Nevada Reno: Albert Fragione Property	\$24,487.87	\$24,237.87
FOR POSSIBLE ACTION	2	2007000013	Churchill County School District: Churc. Co. S.d. Bus Barn	\$3,585.66	\$3,585.66
FOR POSSIBLE ACTION	3	2012000017	Churchill County School District: Old High School	\$6,574.93	\$6,574.93
FOR POSSIBLE ACTION	4	2017000002	Rising Tides, Llc: Stone House	\$1,580.00	\$1,553.00
FOR POSSIBLE ACTION	5	2017000005	Mw Properties, Llc: M.w. Properties, LLC	\$45,522.80	\$45,272.80
FOR POSSIBLE ACTION	6	2017000006	Washoe County School Dist.: Lemmon Valley Elementary School	\$40,408.56	\$39,908.56
FOR POSSIBLE ACTION	7	2017000007	Roger Lewis: Roger A. Lewis Property	\$12,129.50	\$11,879.50
FOR POSSIBLE ACTION	8	2017000011	Miranda Chitwood: Nathaniel B. Chitwood Residence	\$16,492.51	\$16,242.51
FOR POSSIBLE ACTION	9	2017000012	Dwight Beerwinkle: Beerwinkle Home	\$10,866.39	\$10,616.39
FOR POSSIBLE ACTION	10	2017000013	Haskell Row Llc: Haskell Row Home	\$11,063.52	\$10,813.52
FOR POSSIBLE ACTION	11	2017000014	Jerad Mochel: Jerad Mochel Residence	\$13,614.00	\$13,364.00
FOR POSSIBLE ACTION	12	2017000017	Donald Welsh: Donald C. Welsh Property	\$10,293.94	\$10,043.94
FOR POSSIBLE ACTION	13	2017000018	Alyson Hamilton: Hal G. Hamilton Residence	\$17,203.44	\$16,953.44
FOR POSSIBLE ACTION	14	2017000020	Russell & Tiann Keegan: Russell A. Keegan Residence	\$11,090.46	\$10,840.46
FOR POSSIBLE ACTION	15	2017000021	Shirley Rhodes: Shirley D. Rhodes Residence	\$11,291.72	\$11,041.72
FOR POSSIBLE ACTION	16	2017000022	Wayne Chimarusti: Wayne S. Chimarusti Property	\$12,801.52	\$12,351.52
FOR POSSIBLE ACTION	17	2017000023	Stephen Abele: Stephen Abele Residence	\$12,124.11	\$11,874.11
FOR POSSIBLE ACTION	18	2017000024	Jeffrey Aaron: Jeffrey Aaron Property	\$10,567.22	\$10,317.22
FOR POSSIBLE ACTION	19	2017000025	Arjen Kuyper: Arjen P. Kuyper Property	\$12,653.52	\$12,403.52
FOR POSSIBLE ACTION	20	2017000026	Robert Klieforth: Robert B. Klieforth	\$12,253.88	\$12,003.88
FOR POSSIBLE ACTION	21	2017000028	Michael Mitchell: Jeanine M. Landsinger Residence	\$11,374.39	\$11,124.39
			SUB TOTAL:	\$307,979.94	\$303,002.94

NEW CASES

FOR POSSIBLE ACTION	1	2017000004	Regional Trans. Commission: Regional Trans. Commission	<u>REQUESTED</u>	<u>RECOMMENDED</u>
				\$147,255.66	\$137,255.66
			SUB TOTAL:	\$147,255.66	\$137,255.66

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ONGOING CASES

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	1992000126	Clark County School Dist.: Rc White (Arville) Trans. Satellite	\$11,143.54	\$11,102.40
FOR POSSIBLE ACTION	2	1993000103	Charlie Brown Construction: Charlie Brown Const.	\$3,986.61	\$3,906.88
FOR POSSIBLE ACTION	3	1994000015	Pilger Family Holdings: Former D & G Oil Company	\$91,929.35	\$91,929.35
FOR POSSIBLE ACTION	4	1994000122	Michelsen's Gas A Mart, Inc: Mike's Chevron	\$12,736.60	\$12,736.60
FOR POSSIBLE ACTION	5	1995000039	Al Park Petroleum Inc: Crescent Valley Market	\$36,854.37	\$33,168.93
FOR POSSIBLE ACTION	6	1995000042	FBF Inc: Gas 4 Less	\$12,357.85	\$11,122.07
FOR POSSIBLE ACTION	7	1995000094	Tropicana Entertainment Inc.: Montbleu Resort Casino & Spa	\$69,446.22	\$62,096.60
FOR POSSIBLE ACTION	8	1996000063	Joan Pennachio: V & V Automotive	\$14,063.99	\$14,063.99
FOR POSSIBLE ACTION	9	1996000064	H & A Esslinger, Llc: Red Rock Mini Mart	\$14,361.70	\$13,930.84
FOR POSSIBLE ACTION	10	1996000101	Phillips 66 Company: Circle K #695	\$42,889.21	\$38,600.29
FOR POSSIBLE ACTION	11	1997000008	Ewing Bros Inc: Ewing Bros INC	\$3,070.00	\$2,763.00
FOR POSSIBLE ACTION	12	1998000046	Willdens Automotive Holdings: Frmr Allstate Rent A Car	\$24,719.25	\$21,958.43
FOR POSSIBLE ACTION	13	1998000068	Phillips 66 Company: Conoco #28003	\$53,900.59	\$48,475.14
FOR POSSIBLE ACTION	14	1999000014	Al Park Petroleum Inc: Pit Stop #7 Conoco	\$29,823.80	\$26,841.42
FOR POSSIBLE ACTION	15	1999000022	Terrible Herbst, INC.: Terrible Herbst #129 (Chevron)	\$6,235.43	\$5,611.89
FOR POSSIBLE ACTION	16	1999000023	Nevada Ready Mix Corp: Nevada Ready Mix	\$115,783.50	\$104,070.15
FOR POSSIBLE ACTION	17	1999000029	Terrible Herbst, INC.: Terrible Herbst #136 (Arco)	\$8,325.00	\$7,492.50
FOR POSSIBLE ACTION	18	1999000048	Estate Of Robert Cowan: Former Lightning Lube	\$49,410.35	\$49,410.35
FOR POSSIBLE ACTION	19	1999000052	Estate Of Martin T. Wessel: Ted's Chevron	\$22,288.27	\$20,018.94
FOR POSSIBLE ACTION	20	1999000064	Al Park Petroleum Inc: Pit Stop #4 (Conoco)	\$5,003.75	\$4,503.37
FOR POSSIBLE ACTION	21	1999000066	HP Management, Llc: Former Haycock Petroleum	\$4,665.00	\$4,198.50
FOR POSSIBLE ACTION	22	1999000086	Terrible Herbst, INC.: Terrible Herbst #126 (Arco)	\$14,035.35	\$12,631.81
FOR POSSIBLE ACTION	23	1999000090	HP Management, Llc: Former Haycock Petroleum	\$29,328.25	\$26,395.43
FOR POSSIBLE ACTION	24	1999000104	Terrible Herbst, INC.: Terrible Herbst #118 (Arco)	\$7,983.92	\$7,185.53
FOR POSSIBLE ACTION	25	1999000114	City Of Fallon: Fallon Maint. Yard	\$9,671.00	\$8,703.90
FOR POSSIBLE ACTION	26	1999000135	Terrible Herbst, INC.: Terrible Herbst #106 (Gas) & #108 (Lube)	\$9,186.59	\$8,267.93
FOR POSSIBLE ACTION	27	1999000137	Terrible Herbst, INC.: Terrible Herbst #152 (Gas) & #155 (Lube)	\$7,740.79	\$6,966.71
FOR POSSIBLE ACTION	28	1999000167	City Of Las Vegas: Fire Station #1	\$4,486.65	\$4,486.65
FOR POSSIBLE ACTION	29	1999000199	Village Springs, Llc: Lakeshore Orbit Station	\$48,496.58	\$48,496.58

ONGOING CASES: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	30	1999000273	Mr. V. K. Leavitt: The Waterhole	\$50,024.41	\$45,021.97
FOR POSSIBLE ACTION	31	2004000011	Travel Centers Of America: Wells Petro Truck Service	\$43,736.55	\$39,362.89
FOR POSSIBLE ACTION	32	2004000039	Clark County Dept Of Aviation: Frmr National Car Rental	\$75,275.93	\$72,472.63
FOR POSSIBLE ACTION	33	2005000002	Carson Valley Oil Co Inc: Carson Valley Oil CO	\$3,918.10	\$3,526.29
FOR POSSIBLE ACTION	34	2005000025	Bordertown Inc: Bordertown Winners Corner	\$18,795.00	\$16,915.50
FOR POSSIBLE ACTION	35	2005000036	Phillips 66 Company: Circle K #1791	\$18,315.59	\$13,187.22
FOR POSSIBLE ACTION	36	2005000044	Ewing Bros Inc: Ewing Bros INC	\$17,002.69	\$15,302.42
FOR POSSIBLE ACTION	37	2007000014	Ace Cab Company: Ace Cab Company	\$27,388.77	\$24,363.67
FOR POSSIBLE ACTION	38	2008000005	Avis Rent A Car System Llc: Avis Rent A Car	\$24,789.20	\$22,310.28
FOR POSSIBLE ACTION	39	2008000017	Big Daddy's Oil Llc: Arco Am/pm Mini Market	\$9,582.77	\$8,624.49
FOR POSSIBLE ACTION	40	2008000018	Jacksons Food Stores Inc: Jacksons Food Stores #0145	\$9,768.07	\$8,791.26
FOR POSSIBLE ACTION	41	2008000019	One Panou Llc: Golden Market #3	\$14,849.82	\$13,364.84
FOR POSSIBLE ACTION	42	2009000017	D & J Holdings, Llc: Convenience Corner Shell	\$14,304.00	\$12,873.60
FOR POSSIBLE ACTION	43	2009000028	Vegas Rainbows, Inc: Mick & Mac's Food Mart	\$57,584.54	\$48,156.91
FOR POSSIBLE ACTION	44	2010000001	Smitten Oil And Tire Co Inc: The Gas Store	\$532.50	\$479.25
FOR POSSIBLE ACTION	45	2010000007	Pecos Express: Pecos Station	\$7,605.76	\$6,845.18
FOR POSSIBLE ACTION	46	2010000009	Travel Centers Of America: Mill City Travel Center	\$3,470.00	\$2,810.70
FOR POSSIBLE ACTION	47	2011000009	Cimarron West: Cimarron West	\$47,296.71	\$42,567.04
FOR POSSIBLE ACTION	48	2012000011	Golden Gate Petroleum Of Nevada Llc: Baldinis Grand Pavilion	\$4,002.72	\$3,602.45
FOR POSSIBLE ACTION	49	2012000012	Dewey Has Gas, Inc: Smart Mart	\$46,785.11	\$42,106.42
FOR POSSIBLE ACTION	50	2013000005	R B Properties Inc: South Pointe Market	\$12,038.58	\$10,834.72
FOR POSSIBLE ACTION	51	2013000009	Western Petroleum: Western Petroleum	\$71,187.10	\$64,068.40
FOR POSSIBLE ACTION	52	2013000011	Har Moor Investments, Llc: Village Shop #4	\$26,517.15	\$23,865.43
FOR POSSIBLE ACTION	53	2013000015	Gary Cornwall: Gary Cornwall Property	\$1,015.00	\$1,015.00
FOR POSSIBLE ACTION	54	2013000019	Hardy Enterprises Inc: Elko Sinclair #53	\$42,576.33	\$38,318.70
FOR POSSIBLE ACTION	55	2014000004	Alsaker Corp: Broadway Colt Service Center	\$35,354.70	\$25,148.43
FOR POSSIBLE ACTION	56	2014000016	Smitten Oil And Tire Co Inc: Former Smitten Oil	\$5,869.32	\$5,282.39
FOR POSSIBLE ACTION	57	2014000025	Superior Campgrounds Of America Llc: Silver City Rv Resort	\$60,439.25	\$54,395.33
FOR POSSIBLE ACTION	58	2014000033	Speedee Mart Inc: Speedee Mart #108	\$41,140.60	\$37,026.54
FOR POSSIBLE ACTION	59	2014000041	Forever Resorts: Callville Bay Resort Marina	\$14,290.00	\$12,860.55
FOR POSSIBLE ACTION	60	2015000005	Elko Acquisitions LLC dba Red Lion Chevron: Red Lion Chevron	\$9,698.04	\$8,728.24
FOR POSSIBLE ACTION	61	2015000014	Abe Kaabipour: City Express	\$8,810.01	\$7,929.01
FOR POSSIBLE ACTION	62	2016000005	Golden Gate S.e.t. Retail of NV Llc: Golden Gate Fac. #65-Fallon	\$747.50	\$672.75
FOR POSSIBLE ACTION	63	2016000006	Wendover Fuels Llc: Chevron	\$917.50	\$660.60
FOR POSSIBLE ACTION	64	2016000023	Al Park Petroleum Inc: Pit Stop #1	\$131,478.22	\$94,664.31

ONGOING CASES: CONTINUED

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	65	2016000025	Topaz Lodge Inc: Topaz Lodge INC (Chevron)	\$3,459.35	\$3,113.41
				SUB TOTAL:	
				\$1,724,490.40	\$1,542,405.00
				CLAIMS TOTAL:	
				<u>\$2,179,726.00</u>	<u>\$1,982,663.60</u>

Ms. Tappan moved for approval of the consent items, Heating Oil, 1 through 21, New Cases, 1, Ongoing Cases, 1 through 65 as listed. Mr. Chambers seconded the motion. Motion carried unanimously.

12. EXECUTIVE SUMMARY

Ms. Slayden stated that upon inception of the Fund in 1989, 1,558 applications have been received, 172 cases have been denied coverage, and 1,213 cases have received closure. Four applications are currently pending NDEP review or require additional information. There are currently 169 active remediation sites with 30 new applications received since January 1, 2017. Prior to this meeting, the Board approved just over \$215 million in reimbursements for owner operators throughout the State of Nevada. Upon approval of approximately \$1.98 million at today's Board meeting, the cumulative Fund expenditure is approximately \$217 million. Tank enrollment invoices were issued in August of 2017 to 1,318 facilities, at \$100 per tank. 1,292 facilities, or approximately 98%, have submitted enrollment as of August 31, 2017.

Ms. Slayden noted details regarding progress at Eagle Gas North, pursuant to NRS 590.870 and NRS 590.8302, NDEP is responsible for the cleanup, using Petroleum Fund resources as the responsible party is remiss. During the September 12th, 2013 Board Meeting, NDEP and the Attorney General's Office presented the case of Eagle Gas North to the Board. The responsible party refused to comply with both NDEP and District Court Orders, thereby forcing NDEP to apply the above statutes in response. NDEP requires reimbursement of all money spent from the Fund at the Eagle Gas North site and is working with the Controller's Office in their continued pursuit of collection. Mrs. Raquel Diedrichsen provided the Board with a brief update of cleanup activities to date.

Ms. Raquel Diedrichsen stated an Air Sparge, Soil Vapor Extraction Remediation System used to remediate groundwater and residual soil contamination at Eagle Gas North began operating in October 2014. After approximately seven full quarters of operation, the system was deactivated in July 2016 due to the diminishing recovery of mass Total Petroleum Hydrocarbons at the site. After deactivation, four quarters of post-remediation monitoring for groundwater began. Pursuant to Nevada Administrative Code, which indicates after remediation groundwater monitoring should occur for not less than one year, four quarters of post-remediation groundwater monitoring have been completed as of June 2017.

Ms. Diedrichsen stated groundwater concentrations at the site for June 2017 include benzene detection in a single well located in the median of North Carson Street at a concentration of 340 micrograms per liter, which is in excess of the maximum contaminant level for benzene of 5 micrograms per liter. Benzene concentration in this well during the four quarters of post-remediation monitoring were 450 micrograms per liter in September of 2016, 550 micrograms per liter in December 2016, 140 micrograms per liter in March of 2017 and 340 micrograms per liter in June of 2017. In the four quarters of post-remediation monitoring benzene concentrations range in the same order of magnitude in this single well that has these exceedances of the maximum contaminate level.

Ms. Diedrichsen stated MTBE was not detected in site wells in excess of the 200 micrograms per liter action-level. MTBE was detected in six site wells, three of which are located in the median of North Carson Street, with the remaining three located across the street from the Eagle Gas North property in the C-A-L Ranch store parking lot. The concentrations of MTBE in the six wells range from 1.2 micrograms per liter to 29 micrograms per liter, all of which are below the site action level of 200 micrograms per liter. Groundwater elevations at the site in June 2017 were down approximately 0.6 feet from the previous quarter in March 2017. Groundwater was up five-and-a-half feet from the beginning of post-remediation monitoring.

Ms. Diedrichsen stated the site has been recommended for closure under the groundwater exemption-based closure process. In moving towards closure, an addendum to the 2014 Conceptual

Site Model for the site will be prepared. The addendum will note continued investigation where contamination remains, to what extent that contamination could possibly migrate and at what concentration that migration may include. Bioscreen Modeling will be conducted to determine these details and transport analysis. An additional component of the Conceptual Site Model includes a sensitive Receptor Survey, including evaluation of receptors associated with the site, will determine potential pathways of remaining contamination to the receptors. An addendum to the Conceptual Site Model is expected to be submitted to the NDEP at the end of October 2017. Upon review and concurrence with that document, NDEP expects progress toward closure reporting and presentation for the site. Currently \$1.18M has been spent at the Eagle Gas North Leaking Underground Storage Tank Project.

Chairman Ross thanked Ms. Diedrichsen for her work and the extensive work of NDEP. He stated the Board received an encouraging report from the Controller's Office at the June 2017 meeting concerning the future collection of funds from the owner of the site. Mr. Ross noted this has been a discouraging process but was a bit more encouraged.

Ms. King informed the Board that this was her last meeting as Executive Secretary because she had accepted another position within NDEP and therefore would no longer be working with the Petroleum Fund Program. She stated it had been an honor to serve as Executive Secretary to the Board. She indicated that she had found the Board to be both smart and proactive. She noted the Board has encouraged NDEP, throughout her six-year tenure, to take measures in order to protect the Fund, while remaining business friendly and efficient. She reiterated her appreciation to the Board and that serving it had been a tremendous honor.

Chairman Ross thanked Ms. King and stated it has also been his pleasure to serve on this Board with Ms. King as the Executive Secretary. Her record of accomplishment, since accepting the position, was exemplary, including her hard work to strengthen the program. There were deficiencies noted in the past and Ms. King had corrected those issues, including creation of the new database program that enables the Board to be more efficient. The Board adopted tighter regulations with regard to the underground piping of aboveground storage tanks in an effort to improve the environment and make that a better program as well. She worked to institute the accelerated Cleanup Program to assist a station that had been penalized significantly, to obtain a lower penalty provided they undertake a faster cleanup schedule. Ms. King also worked tirelessly on the SB 251 regulations. Chairman Ross stated it has been a pleasure working with her and she will be missed. He stated the Board wished her the best of luck going forward.

Ms. Tappan noted that Ms. King consistently developed ways to ensure the Board worked efficiently and effectively. To come up with ideas and take on that amount of work was impressive. Ms. King will be missed as Executive Secretary to the Board.

Ms. King stated her appreciation for Chairman Ross and Ms. Tappan's comments; however, could not take all of the credit. She noted she worked with amazing staff and received many past suggestions from Mr. Lovato that she and her staff worked to implement.

Mr. Warner and Ms. Slayden presented the overview of the Petroleum Fund Program (See Attachment A).

13. **PUBLIC COMMENTS**

Chairman Ross informed the Board due to a residence change he is no longer eligible for reappointment to the Board and that December 2017 would be his last meeting. He informed the Board of this change in order for them to determine an interim Chairperson.

14. **CONFIRMATION OF NEXT BOARD MEETING DATE**

The next Board meeting is confirmed for Thursday, December 14, 2017 at 11:00 am.

15. **ADJOURNMENT**

The meeting adjourned at 11:53 am.

Attachment A:
Program Overview Presentation
September 14, 2017

Nevada Petroleum Fund

September 14, 2017

Megan Slayden and Don Warner

Why do we have a Petroleum Fund in Nevada?

- In 1988, EPA changed its regulations to require that ALL underground storage tank (UST) system owner/operators have the financial resources to pay for the costs of corrective action and third party compensation that can result from leaking USTs. This is known in the industry as "Financial Responsibility."
- The Nevada Petroleum Fund (Fund) was created in 1989 to provide a level playing field so that smaller owners/operators are able to maintain compliance with the financial responsibility requirement and compete equitably in the distribution of petroleum.
 - The revenue for the Fund comes from a fee for engaging in the refining or importation of motor vehicle fuel, diesel fuel (grade number 1), diesel fuel (grade number 2) and heating oil in Nevada
 - \$0.75 cent for each gallon imported or refined
 - Approximately \$12 Million per year to pay for cleanup costs and administer program
- Chairman George Ross was one of the key people involved in creating the legislation that drives this program today. He was just 20 years old at the time...

Enrollment of Tanks

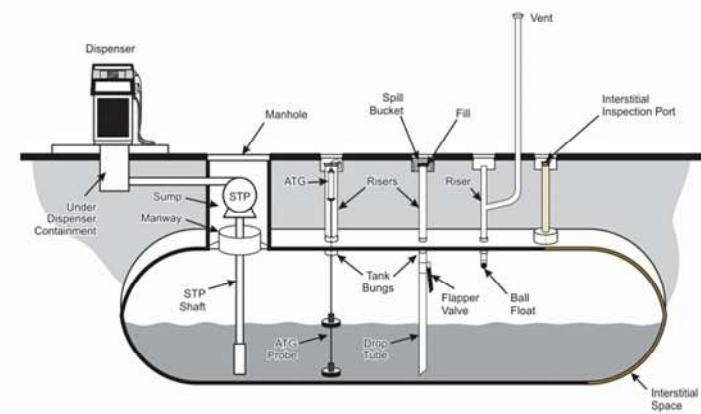
- Owners/Operators of USTs may voluntarily enroll their tanks in the Fund on an annual basis as a mechanism to comply with the federal Financial Responsibility requirement or acquire separate private insurance.
- ASTs are not subject to the Financial Responsibility requirement, but may also enroll.
- Underground heating oil tanks do not need to be enrolled and are not subject to Financial Responsibility, but may receive Fund Coverage in the event of a release.
- \$100 per tank, regardless of the type (inexpensive insurance)
- Enrollment completed online
- With the new AST policy resolution 2017-01, which has effective deadlines on October 1, 2018, and the new UST regulations that go into effect beginning October 13, 2018, all enrolled storage tanks (UST & AST) will be subject to additional leak detection requirements in an effort to prevent fuel releases to the environment.

Underground Storage Tank Regulations

- Underground Storage Tanks (UST) are federally regulated.
- Nevada completed EPA's State Program Approval process requirements in 1989 and was delegated authority to administer the UST Compliance program and regulate USTs at the State level.
- UST regulations address release prevention and, when a release does occur, the requirements to contain and clean up the release.

Release Prevention

- Release Prevention
- Leak Detection
- Corrosion Protection
- Spill prevention
- Overfill protection



Release Containment and Cleanup

- Immediate source elimination
- Confirm a suspected release 7 days after identifying a suspected release
- Initial abatement within 45 days



- Spill response information from responsible party – due within 45 days of receiving BCA's letter requesting further assessment and reporting
- Assessment results, corrective action plans, work plans, technical reports and other submittals

The Board to Review Claims

The Board to Review Claims is statutorily required to adopt appropriate regulations for the investigation and payment of claims against the Fund and review each claim presented and authorize payment to the extent warranted by the facts of the case.

The Board consists of:

- (a) The Administrator of the Division of Environmental Protection;
- (b) The Director of the Department of Motor Vehicles;
- (c) The State Fire Marshal;
- (d) A representative of refiners of petroleum;
- (e) A representative of independent dealers in petroleum;
- (f) A representative of independent retailers of petroleum; and
- (g) A representative of the general public.

Program Guidance

- The Board approves Policy Resolutions to facilitate program needs as they evolve and as specific program direction is identified
 - No. 2014-01 Single vs. Multiple Release Sources
 - No. 2015-01 Bid Process
 - No. 2017-01 Criteria for AST Enrollment and Coverage Reductions
 - Ongoing Amendments to the Cost Guidelines
- The Board to Review Claims guides NDEP's administration of the Petroleum Fund program to be unbiased and allow for cleanup projects to be completed more quickly, thereby using less Fund money. In addition, the Board encourages NDEP to dynamically enhance the operations of the program so that safeguards are put in place for the protection of the environment and the Fund.

When a release occurs and a Coverage application is submitted:

- NDEP's UST Compliance Program provides a technical compliance review to determine the compliance status of the UST at the time of the release
 - Was the tank enrolled? (no, then no coverage)
 - Was the tank in compliance?
 - Yes: full coverage if it's an eligible release
 - Non eligible release examples
 - Release due to lack of spill prevention equipment
 - Release due to lack of overfill prevention equipment
 - No: Policy Resolution No. 94-023 dictates the reduction associated with each type of violation for an unbiased and consistent approach to coverage reductions

Petroleum Fund Staff Considerations

- The Board has made it clear that it wants compliance with respect to leak prevention, notification and cleanup requirements.
- The Board also understands that any reduction in coverage may directly affect the cleanup. The shared goal is to get a site to closure as quickly and as cost effectively as possible.
 - All reduction recommendations are taken extremely seriously
 - technically scrutinized to ensure the recommended reduction is defensible (any reduction is a financial burden for an owner)
 - reviewed by NDEP staff who have field experience and often have environmental consulting experience, in addition to further review and approval through supervisors, the bureau chief and upper management prior to presenting the final recommendation to the Board

Petroleum Fund Staff Considerations (cont.)

- Petroleum Fund staff work with owners/operators to encourage submittal of any “new” information that might reduce or eliminate the pending coverage reduction recommendation
- Every effort is made to provide the greatest level of coverage
 - In some cases NDEP has provided owners/operators and their consultants with a draft copy of a Site Specific Board Determination (SSBD) that outlines the reasons for the recommended reduction so they can review the violation(s) and provide any information that may eliminate or reduce the reduction
 - The Board approved Policy Resolution No. 2012-06 allows owners/operators an opportunity to demonstrate compliance with cleanup activities for 5 years or else provide a NDEP-approved expedited cleanup plan & compliance schedule to reduce or eliminate the reduction

Site Specific Board Determinations

- When a Site Specific Board Determination is required, NDEP presents the facts of the case to the Board and the authority that directs NDEP’s recommendation
 - Reduction of Fund Coverage recommendation
 - Third Party Liability funds to be used for cleanup costs
 - Disputes regarding claim reimbursement values
- After consideration of NDEP’s recommendation and any counter arguments or opinions from the owner/operator or the respective consultant, the Board will ensure it has the information it needs to make a motion regarding the case and vote on it.
- The Board may use their discretion to adjust or eliminate any recommendation provided by NDEP.

Fund Coverage Allocations for Full Coverage (no reductions)

- Agency, department, division or political subdivision of the State
 - \$1 Million for cleanup costs per tank release
 - \$1 Million for third party liability per tank release
 - 10% copayment or \$10,000 deductible, whichever is less
- Small Business
 - \$1 Million for cleanup costs per tank release
 - \$1 Million for third party liability per tank release
 - 10% copayment or \$50,000 deductible, whichever is less
- Heating Oil Tanks (1,100 gallons or less)
 - \$250,000 for cleanup costs
 - \$250,000 for third party liability
 - \$250 deductible
- All Others
 - \$1 Million for cleanup costs per tank release
 - \$1 Million for third party liability per tank release
 - 10% copayment

Coverage and Reimbursement Examples

- If a Standard Business site with one leaking UST receives full coverage, the Fund is obligated to pay up to \$900,000 in reimbursable expenses, and an equal amount in third party liability funds.
 - $\$1,000,000$ (full coverage for one leaking UST) - $\$100,000$ (10% copay) = $\$900,000$ (reimbursable amount)
- If a Standard Business site with one leaking UST receives a 20% reduction in coverage for a comingled plume, the Fund is obligated to pay up to \$720,000 in reimbursable expenses, and an equal amount in third party liability funds.
 - $\$1,000,000$ (full coverage for one leaking UST) - $\$200,000$ (20% reduction) = $\$800,000$ (reduced coverage)
 $\$800,000$ (reduced coverage) - $\$80,000$ (10% copay) = $\$720,000$ (reimbursable amount)
- When the claimant with a reduction applies for reimbursement, they may request up to the case ceiling of \$1,000,000 in eligible costs. The reduction and copayment are calculated out by NDEP, and the claimant receives a letter stating the totals for their case, and the current reimbursement to be approved by the Board.
 - $\$100,000$ (requested reimbursement) - $\$20,000$ (20% reduction) = $\$80,000$ (reduced reimbursement)
 $\$80,000$ (reduced reimbursement) - $\$8,000$ (10% copayment) = $\$72,000$ (reimbursable amount, reported on Consent Item List)

Today, the Nevada Board to Review Claims has financially assisted 1,213 contaminated sites to reach closure and is currently assisting 169 open cases to reach closure in a way that is protective of both the environment and the Petroleum Fund.