

**STATE OF NEVADA BOARD TO REVIEW CLAIMS  
BOARD MEETING MINUTES  
SEPTEMBER 10, 2015**

**1. CALL TO ORDER**

Chairman Haycock called the meeting to order at 10:00 a.m. from the Carson City location. The meeting was conducted via videoconference with locations in Las Vegas, at the Nevada Department of Transportation, 123 E. Washington Ave., Training Room B and in Carson City at the Nevada Department of Transportation, 1263 S. Stewart St., Room 301.

**A. BOARD MEMBERS PRESENT**

Chairman John Haycock, Representative of independent petroleum dealers  
Maureen Tappan, Representative of the general public  
Wayne Seidel, Department of Motor Vehicles  
Peter Mulvihill, State Fire Marshal

**BOARD MEMBERS ABSENT**

Vice-Chairman George Ross, Representative of petroleum refiners  
Dave Emme, Nevada Division of Environmental Protection  
Michael Cox, Representative of the independent retailers of petroleum

**OTHERS PRESENT**

Sophia Long, State Attorney General's Office – Las Vegas  
Jeff Collins, Steve Fischenich, Valerie King, Victoria Joncas, Don Warner,  
Johnathan McRae, Laurie McElhannon, Chad Schoop, Rex Heppe and Valerie Rocha –  
Nevada Division of Environmental Protection (NDEP)  
Brett Bottenberg– McGinley & Associates  
Keith Stewart – Stewart Environmental Inc.  
Jon Bell – Broadbent & Associates, Inc.  
Rob Gegenheimer – Converse Consultants  
Kathleen Johnson – The Westmark Group  
Zach Amos – The Westmark Group  
Matt Grandjean – Stantec Consulting Services Inc.  
Eric Ataman – High Desert Petroleum  
Kurt Goebel – Converse Consultants  
Branden Reiff – Broadbent and Associates  
Dean Armstrong – AEEC  
Joe McGinley – McGinley & Associates

**2. PUBLIC COMMENTS**

There were no requests to speak.

**3. APPROVAL OF THE AGENDA**

**Mr. Seidel moved to approve the agenda. Mr. Mulvihill seconded the motion. There was no discussion. Motion carried unanimously.**

4. **APPROVAL OF THE JUNE 11, 2015 MINUTES**

**Ms. Tappan moved to approve the June 11, 2015. Mr. Seidel seconded the motion. Motion carried unanimously.**

5. **STATUS OF THE FUND**

Ms. King reported on the status of the State of Nevada Petroleum Fund (Fund). The balance forward for fiscal year 2016 was approximately \$7.5 million. \$413,300.00 had been collected for storage tank enrollment. Approximately \$13 million was collected from the ¾ cent per gallon fee. Total cumulative revenue was \$17,936,471.83.

Ms. King reported the expenditures to the Highway Fund were pending transfer of approximately 2.7 million. The transfer to NDEP was upwards of \$1.7 million. The transfer to DMV to administer the Petroleum fee was \$12,714.00. The approximate transfer to NDOT, which is everything in excess of \$7.5 Million at the end of the fiscal year, was \$2,765,634.49. The reimbursement of claims was \$8,883,509.56. The cumulative expenditure was \$13,430,756.42.

Ms. King reported the liabilities for the Fund were not representative because the balance sheet is an approximate view of the closing balance for 2015.

Ms. King reported the actual funding available is \$4,505,715.41.

6. **SITE SPECIFIC BOARD DETERMINATION**

Proposed Site Specific Board Determination (SSBD) to Provide Third Party Liability Coverage to Rebel Station #8, 3225 N. Las Vegas Blvd., Las Vegas, NV  
Petroleum Fund ID No. 1993000102, Facility ID No. 8-000523

Mr. Warner presented Item No. 6, a Site Specific Board Determination No. C2015-02, which proposes to provide third-party liability coverage to Rebel Station #8, 3225 N. Las Vegas Blvd., Las Vegas, NV, Petroleum Fund ID No. 1993000102.

Mr. Warner stated that the Board previously approved this subject site owned by Rebel Oil Company for \$1,980,000, which represents \$2 million in fund coverage for two UST systems, with a co-payment capped at \$20,000. As of this Board meeting, the subject site has been reimbursed \$1,980,000. Despite progress remediating the site, additional monies are needed to finish the corrective action activities at the site, including ground water remediation and sampling.

In accordance with Board Resolution No. 2007-10, Attachment A, which clarifies the policy regarding the use of third-party liability monies, 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, included in Attachment B in the Board packet. Fund staff, therefore, recommends that the subject facility receive third-party liability funds, which amounts to an additional \$1 million in coverage minus the \$10,000 deductible. This increases the cap for this facility to \$2,970,000.

Mr. Warner stated there is a claim associated with this Site Specific Board Determination for this Board meeting. The recommended reimbursable amount is contingent upon the Board adopting this Board Determination.

Mr. Warner informed the Board those available to answer questions were him, a representative from Broadbent & Associates, Mr. Jonathan Bell, the NDEP LUST supervisor, Mr. Jonathan McRae, and the Petroleum Claims supervisor, Valerie King.

Mr. Seidel requested an update on the project.

Mr. Jonathan Bell, of Broadbent & Associates, explained the status of the cleanup.

**Mr. Seidel moved to approve Site Specific Board Determination C2015-02, as proposed. Mr. Mulvihill seconded the motion. Motion carried unanimously.**

## **7. BID POLICY RESOLUTION & INELIGIBLE CONTRACTOR COSTS**

Ms. King first provided the Board some background on why the two Policy Resolutions were being presented today. She stated that NDEP had informed the Board and received input and approval from the Board to move forward on Petroleum Fund program reforms needed to strengthen the integrity of the program. There were three major things NDEP committed to addressing; the Bid process, the CEM Cost Guidelines and the Proof of Payment process. Two of the issues were addressed as Policy Resolutions, which are before the Board today for adoption. The other began as a Policy Resolution; however, based upon discussion during the workshops on specific changes the CEMs wished to see, that issue would be addressed directly through a regulation change. She stated that the two policy resolutions for adoption today had gone through an extensive collaborative process. A first version was provided for comment. Based upon the comments a second revision was created and two workshops were held. As a result of workshop comments, a third version was drafted and once again sent out for public comment. Only two comments were received. A fourth and final version was drafted.

Ms. King then began discussing the Bid Policy Resolution. She stated that Policy Resolution No. 2015-01 provides clarification regarding the Petroleum Fund bid process. Currently, NDEP does not get engaged in the bid process until all the work is done and the bid is submitted with the claim for reimbursement. This Resolution will allow NDEP to get engaged in the process before the work is conducted when a bid exceeds \$25,000.00.

Ms. King stated all bid packets for contractor work or purchases with the selected bid equal to or greater than \$25,000.00 must be provided to the NDEP regulatory case officer and the NDEP LUST supervisor prior to the work being initiated by the contractor or item being purchased. For Washoe County projects, bid packets must be submitted to the NDEP Petroleum Fund supervisor and the LUST supervisor.

Ms. King stated NDEP will notify, in writing, the person who submitted the bid packet that it was received and will review the bid packet no later than 10 business days after receipt. NDEP will notify the person who submitted the bid packet whether or not there is an objection.

Ms. King stated all bids, regardless of the bid amount, must be accompanied with a signed Contractor Certification Form and/or Vendor Certification Form. The form has the contractor/vendor certify that the bid was completed both ethically and lawfully.

Ms. King stated the individual bids, each paired with a signed Contractor Certification Form, are packaged, usually by the Certified Environmental Manager (CEM), with the Bid Summary Table completed, ensuring the bids are directly comparable. The CEM and Owner/Operator each must sign the "CEM Bid Summary & Certification Form" which completes the bid packet for transmittal to NDEP. This process is required for all bids, regardless of the amount.

Ms. King stated the Petroleum Fund reimburses for select corrective action equipment and corrective action work performed, including reasonable and customary profit and overhead markup. The Fund does not reimburse costs attributed to risks associated with an owner/operator or other intangible costs not related to the work being performed or item(s) being purchased.

Ms. King stated that the Eligible Contractor Costs list would be posted on the website and was amended several times to ensure it met the needs of both NDEP and the Contractors it applies to.

**Mr. Mulvihill moved to approve the Bid Policy Resolution & Ineligible Contractor Costs as proposed. Mr. Seidel seconded the motion. Motion carried unanimously.**

## **8. COST GUIDELINES POLICY RESOLUTION 2001-05**

Mr. Fischenich said this resolution is to amend the State of Nevada Petroleum Fund CEM Cost Guidelines.

Mr. Fischenich presented the Resolution to Amend the State of Nevada Petroleum Fund CEM Cost Guidelines. Resolution No. 2001-05, amended, was presented at the September 2012 Board meeting. The Resolution allows Fund staff to update the Board about changes to the Guidelines with input from the CEM community without having the Board adopt the changes. Because these changes are more significant, NDEP feels the proposed changes should be adopted.

Mr. Fischenich stated in May of this year, after internal review, NDEP provided an initial draft of the revised Guidelines to the CEM community and industry for review. NDEP received comments and made adjustments. In June of this year NDEP had workshops in both Reno and Las Vegas to discuss NDEP's proposed changes. NDEP received comments at the workshops as well as written comments after the workshops. Based on those comments and additional internal discussion, NDEP made further changes. The document was again sent out for review in August. NDEP received a few more comments and finalized the version of the Guidelines that NDEP has brought before the Board today for discussion.

Mr. Fischenich said the changes in the Guidelines include the addition of existing practices and policies previously not included in the Guidelines, clarification of existing items currently in the Guidelines, and a few new items.

Mr. Fischenich touched on a few of those changes, giving an example. NDEP revised portions of the Guidelines to better clarify NDEP's policies regarding NTEPs and Change Orders, including emphasizing the importance of working closely with the case officer and making sure the documentation is complete prior to claim submittal. NDEP also added paragraphs that discuss Appeals, Proof of Payment and maintaining written records. A new task table was added based on one of NDEP's LUST branch's new reporting requirements. NDEP also revised the bid section in the Guidelines to be consistent with the newly adopted Bid Policy Resolution. NDEP consolidated the section on CEM markup and closed a loophole regarding markup by contracting companies owned by CEMs. NDEP added some language regarding ineligible release sources and costs.

Mr. Fischenich ended by saying with the input of the CEM community and industry, NDEP believes the changes made the Cost Guidelines more representative of current needs and also better represent current practices.

Mr. Mulvihill asked if the day tanks would be covered.

Mr. Fischenich indicated that day tanks are not covered.

Ms. King said the day tanks are considered storage tanks. Statutorily, the storage tank fee is \$100.00. Therefore no matter how large or small the day tank, enrollment in the Fund is \$100.00.

**Mr. Seidel moved to approve the CEM Cost Guidelines, as proposed. Ms. Tappan seconded the motion. Motion carried unanimously.**

## **9. PROPOSED REGULATION AMENDMENT**

Ms. King presented Item No. 9, addressing proposed changes to the regulations that NDEP will be requesting the Board to adopt. She stated that the program reforms triggered the proof of payment process to be addressed, but also, while the regulations were open, NDEP wanted to address some standing issues and also some housekeeping items.

She stated the definition of the word “site” will be amended to eliminate future businesses that are not small businesses from requesting to receive cleanup cost benefits that are intended for actual small businesses.

Ms. King stated that the \$3,000.00 bid amount that currently necessitates three bids to be acquired will be increased to a proposed \$5,000.00, making less work for CEMs. She stated that the \$3,000.00 was established in 1989 and using an inflation calculator, it is now closer to \$5,000.00.

Mr. Mulvihill asked if NDEP could contact its deputy attorney and determine if an arm can be used instead so the rate can be adjusted automatically without having to change the regulation each time.

Ms. King stated that NDEP would investigate that option.

Ms. King said there is a housekeeping item addressed which doesn't change the content, only makes the regulatory citation read more clearly.

Lastly, Ms. King stated two regulatory citations were being proposed for amendments that address payment by the owner to the contractor/vendor within 30 days of payment from the Fund and a deadline for submitting proof of payment to NDEP that the contractor/vendor was paid within the required timeframe.

Ms. King stated the proof of payment issue, NAC 590.780.4(b), was discussed during the workshops and the CEMs stated they needed more time than the regulatory timeframe of 30 days, requiring a regulation change. She said the timeframe discussed was between 45 – 60 days.

Ms. King said NDEP was proposing to provide 60 days because that timeframe would not disrupt NDEP's claim process. She went on to explain that currently there are no stipulated repercussions for not providing the proof of payment as required. She said the proposed amendments would include a citation that all proof of payments received later than 60 days of Fund payment will result in all subsequent claims not being submitted to the Board for payment until the second Board meeting following receipt of the proof of payment.

Ms. King stated the other regulatory citation proposed to be amended is NAC 590.780.5 which requires the operator to pay the contactor/vendor within 30 days of receiving the money from the Fund or else refund that money back into the Fund. She stated that this regulation has not been enforced because it seems counterintuitive with the intent of the Fund, which is keeping the money in the hands of the people doing the work. She said that NDEP wished to amend the regulation to incentivize the owner to pay within the required timeframe but yet allow for a mechanism for getting the money back once refunded. The amendment would still require the owner to refund the money and until such time, all subsequent claims will not be presented to the Board for payment. Once the money is refunded, all subsequent claims, IN ADDITION to the refunded money, can be presented to the Board for approval at the following Board meeting.

Chairman Haycock asked if the issues are two-fold, actual payment to the consultant in addition to providing documentation that the payment was made.

Ms. King verified that was the case.

Chairman Haycock stated that he saw a consultant's head shaking in the audience and felt there may be some issues with the proposed changes.

There was discussion regarding the option for the payments to be made directly to the consultant if the owner fails to pay.

Ms. King stated that the failure for an owner to pay the consultant was a third party issue that should be addressed in the contract and she didn't feel the Fund should be responsible for third party issues; however, the proposed amendments would work to be self-correcting. If an owner had to wait on payments from the Fund, he/she would likely do that one time and never again. In addition, she stated that if a consultant had concerns that he/she would not get paid in a timely manner, the Petroleum Fund has a mechanism to set up payment directly to the consultant if both parties agree. She stated this issue would be workshopped and it was her hope that it would be presented at the December Board meeting but realized it may take longer due to the nature of the issue.

**10. 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 10, 2015**

**HEATING OIL**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1.	1992000102H	Lyon County School District: Yerington Elementary	\$2,521.90	\$2,269.71
FOR POSSIBLE ACTION	2.	2007000013H	Churchill County School District: Bus Barn	\$6,098.60	\$6,098.60
FOR POSSIBLE ACTION	3.	2012000015H	Don Sinnar: Sinnar Residence	\$1,772.50	\$1,772.50
FOR POSSIBLE ACTION	4.	2012000017H	Churchill Co. School District: Old High School	\$13,620.65	\$13,620.65
FOR POSSIBLE ACTION	5.	2013000012H	Roger & Gemma Mateossian: Mateossian Residence	\$79,083.41	\$78,851.82
FOR POSSIBLE ACTION	6.	2013000015H	Gary Cornwall: Gary Cornwall Property	\$1,907.75	\$1,907.75
FOR POSSIBLE ACTION	7.	2014000021H	Town of Gardnerville: Former Eagle Gas - Gardnerville	\$240.00	\$240.00
FOR POSSIBLE ACTION	8.†	2014000022H	Sanders Winnemucca, LLC: Ace Hardware	\$0.00	\$3,992.65
FOR POSSIBLE ACTION	9.	2014000043H	L&G Properties, LLC: Residential Property	\$44,305.29	\$43,805.29
FOR POSSIBLE ACTION	10.	2014000044H	Washoe County School District: Reno High School	\$36,243.44	\$32,619.10
FOR POSSIBLE ACTION	11.	2015000003H	Lander County School District: Eliza Pierce Elementary	\$74,927.20	\$60,635.17
FOR POSSIBLE ACTION	12.	2015000010H	Northern Nevada HOPES: 467 Ralston Street	\$14,601.40	\$14,351.40
FOR POSSIBLE ACTION	13.	2015000011H	Northern Nevada HOPES: 580 W. 5th Street	\$88,165.40	\$87,665.40
FOR POSSIBLE ACTION	14.	2015000017H	Nathan & Kourtney Teel: Teel Residence	\$87,108.25	\$86,858.25
FOR POSSIBLE ACTION	15.	2015000019H	BPE Partners, LLC: Swiss Hotel	\$8,582.78	\$8,332.78
			<b>HEATING OIL SUB TOTAL:</b>	<b><u>\$459,178.57</u></b>	<b><u>\$443,021.07</u></b>

**NEW CASES, OTHER PRODUCTS**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1.	2015000009	Travel Centers of America: Petro Stopping Center	\$38,228.45	\$34,091.05
FOR POSSIBLE ACTION	2.	2015000013	7-Eleven, Inc.: 7-Eleven #16896	\$42,541.75	\$38,287.57
FOR POSSIBLE ACTION	3.	2015000016	Travel Centers of America: TA Store #172	\$110,526.79	\$99,262.61
			<b>NEW CASES, OTHER PRODUCTS SUB TOTAL:</b>	<b><u>\$191,296.99</u></b>	<b><u>\$171,641.23</u></b>

**ONGOING CASES/OTHER PRODUCTS**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1.	1993000011	7-Eleven, Inc.: 7-Eleven #29646	\$19,615.67	\$19,615.67
FOR POSSIBLE ACTION	2.	1993000102	Rebel Oil Company: Rebel #8	\$22,090.46	\$12,090.46
FOR POSSIBLE ACTION	3.	1993000103	Russell Yardley: Charlie Brown Construction	\$12,469.26	\$12,219.87
FOR POSSIBLE ACTION	4.	1993000115	City of Fallon: Former Bootlegger Texaco	\$6,431.76	\$6,431.76
FOR POSSIBLE ACTION	5.	1994000003	Allied Washoe: Allied Petroleum	\$49,549.53	\$49,549.53
FOR POSSIBLE ACTION	6.	1994000012	Wirtz Beverage NV, Inc.: Frmr DeLuca Liquor & Wine	\$50,470.84	\$50,052.34
FOR POSSIBLE ACTION	7.	1994000027	7-Eleven, Inc.; 7-Eleven #19653	\$16,076.82	\$16,076.82
FOR POSSIBLE ACTION	8.	1994000029	7-Eleven, Inc.: 7-Eleven #20826	\$20,799.70	\$18,719.73
FOR POSSIBLE ACTION	9.	1994000067	Peppermill, Inc.: Former Peppermill Truckstop	\$22,205.56	\$22,205.56
FOR POSSIBLE ACTION	10.	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop	\$45,796.78	\$45,796.78
FOR POSSIBLE ACTION	11.	1994000122	Mike's Gas-A-Mart: Mike's Gas-A-Mart	\$2,732.00	\$2,732.00
FOR POSSIBLE ACTION	12.	1995000012	N Nevada Asset Holdings LLC: Parker's Model T	\$9,021.68	\$8,119.51
FOR POSSIBLE ACTION	13.	1995000039	Al Park Petroleum, Inc.: Crescent Valley Market	\$26,804.36	\$24,123.92
FOR POSSIBLE ACTION	14.	1995000042	FBF Inc. dba Gas For Less: Gas For Less	\$13,184.20	\$11,865.78
FOR POSSIBLE ACTION	15.	1995000074	Vera Hester: Glendale Service Facility	\$59,278.08	\$53,282.77
FOR POSSIBLE ACTION	16.	1996000063	Joan Pennachio: V&V Automotive	\$4,995.98	\$4,496.39
FOR POSSIBLE ACTION	17.	1996000064	H&A Esslinger, LLC: Red Rock Mini Mart	\$12,397.50	\$12,025.57
FOR POSSIBLE ACTION	18.	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility	\$2,857.50	\$2,571.75
FOR POSSIBLE ACTION	19.	1997000071	7-Eleven, Inc.: 7-Eleven #25586	\$16,290.84	\$14,661.76
FOR POSSIBLE ACTION	20.	1998000046	Willdens Automotive Holdings: Frmr Allstate Rent A Car	\$52,012.61	\$46,779.85
FOR POSSIBLE ACTION	21.	1998000080	Seven Crown Resorts, Inc.: Echo Bay Resort	\$79,901.43	\$71,194.74
FOR POSSIBLE ACTION	22.	1999000008	7-Eleven, Inc.: 7-Eleven #23129	\$5,879.35	\$5,291.42
FOR POSSIBLE ACTION	23.	1999000014	Al Park Petroleum: Conoco Pit Stop #7	\$24,357.64	\$21,921.88
FOR POSSIBLE ACTION	24.	1999000022	Terrible Herbst: Terrible Herbst #129	\$9,631.25	\$8,668.13
FOR POSSIBLE ACTION	25.	1999000029	Terrible Herbst Oil Company: Terrible Herbst #136	\$11,356.77	\$10,221.09
FOR POSSIBLE ACTION	26.	1999000048	Estate of Robert Cowan: Former Lightning Lube	\$10,993.51	\$10,993.51
FOR POSSIBLE ACTION	27.	1999000052	Estate of Martin T Wessel: Ted's Chevron	\$10,327.65	\$9,294.88



**ONGOING CASES/OTHER PRODUCTS: CONTINUED**

				<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
FOR POSSIBLE ACTION	28.	1999000064	Al Park Petroleum, Inc.: Conoco Pit Stop	\$9,066.03	\$8,159.43
FOR POSSIBLE ACTION	29.	1999000066	HP Management LLC: Former Haycock Petroleum	\$9,240.00	\$8,316.00
FOR POSSIBLE ACTION	30.	1999000086	Terrible Herbst Oil Company: Terrible Herbst #126	\$2,800.00	\$2,520.00
FOR POSSIBLE ACTION	31.	1999000090	HP Management LLC: Former Haycock Petroleum	\$38,278.86	\$34,450.97
FOR POSSIBLE ACTION	32.	1999000104	Terrible Herbst Oil Co.: Terrible Herbst #118	\$11,590.53	\$10,431.48
FOR POSSIBLE ACTION	33.	1999000114	City of Fallon: Fallon Maintenance Yard	\$5,880.66	\$5,278.84
FOR POSSIBLE ACTION	34.	1999000115	Shell Oil Products US: Former Shell Services Station	\$9,711.14	\$8,256.27
FOR POSSIBLE ACTION	35.	1999000135	Terrible Herbst Oil Company: Terrible Herbst #106	\$11,655.40	\$10,489.86
FOR POSSIBLE ACTION	36.	1999000137	Terrible Herbst Oil Company: Terrible Herbst #152	\$5,433.75	\$4,890.37
FOR POSSIBLE ACTION	37.	1999000167	City of Las Vegas: Fire Station #1	\$7,331.54	\$7,331.54
FOR POSSIBLE ACTION	38.	1999000186	Gloria Gayle Pilger: Former D&G Oil Facility	\$36,913.20	\$33,157.87
FOR POSSIBLE ACTION	39.	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station	\$126,922.48	\$126,922.48
FOR POSSIBLE ACTION	40.	1999000243	7-Eleven, Inc.; 7-Eleven #27607	\$12,799.32	\$11,519.38
FOR POSSIBLE ACTION	41.	1999000257	University of Nevada: Newlands Agriculture	\$8,922.27	\$7,927.27
FOR POSSIBLE ACTION	42.	1999000273	V.K. Leavitt: The Waterhole	\$37,769.99	\$33,981.67
FOR POSSIBLE ACTION	43.	2004000011	TA Operating LLC: Four Way Truck Stop	\$269,390.76	\$242,451.68
FOR POSSIBLE ACTION	44.	2004000025	New Castle Corporation: Former ARCO #1580	\$38,480.72	\$34,197.37
FOR POSSIBLE ACTION	45.	2005000002	Carson Valley Oil Co., Inc.: Carson Valley Oil	\$26,332.38	\$23,699.14
FOR POSSIBLE ACTION	46.	2005000025	Bordertown, Inc.: Winner's Corner	\$445.52	\$400.96
FOR POSSIBLE ACTION	47.	2005000044	Ewing Brothers, Inc.: Ewing Brothers Facility	\$20,746.94	\$16,790.44
FOR POSSIBLE ACTION	48.	2007000003	7-Eleven, Inc.: 7-Eleven #29648	\$29,601.96	\$14,635.06
FOR POSSIBLE ACTION	49.	2007000014	Ace Cab Company: Ace Cab Company	\$40,151.07	\$35,956.44
FOR POSSIBLE ACTION	50.	2007000016	TOC Holdings Company: Former Time Oil #6-100	\$4,125.80	\$3,713.22
FOR POSSIBLE ACTION	51.	2008000009	Pilot Travel Centers, LLC: Flying J Travel Plaza	\$12,927.38	\$9,307.71
FOR POSSIBLE ACTION	52.	2008000017	Francois Alvandi: Flamingo AM/PM #82153	\$19,851.75	\$10,719.94
FOR POSSIBLE ACTION	53.	2008000018	Jacksons Food Stores, Inc.: Former Terrible's #830	\$7,539.26	\$6,785.33
FOR POSSIBLE ACTION	54.	2008000019	One Panou, LLC: Stop N Shop #2	\$14,859.12	\$13,373.21
FOR POSSIBLE ACTION	55.	2009000017	D&J Holdings, LLC: Convenience Corner Shell	\$15,662.47	\$14,096.22
FOR POSSIBLE ACTION	56.	2009000020	Western Energetix, LLC: Flyer's Energy Bulk Plant	\$2,537.50	\$2,283.75
FOR POSSIBLE ACTION	57.	2009000028	Vegas Rainbows, Inc.: Mick & Mac's Food Mart	\$22,561.84	\$19,798.01
FOR POSSIBLE ACTION	58.	2010000001	Smitten Oil & Tire Company: The Gas Store	\$2,784.75	\$2,506.28
FOR POSSIBLE ACTION	59.	2010000005	7-Eleven, Inc.: 7-Eleven #27071	\$9,324.61	\$8,392.15
FOR POSSIBLE ACTION	60.	2010000007	Pecos Express, Inc.: Pecos Express	\$18,989.79	\$17,090.81
FOR POSSIBLE ACTION	61.	2010000010	Pacific Convenience & Fuel: Victorian Food Mart	\$5,227.75	\$4,704.97
FOR POSSIBLE ACTION	62.	2011000006	7-Eleven, Inc.: 7-Eleven #29384	\$9,561.26	\$8,605.13

**ONGOING CASES/OTHER PRODUCTS: CONTINUED**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	63.	2011000007	Echo Bay Marina, LLC: Echo Bay Marina	\$28,844.86	\$25,960.37
FOR POSSIBLE ACTION	64.	2011000009	Cimarron West: Cimarron West	\$3,885.71	\$3,497.14
FOR POSSIBLE ACTION	65.	2012000005	ARAMARK Corporation: Zephyr Cove Resort	\$58,624.33	\$52,315.72
FOR POSSIBLE ACTION	66.	2012000011	Golden Gate Petroleum: Baldini's Grand Pavilion	\$4,245.75	\$3,821.18
FOR POSSIBLE ACTION	67.	2012000012	Dewey Has Gas, Inc.: Smart Mart	\$25,160.26	\$22,644.24
FOR POSSIBLE ACTION	68.	2012000020	Francois Alvandi: Charleston AM/PM #85155	\$4,441.00	\$3,996.90
FOR POSSIBLE ACTION	69.	2013000003	7-Eleven, Inc.: 7-Eleven #25586	\$16,290.84	\$14,661.75
FOR POSSIBLE ACTION	70.	2013000005	RB Properties, Inc.: South Pointe Market	\$10,696.20	\$9,626.58
FOR POSSIBLE ACTION	71.	2013000009	Western Petroleum: Western Petroleum	\$6,837.25	\$6,153.52
FOR POSSIBLE ACTION	72.†	2013000011	Slots Unlimited, LLC, Village Shop #4	\$26,211.34	\$26,265.68
FOR POSSIBLE ACTION	73.	2013000014	7-Eleven, Inc.: 7-Eleven #22579	\$11,387.13	\$10,248.41
FOR POSSIBLE ACTION	74.	2013000019	Hardy Enterprises, Inc.: Sinclair Mini-Mart	\$7,108.79	\$6,397.91
FOR POSSIBLE ACTION	75.	2013000021	7-Eleven, Inc.: 7-Eleven #27700	\$33,911.00	\$30,519.90
FOR POSSIBLE ACTION	76.	2014000003	Sterling-UN Reno, LLC: Former Luce & Sons	\$8,661.40	\$7,795.26
FOR POSSIBLE ACTION	77.	2014000004	Alsaker Corporation: Broadway Colt Service Center	\$18,790.00	\$16,911.00
FOR POSSIBLE ACTION	78.	2014000016	Fran Smitten: Smedley's Chevron	\$3,955.00	\$3,559.50
FOR POSSIBLE ACTION	79.	2014000025	Superior Campgrounds of America: Silver City RV Resort	\$4,738.26	\$2,558.66
FOR POSSIBLE ACTION	80.	2014000033	Speedee Mart, Inc.: Speedee Mart #108	\$20,388.75	\$18,349.87
FOR POSSIBLE ACTION	81.	2014000041	Callville Bay Resort Marina: Callville Bay Resort	\$97,969.07	\$88,559.58
FOR POSSIBLE ACTION	82.	2015000005	Red Lion Hotel & Casino: Red Lion Chevron	\$14,152.65	\$12,737.38

**ONGOING CASES/OTHER PRODUCTS SUB TOTAL:    \$1,929,246.12            \$1,740,725.27**

	<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
<b>CLAIMS TOTAL:</b>	<b><u>\$1,929,246.12</u></b>	<b><u>\$1,740,725.27</u></b>

Chairman Haycock informed the Board that under Ongoing Cases C, item numbers 29 & 31, relative to HP Management LLC, he is the managing partner and his vote will therefore not relate to those two items.

Ms. Long, the Deputy Attorney General, informed the Board they have a quorum absent Mr. Haycock's vote on the specified cases.

**Mr. Mulvihill moved for approval of the consent items, Heating Oil, 1 through 15, New Cases/Other Products, 1 through 3, and Ongoing Cases/Other Products, 1 through 82. Ms. Tappan seconded the motion. Motion carried unanimously.**

## 11. EXECUTIVE SUMMARY

Ms. King presented the Executive Summary. She informed the Board that since the inception of the Fund in 1989, 1,493 applications have been received for reimbursement. Of those, 126 cases were denied coverage and a total of 1,170 cases have been closed. Three applications are in pending status awaiting NDEP's review or additional information. Forty-five cases have expired. There are currently 149 active remediation sites. Since January 1<sup>st</sup> of this year, 21 new cases have been received by NDEP for evaluation of Fund coverage.

Prior to this Board meeting, the Board approved approximately \$191.3 million. With the approval of approximately \$2.36 million today, the cumulative fund expenditures are approximately \$193.66 million. With respect to tank enrollment, the tank invoices were issued in August of last year. A total of 1,402 facilities were invoiced at \$100 per tank. Out of those, 1,325 facilities, or approximately 94% have submitted the required fees.

Ms. King updated the Board about the contractor who is developing the Petroleum Fund interactive database. The contractor started actively working on June 2, 2014. NDEP has recently rolled out the Enrollment component of the database for the upcoming fiscal year. Many tanks owners are currently using the new website to enroll their tanks.

Ms. King informed the Board that the Attorney General's office has contracted with Lewis Roca Rothgerber, LLP to identify potential oil companies who have "double-dipped," or, obtained insurance money to pay for the cost of the cleanup and also obtained money from the Petroleum Fund for the very same costs. She informed the Board that in other states, specific oil companies have been identified as double-dippers and some of those same oil companies have facilities located in Nevada. The Attorney General's contractor will audit Nevada's records to determine if the Fund has been impacted by this activity and seek damages where appropriate. This contract will be implemented at no cost to the Fund. At this time it appears they have reviewed all necessary files.

Ms. King then asked Mr. McRae to provide the Board a status update regarding Eagle Gas North.

Mr. McRae updated the Board on the cleanup status of Eagle Gas North. He stated the remediation systems run time for 3<sup>rd</sup> quarter of 2015 was approximately 90%. The gallons of water produced in the 3<sup>rd</sup> quarter of 2015 were 50,000 gallons. The gallons of water produced since the water treatment system was activated on February 3, 2015 were 185,000 gallons. The mass recovered in the 3<sup>rd</sup> quarter of 2015 were 60 lbs. of TPH, which is approximately one pound per day.

Mr. McRae said the mass recovered since the systems activation on October 16, 2014, was approximately 1,800 lbs. of TPH. The TPH concentration in extracted vapors at the system start-up on October 16, 2014 was 690 parts per million. The TPH concentration in extracted vapors in the 3<sup>rd</sup> quarter of 2015 ranged from 13 parts per million to 16 parts per million. The highest benzene was in November 2013. McGinley & Associates' initial groundwater sampling under the LUST/TRUST contract was 3,200 micrograms per liter at the monitoring well 2-R, located at the Eagle Gas Station site.

Mr. McRae said the highest benzene in the 3<sup>rd</sup> quarter of 2015 was 890 micrograms per liter located in the median of North Carson St., this was the only well with the benzene above the maximum contaminant levels. McGinley & Associates initial groundwater sampling under the LUST/TRUST contract was the highest MTBE in November 2013 at 590 micrograms per liter at the monitoring well 6-R. The highest MTBE IN 3<sup>rd</sup> quarter 2015 was 100 micrograms per liter at the monitoring well 6-R.

Chairman Haycock asked if this had been done by protocol how much would the owner have paid his consultants.

Mr. McRae responded approximately \$1 million.

Mr. Mulvihill asked if SB89 had been approved during the legislative session.

Ms. King said it had successfully been approved as proposed. She stated there is now \$2 Million in Fund money that may be used for priority PCE cleanups that are led by NDEP, not the owner. More money may be accessed, if needed, if IFC approves. There would be no claims associated with the cleanups because NDEP will use the money, directly, to pay for cleanup expenses and then seek cost recovery, which will be paid back into the Fund.

Mr. Mulvihill asked if anyone has enrolled their dry cleaning business into the Petroleum Fund.

Ms. King stated that dry cleaners are not eligible to be enrolled in the Fund.

Mr. Mulvihill asked if NDEP would provide updates on this issue, including a priority list and any sites being addressed with Fund money.

Ms. King stated she would provide updates on this issue in future Board meetings.

**12. PUBLIC COMMENTS**

Mr. McGinley had a question regarding CEM/Owner Certification forms in the Bid Policy Resolution. He stated that there are two forms and asked what contract was being addressed in the title of the two forms.

Ms. King stated that the two forms were included so a CEM may choose which form to fill out and submit with the Bid Packet. If the owner contracts directly with the contractor (well driller, excavator) then use the form for that type of contract. If the CEM contracts with the contractor, then use the other form.

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

It was confirmed the next meeting date would be Thursday, December 10, 2015 at 10:00 am.

**14. ADJOURNMENT**

The meeting adjourned at 11:01 am.