

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
JUNE 2, 2016**

1. CALL TO ORDER

Chairman Ross called the meeting to order at 10:00 a.m. from the Carson City location. The meeting was conducted via videoconference with locations in Carson City, at the Nevada Legislative Building, 401 S. Carson St., Room 2134 and in Las Vegas at the Grant Sawyer Building, 555 E. Washington Ave., Room 4412.

A. BOARD MEMBERS PRESENT

Chairman George Ross, Representative of Petroleum Refiners
Vice-Chairman Maureen Tappan, Representative of the General Public
Wayne Seidel, Department of Motor Vehicles
Peter Mulvihill, State Fire Marshal
Dave Emme, Nevada Division of Environmental Protection
Michael Cox, Representative of the Independent Retailers of Petroleum
John Saxon, Representative of Independent Petroleum Dealers

OTHERS PRESENT

Rose Marie Reynolds, State Attorney General's Office – Las Vegas
Jeff Collins, Valerie King, Victoria Joncas, Kristi Callahan, Don Warner, Megan Slayden, Jonathan McRae, Scott Smale, Alison Oakley, Todd Croft, Laurie McElhannon, Rex Hepe and Gail Dansby – Nevada Division of Environmental Protection (NDEP)
Joe McGinley – McGinley & Associates
Tracy Johnston – McGinley & Associates
Stephen Day – Silver City RV Resort
Mark Zimmerman – Frias/Ace Cab
Rob Gegenheimer – Converse Consultants
Kevin Paprocki – Converse Consultants
Kirk Stowers – Broadbent & Associates, Inc
Keith Stewart – Stewart Environmental
Kathleen Johnson – The Westmark Group
Peter Krueger – Nevada Petroleum Marketers Association & Convenience Store Association

2. PUBLIC COMMENTS

Peter Krueger stated he is with the Nevada Petroleum Marketers Association & Convenience Store Association. Mr. Krueger indicated the Association is interested in considering a bill draft that would hopefully put together a no-interest/low-interest loan program for small businesses that are going to be subject to new federal requirements. Not so much for tank upgrades, more for adding equipment like spill buckets. There is a certain amount of repair or replacement that needs to be done before the current requirements kick in. Mr. Krueger said this will up that ante. He said his interpretation is, even the smallest changes will require some pretty expensive upgrades or changes, including spill buckets under dispensers and things of that nature. He said he has looked at Utah's program and there are other states that have similar programs. He said this could be up for discussion, however his concept is there could be an agency bill or an industry bill.

Mr. Krueger said there should be a method to primarily help the rural operators in places like Caliente, Pioche, and Alamo where there is only one service station that services the community. He said they had this problem in 1998 when there were major tank regulations and upgrades. Mr. Krueger said some of the stations were stressed at the time. He said NDEP worked well although NDEP did not have anything formal. He said it would be a need based program where operators would have to demonstrate financially that they could not afford the required changes and remain in business. Mr. Krueger said he is happy to continue working with staff.

Mr. Krueger said he wanted to bring an NAC change to the attention of the Board. The NAC change is in regards to the operator training, the ABC training. It is a federal mandate that was sent down four or five years ago with no money to the State. He said the State has done a good job putting together a program; the State goes out to test and check to be sure that people have the training. Mr. Krueger said the "C" trained individual is usually someone at a convenience store with high turnover. They are trained by somebody like the manager. The concept was the "A" trained would be the business owner. With more and more large corporations, it is not the owner anymore but usually a member of senior management.

Mr. Krueger said there is nothing in the federal regulations nor the Nevada regulations since Nevada adopted the federal regulations in total. He would like to see Nevada establish some form of a recertification. Mr. Krueger said it was his understanding the NAC Regulation was going to be opening soon. He said as of this point in time he has not run this by his group. However, he said his concept would be some form of recertification so years do not go by. He feels that this will help take financial payouts out of the Fund. If someone knows when the alarm goes off on a Veeder-Root system, or equivalent, that they do not just pull a circuit breaker and silence the alarm so they have no problem, well, they probably do have a problem.

Chairman Ross thanked Mr. Krueger for bringing both of his concerns to the Board's attention. He said they both make a great deal of sense and he hopes to find a way to pursue them. Chairman Ross said Mr. Krueger hit the nail on the head. The lack of training is a concern to the Board.

Mr. Emme stated he appreciated Mr. Krueger brought both of the items to the Board. With respect to the new regulations, NDEP recognizes the need to provide some assistance with some of the small rural operators. It is a concept that NDEP would support and can work with him on some of the details to see if NDEP can put something together. Mr. Emme said it is too late to submit a bill draft request from the State Agency; however, there are other means of getting that done.

Mr. Emme stated NDEP is expanding the compliance assistance program offered to hazardous waste generators. That would be a venue to explore with respect to these new regulations.

3. ELECTION OF VICE-CHAIRMAN

Mr. Seidel nominated Ms. Tappan as Vice-Chairman for the Board to Review Claims. Mr. Mulvihill seconded the motion. Motion for Ms. Tappan to serve as Vice-Chairman was carried unanimously.

4. APPROVAL OF THE AGENDA

Ms. King informed the Board there was a typo on item number 66 on the consent item list. Mr. Cox moved to approve the agenda. Ms. Tappan seconded the motion. There was no discussion. Motion carried unanimously.

5. APPROVAL OF THE MARCH 15, 2016 MINUTES

Mr. Seidel moved to approve the March 15, 2016 minutes. Ms. Tappan seconded the motion. Motion carried unanimously.

6. STATUS OF THE FUND

Ms. King congratulated Ms. Tappan for her new position of Vice Chairman of the Board.

Ms. King reported on the status of the State of Nevada Petroleum Fund (Fund). The balance forward for fiscal year 2015 was approximately \$7.5 million. Approximately \$403,000.00 has been collected for storage tank enrollment. Approximately \$8.8 million was collected from the $\frac{3}{4}$ cent per gallon fee. The interest was just over \$28,000.00 for cumulative revenue of \$16,718,732.22.

Ms. King reported the expenditures signifying the transfer to NDEP was approximately \$856,000.00. The transfer to DMV was approximately \$13,000.00. The reimbursement of claims was just over \$6 million. The cumulative expenditure was \$7,001,314.71.

Ms. King reported the transfer to the Highway Fund was approximately \$4 million. The transfer to NDEP was approximately \$1.7 million. Our pending obligated claims were just over \$13,000.00 and the remaining obligations were approximately \$5.7 million. Ms. King reported the actual funding available is \$9,717,417.51.

Chairman Ross asked Ms. King if there was a way to break down how much the new dry cleaning cleanup program is costing.

Ms. King said as of right now the statutory authority is \$2 million per year with the ability to go to IFC and increase that amount. Chairman Ross said therefore without going to IFC, it would only be \$2 million a year. Chairman Ross thanked Ms. King.

7. CONTROLLER'S OFFICE – COLLECTION STATUS UPDATE

Ms. King said Mr. Smack, with the Controller's Office, was not available to be at the meeting. He submitted a written summary that will be read by Mr. Warner.

Mr. Warner recited Mr. Smack's summary. "Thank you for the opportunity to provide a brief statement on the collection activities on Eagle Gas North by the Controller's Office Debt Collection team. The judgment on this account was filed for renewal on March 15th, and our office received the renewed judgment on April 7, 2016, providing our office an additional six years to utilize the judgment for collection activity on this account. We are presently recalling this debt from Conserve, one of our collection agents, as they have indicated they have deemed this account "uncollectable." Conserve has indicated to us in the past that they are not able to utilize the judgment, so we are recalling the debt and placing it in-house for collections.

Our office is reaching out to our Deputy Attorney General for options we can utilize to use the judgment to initiate a bank levy and other options that we can utilize to start collecting something on this account.

However, the prospect of ever being able to collect the entire debt, or even a substantial percentage, is grim, at best. We have set our sights on trying to collect something on this account by more aggressive means, potentially persuading the debtor that he needs to make an arrangement to start paying something toward this debt in the form of a payment plan.

I plan to personally appear before this Board at the September meeting, and will provide an update at that time along with making myself available to address questions and concerns.”

8. REQUEST FOR RECONSIDERATION OF SITE SPECIFIC BOARD DETERMINATION

Ms. King said Silver City RV Resort was at the meeting to request the Board to reconsider its June 2014 Site Specific Board Determination for #C2014-05 where the Board approved Fund coverage with a 40% reduction due to UST violations.

Ms. King stated Silver City RV Resort is asking the Board to eliminate the 40% reduction in exchange for the successful implementation of a compliance plan and schedule that is devised to expedite the cleanup and the closure of the site.

Ms. King stated that, with this request, Silver City RV Resort will still be responsible for the 10% copayment.

Ms. King said Policy Resolution #2012-06 outlines two criteria as guidelines for when NDEP should recommend that the Board reconsider a previous determination. Those two criteria are 1) new information and 2) five years of compliance with a corrective action plan, or a CAP.

Ms. King said the Policy Resolution does not, however, preclude the Board from reconsidering any previous determination for any other just cause. It merely provides NDEP with guidance for when to recommend the Board reconsider a previous determination.

Ms. King stated NDEP has reviewed and approved the compliance plan and schedule that Silver City RV Resort provided and staff believes that, with the approval NDEP has provided, the plan will be beneficial to the environment because it will expedite the clean-up and the closure of this site. Staff also believes that it is potentially beneficial to the Fund because the Fund could ultimately use less money over a shorter duration of time.

Ms. King said staff believes this approach is consistent with the legislative finding regarding the Petroleum Fund that speaks to the prompt clean-up of any discharge of petroleum from a storage tank.

Ms. King said it is staff's recommendation that the Board reconsiders its original determination and approve the elimination of the 40% coverage reduction in exchange for the successful implementation of the compliance plan and schedule. She requested the Board approve this with a stipulation that if Silver City RV Resort does not comply with its own plan that was submitted to and approved by NDEP, the 40% coverage reduction originally provided be automatically reinstated and Silver City RV Resort goes back to the 40% reduction for non-compliance.

Ms. King stated NDEP believes the idea of the compliance plan and schedule is an innovative and effective way to expedite cleanup and get to site closure. She indicated that NDEP would be coming back to the Board in the fall with a proposed amendment to the reconsideration resolution. Staff would like to add a third criterion, the implementation of an approved compliance plan and schedule that will trigger a recommendation for reconsideration.

Chairman Ross said what he understands Ms. King is saying is that one of the advantages of this approach is that, compared to normal schedules and normal cleanups in NDEP's experience, this approach will get the site cleaned up more quickly and may even be less costly. Chairman Ross asked if he was correct.

Ms. King said that he was correct. With a typical case where NDEP does not have leverage of this nature, the path for noncompliance is enforcement. Ms. King used as an example the Eagle Gas North experience. Lots of time and resources went into it, including the AG's Office in obtaining a court order, and yet Fund money is still being used to clean up the site. She said that is NDEP's normal path for trying to get things done. This Compliance Plan approach provides a non-punitive incentive for an owner to stay engaged and comply with an expedited plan. The owner now has an incentive to do something a little bit more quickly because they are going to get the full coverage and will not want to lose that privilege. Ms. King said NDEP will only approve a plan that is going to expedite the cleanup and have benchmarks to be able to monitor that.

Mr. Mulvihill stated that the plan looks very detailed and accomplished. He asked Ms. King if she could give him an idea of how fast this is getting sped up, if they follow that plan versus the normal course.

Ms. King said Mr. Johnston is the consultant for the site and he might be better suited to answer that question.

Mr. Johnston with McGinley and Associates said the intent of this approach is to get as aggressive as possible doing the cleanup. He said McGinley and Associates has been doing some remedial corrective action efforts out there to date. Specifically, there is free phase gasoline that is present in some of the monitoring wells that they are regularly recovering product from manually.

Mr. Johnston said the key is to try to get an automated system out there that is doing this continually to reduce the time of free product recovery and then proceed to the cleanup of the soils and finally, the cleanup of the dissolved phase matter in the groundwater. Manually recovering product could take 1 to 3 years, or even more, whereas, if you get a product recovery system out there, it is likely to be completed within a year or two.

Mr. Johnston said when you look at the overall timeframe to complete this project, once a remediation system is in place that is operating constantly, it will probably reduce the cleanup time by at least a couple of years. A lot of that has to do with the product recovery component. The plan has deliverables with specific timeframes that are prefaced on the fact the Site Specific Board Determination reduction will be removed that they will comply with and be able to get the remediation system online as quickly as possible to get the site to a "no further action" determination.

Chairman Ross said he has driven by Silver City RV Resort many times. He said from the outside it has a great appearance, like it is professionally run. It looks like a person would feel good about going in there for its purpose. He said he was a little surprised that somebody there did not pay much attention at one point, and then suddenly there is a 40% reduction. This is the Board's maximum reduction.

Chairman Ross said if the Board approves this perhaps it should also make sure nothing like this happens again. Even a place that looks very professional on the outside may have a flaw or two. Obviously, it is not their main purpose surrounding the business to worry about leaking underground storage tanks and leaks in the process. He stated a training program should be written into the plan as a condition so that all the employees who handle petroleum will be properly trained to know what to look for and how to react. There should also be a provision that requires all new employees to also receive training to ensure this doesn't happen again.

Chairman Ross stated that the Board does not want this to become a pattern of behavior. He mentioned it might be appropriate as a one-time dispensation. If this is faster and it might even cost less, then it is something the Board should look at. He asked why this is not done for more sites.

Mr. Johnston stated that there have been some internal changes made by the owner regarding this particular issue. The person who was involved in this initially is no longer employed there. They have a store manager who handles everything. He stated they have worked closely with her and that she has gone through the operator training.

Mr. Johnston stated that Mr. Day, who represents the property owner, is at this site on a monthly basis to review everything and then McGinley and Associates reviews the records to make sure that everything having to do with underground storage tanks is in order. Any type of issue they have, any blips with the system itself or the internal leak detection system, they immediately call us and get with the state and make sure all parties are informed. Perks Plumbing is on call 24-7 for issues. There has been much internal training for the new person that is responsible for the underground storage tanks.

Chairman Ross stated the training described should be memorialized in the agreement. The manager will not be there forever, she could take a new job tomorrow. We need to make sure they keep that level of training effort going forward.

Ms. King requested clarification, asking if Chairman Ross was implying that if the Board were to approve this approach that it would want to see in the approved compliance plan & schedule a training, and ongoing training, component.

Chairman Ross responded yes.

Chairman Ross stated it is clear that something has already occurred but it can be structured in a way that it can be used for reflection. If the training meets NDEP's requirements, anybody who is hired there will receive the same training and familiarization.

Chairman Ross stated that he does not want this approach to become something that everybody across the State of Nevada has as a way to get out of compliance. He said the Board wants to make sure that if this is approved that this will not happen again at this facility.

Mr. Saxon stated he liked the way Mr. Johnston's plan was written. He stated he thinks McGinley and Associates is committed to it but if it does not work then the original coverage condition of 40% reduction will be reinstated.

Mr. Saxon said Mr. Johnston recommended at least an annual review by NDEP. Mr. Saxon would like to see a semiannual review. He would like to make sure things were moving step by step. This is a lot of Board time, it was a big deal back then, it is a big deal now. He stated that he agreed with the plan and is in support of the plan, but wants to make sure that the things it says will be done are actually done.

Mr. Cox asked how much has been spent on this site so far.

Mr. Johnston stated he believed it is approximately \$100,000-\$150,000, to date, of which the 40% reduction comes out of Mr. Day's pocket. The out of pocket costs thus far have been about \$40,000. There has been a financial impact associated with the issue.

Mr. Cox asked if Mr. Johnston knew what the estimate for closure is.

Mr. Johnston said at least half a million, \$500,000-\$600,000, just off the top, based on his experience at other sites and similar size contamination issues. Perhaps \$500,000 to \$1million.

Ms. King said \$107,000 has been requested and approximately, not including this Board Meeting, \$53,000 has been paid by the Fund.

Ms. Tappan asked if the Board would be reimbursing the owner the \$40,000 that the owner had to put out when 40% was in effect.

Ms. King stated it would not be retroactive. It would be effective the date the Board approved it.

Mr. Emme stated he hears and understands the concerns regarding training and the necessity for due diligence on the part of the business. It is important and NDEP supports that. He stated he supports amending the compliance plan and wanted to take a minute to commend staff. They are looking at cases with reductions and seeing cleanups held up. Staff is trying to be pragmatic and drive cleanups forward instead of letting them lag, year after year, due to lack of funds. That is the balance NDEP is trying to walk. He said tying the cleanup efforts to a compliance plan was an overall good approach.

Chairman Ross agreed stating it makes a great deal of sense.

Ms. Reynolds said she wanted to clarify the answer to Ms. Tappan's question. She said Resolution 2012-06, No. 3, says, 'upon reconsideration, if the Board approves to reduce or eliminate an existing SSBD Fund coverage reduction, the new Fund coverage conditions will be applied to all reimbursable costs incurred beginning on the day of Board approval.' It will apply beginning the day the plan is approved.

Mr. Seidel questioned if there are O&M manuals for the owner to use to maintain the systems. He indicated that in water and wastewater systems the O&M manuals help train people by providing checklists for things such as alarms and shutting off power. He asked if they need O&M manuals on some of these complicated systems. The manuals are usually sized to how difficult or complicated the system is.

Mr. Johnston stated some equipment, like the Veeder-Root, have to be certified. A situation like this one would not require an operator to go to the tank monitoring system. Rather, they would call someone like Perks Plumbing or another certified person. Mr. Johnston stated that a checklist for checking the sensors and sumps, things that can be visually viewed would be helpful and they will do that internally. He said they would stop at the point when a certified individual is required.

Mr. Seidel asked if that type of information is typically given to the owner when the tank systems are built.

Mr. Johnston said as far as the documentation, he would have to follow-up with someone like Perks Plumbing who does that type of work.

Mr. Cox said he actually attended one of the classes. It is very informative for operators. He said keeping a daily record has to be done, where the tanks are located, if it is a diesel tank or a gas tank. He said it is a very informational class.

Vice Chairman Tappan asked if there were others that are out there at this point that have had the 40% reduction for noncompliance. She asked if the Board should be anticipating more of these coming up in the future.

Ms. King said the ratio of sites that get a reduction is very small. At this point staff has less than 10 active sites with reductions in the Fund. She stated they would be subject to this approach if they were interested but the Board would not be inundated, nor would NDEP.

Chairman Ross stated he was impressed with what Mr. Emme said about this approach correcting a problem with lagging cleanups due to large reductions. He said on one hand, there is the need to make sure that folks comply with the regulations. The regulations are there for a good reason, but at the same time, these things need to be cleaned up. He stated he thinks this is a great approach.

Ms. King asked if the Board is willing to consider this if a modification is made to the Plan that includes a NDEP-approved training component and, as Mr. Saxon recommended, a semiannual NDEP review.

Chairman Ross stated this should be a one-time offer and the same facility cannot repeat the violation. For example, if a facility has a leak five years from now, they do not get this deal. Maybe the Board disagrees.

Ms. King asked if that may be better captured in the policy resolution that will apply to all facilities.

Chairman Ross said he believed Ms. King might be correct.

Ms. Reynolds said the Board can amend the Resolution 2012-06 to address those kinds of factors in the future however that would not apply to the case before the Board now. If the Board wants to put that in place here, then it needs to be part of the Board's resolution that is voted on today.

Chairman Ross asked if the Board can put the training program in the motion.

Ms. Reynolds said yes.

Chairman Ross asked if the Board could add the six-month check-in to the motion.

Ms. Reynolds said yes.

Chairman Ross asked if the non-repetitive portion would need to be changed in the resolution.

Ms. Reynolds said Resolution 2012-06 needs to be changed. The way it is changed does not have any bearing on what the Board is doing today. That is a separate discussion down the road. The Board needs to focus on what it is you want to see for this site.

Mr. Mulvihill made a motion to reconsider SSBD C2014-05, that in exchange for the successful implementation of an improved compliance plan and schedule, herein modified to require a training element, a six-month review by staff, to eliminate the 40% coverage reduction with the stipulation that if the Silver City RV Resort fails to comply with a compliance plan and schedule, the original coverage conditions of C2014-05 with the 40% reduction will be automatically reinstated and as part of this motion, and this is a one-time relief. If they relapse and have the 40% reduction reinstated, the intention of this Board is that they are not provided future opportunities for coverage reduction relief.

Mr. Seidel seconded the motion.

Chairman Ross said the Board has a motion and a second. He asked Ms. Reynolds, Deputy Attorney General, if that meets legal requirements.

Ms. Reynolds said yes, she believes that motion reflects the Board's discussion here today. It included all of the elements that the Board had mentioned.

Chairman Ross asked Ms. Reynolds if it was done the way she thought it needed to be legally done.

Ms. Reynolds said correct.

Mr. Mulvihill moved to approve the reconsideration of SSBD C2014-05. Mr. Seidel seconded the motion. Motion carried unanimously.

9. ADOPTION OF PERMANENT REGULATORY PETITION R009-16

Ms. King presented the Adoption of Permanent Regulatory Petition R009-16. She stated that just over a year ago, at our March 2015 Board Meeting, NDEP proposed to this Board several program reforms that this Board was in favor of. Since that time, we have been working collectively to move forward on these reforms that will strengthen the Petroleum Fund Program, making sure that it meets today's business needs.

Ms. King stated that NDEP initially had workshops for what was thought to be three policy resolutions. NDEP thought there would be a policy resolution regarding the bid process, amendments to the existing cost guidelines policy resolution and a resolution regarding the proof of payment process. During the first set of workshops, it became apparent that the CEMs wanted an extension of time for the submittal of proof of payment documentation. For NDEP to be responsive, the regulations had to be opened. While the regulations were open, it made sense for NDEP to see where other modifications could be made that would also strengthen the program.

Ms. King said the regulation amendments address four conceptual ideas. Ms. King informed the Board members they have been given a hand-out that has a list of the proposed amendments.

Ms. King said the first amendment is a proposed increase to the dollar amount that triggers the requirement for three competitive bids to be solicited. The value will be established using the CPI inflation calculator. When the regulations were adopted in 1989, \$3,000 was the stipulated value. Plugging \$3,000 in 1989 into the CPI calculator for its value today in 2016 gives us a value just upwards of \$5,700. Rounding to the nearest \$1,000, which is proposed in the amendment, would be \$6,000, which would now trigger the competitive bid process. This is a benefit to the owners and the CEMs who have to go through that laborious bid process.

Ms. King said the second amendment proposed is to increase the timeframe for submittal of proof of payment documentation from 30 days to 60 days.

Ms. King said the third proposed amendment addresses when the proof of payment submittal is not provided within 60 days but the owner did pay his consultant within the required 30 days, a delay in processing any subsequent claims until the second Board Meeting after receiving the documentation will be imposed.

Ms. King stated the last proposed amendment addresses something that has been mentioned several times during the past meetings. This has to do with the regulation that already exists requiring an owner who does not pay his consultant and vendors within 30 days to refund that money back to the Fund.

Ms. King said NDEP has not historically enforced this because NDEP does not currently have the appropriate tools to work with. She said what is being proposed today for adoption gives NDEP the tools to manage that requirement and enforce it.

Ms. King said what is being proposed is to provide a mechanism for owners to reclaim any Fund money that they were required to refund for nonpayment. And again, a delay in reimbursement of subsequent claims until that refund is made is also being proposed.

Ms. King said they had two workshops after LCB provided its legal draft of NDEP's regulations. One workshop was in Carson City and one was in Las Vegas. There was not a huge turnout. There were eight people in Carson City, two of which were our esteemed Board Members, Mr. Seidel and Mr. Mulvihill. Ms. King said they had 13 attendees in Las Vegas and most of them were CEMs with a couple of contractors.

Ms. King said they received general support regarding the regulations. There were a lot of questions regarding clarification. Ms. King gave example questions to the Board, how is the delay going to work logistically, how does the inflation calculator work? She said they did not receive any negative comments or any written comments from the workshop.

Ms. King said one of the constructive things that came out of the workshops was NDEP realized that it needs to be more transparent in what the deadlines are and how it gets that information out to people so they can better comply with the proposed regulations. What NDEP has committed to do is to post this information on the NDEP website for people to access at any time. NDEP will post the value that triggers the three bid process and the dates of the 30 and 60 day deadlines.

Ms. King informed the Board that also posted will be an informational sheet that CEMs can use as a tool for their client management. She provided the Board with the informational sheet that explains the new rules with respect to making payments to their consultants within 30 days or else refund the money. She explained that it has NDEP's logo on it and is easy to read with large font and highlighted areas where they really need to focus. This idea came out of the workshops. She stated that even though the turnout was not huge, the workshops were very productive and constructive.

Ms. King ended by stating the Petroleum Fund program began in 1989. It started out as a reimbursement program, but fast forward 27 years to today, business practices have developed largely into a paid when paid. Our regulations have to meet those changes.

Ms. King stated that the adoption of the proposed amendments will close the loop on all the program reforms NDEP and the Board have been working so hard on over the last one plus years. Ms. King said NDEP respectfully requests and recommends that the Board adopts Regulatory Petition R009-16 as drafted by LCB.

Vice Chairman Tappan asked if staff will receive the refunded money from the owner then pay the consultants and vendors directly.

Ms. King stated that what will happen is the refunded money will go back into the Fund. It will then resume the same cycle that it would as a claim being submitted to NDEP. The owner would resubmit the claim for the refunded money and it would go through the same process again.

Chairman Ross asked if there was anyone from the audience in either location that would like to comment. There were no requests to comment.

Mr. Emme moved to adopt LCB File No. R009-16, as drafted by LCB. Mr. Wayne Seidel seconded the motion. Motion carried unanimously.

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 – JUNE 2, 2016**

HEATING OIL

			<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1.	1994000008H James Tuxon, LLC	\$9,992.30	\$9,992.30
FOR POSSIBLE ACTION	2.	2007000013H Churchill County School District: Bus Barn	\$5,602.60	\$5,602.60
FOR POSSIBLE ACTION	3.	2012000015H Don Sinnar: Sinnar Residence	\$2,972.50	\$2,972.50
FOR POSSIBLE ACTION	4.	2012000017H Churchill Co. School District: Old High School	\$12,726.30	\$12,726.30
FOR POSSIBLE ACTION	5.	2013000012H Roger & Gemma Mateossian: Mateossian Residence	\$6,893.40	\$6,893.40
FOR POSSIBLE ACTION	6.	2013000015H Gary Cornwall: Gary Cornwall Property	\$604.00	\$604.00
FOR POSSIBLE ACTION	7.	2014000021H Town of Gardnerville: Former Eagle Gas - Gardnerville	\$1,760.00	\$1,760.00
FOR POSSIBLE ACTION	8.	2015000020H Lauren Evans: Evans Residence	\$7,440.00	\$7,440.00
FOR POSSIBLE ACTION	9.	2015000022H Reno Land Development Co.: Rancharra - Beedle House	\$274,891.28	\$101,465.65
FOR POSSIBLE ACTION	10.	2015000023H Reno Land Development Co.: Rancharra - Wright House	\$63,950.55	\$63,950.55
FOR POSSIBLE ACTION	11.	2015000028H John L. Gillmartin: Gillmartin Residence	\$4,482.70	\$4,482.70
FOR POSSIBLE ACTION	12.	2015000029H Sandy Kerr: Kerr Property	\$2,922.60	\$2,922.60
FOR POSSIBLE ACTION	13.	2015000033H Alayne Meeks: Meeks Residence	\$685.00	\$685.00
FOR POSSIBLE ACTION	14.	2016000001H Lifestyle Homes Foundation: Project Solution Community	\$18,657.94	\$18,407.94
FOR POSSIBLE ACTION	15.	2016000004H Held Properties: Rolling Wheel Manor	\$1,357.50	\$1,357.50
FOR POSSIBLE ACTION	16.	2016000007H Rising Tides, LLC: Former Log House	\$1,940.00	\$1,690.00
FOR POSSIBLE ACTION	17.	2016000008H Stephen Williams: Williams Property	\$18,188.08	\$17,938.08
HEATING OIL SUB TOTAL:			<u>\$435,066.75</u>	<u>\$260,891.12</u>

NEW CASES, OTHER PRODUCTS

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1.	2015000030	Interstate Oil Company: Interstate Oil Company	\$18,106.00	\$16,295.40
FOR POSSIBLE ACTION	2.	2016000005	Golden Gate/SET Retail: Golden Gate Petroleum	\$74,343.40	\$66,909.06

NEW CASES, OTHER PRODUCTS SUB TOTAL: \$18,798.68 \$16,918.81

ONGOING CASES/OTHER PRODUCTS

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1.	1993000102	Rebel Oil Company: Rebel #8	\$170,335.48	\$153,016.62
FOR POSSIBLE ACTION	2.	1993000103	Russell Yardley: Charlie Brown Construction	\$13,683.20	\$13,303.65
FOR POSSIBLE ACTION	3.	1993000115	City of Fallon: Former Bootlegger Texaco	\$6,455.53	\$6,455.53
FOR POSSIBLE ACTION	4.	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop	\$7,108.06	\$7,108.06
FOR POSSIBLE ACTION	5.	1994000122	Mike's Gas-A-Mart: Mike's Gas-A-Mart	\$4,596.42	\$4,596.42
FOR POSSIBLE ACTION	6.	1995000012	N Nevada Asset Holdings LLC: Parker's Model T	\$5,992.34	\$4,268.10
FOR POSSIBLE ACTION	7.	1995000039	Al Park Petroleum, Inc.: Crescent Valley Market	\$23,950.62	\$21,555.55
FOR POSSIBLE ACTION	8.	1995000042	FBF Inc. dba Gas For Less	\$13,000.05	\$11,340.95
FOR POSSIBLE ACTION	9.	1995000105	Redman Petroleum Corp.: Redman Petroleum	\$19,272.09	\$16,115.94
FOR POSSIBLE ACTION	10.	1996000063	Joan Pennachio: V&V Automotive	\$19,217.04	\$19,217.04
FOR POSSIBLE ACTION	11.	1996000064	H&A Esslinger, LLC: Red Rock Mini Mart	\$166,300.38	\$161,283.86
FOR POSSIBLE ACTION	12.	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility	\$3,200.00	\$2,880.00
FOR POSSIBLE ACTION	13.	1998000046	Willdens Automotive Holdings: Frmr Allstate Rent A Car	\$22,347.72	\$20,112.95
FOR POSSIBLE ACTION	14.	1998000080	Seven Crown Resorts, Inc.: Echo Bay Resort	\$3,813.50	\$3,432.15
FOR POSSIBLE ACTION	15.	1999000014	Al Park Petroleum: Conoco Pit Stop #7	\$28,213.76	\$25,392.38
FOR POSSIBLE ACTION	16.	1999000022	Terrible Herbst: Terrible Herbst #129	\$3,453.75	\$3,108.38
FOR POSSIBLE ACTION	17.	1999000029	Terrible Herbst Oil Company: Terrible Herbst #136	\$14,365.32	\$11,546.93
FOR POSSIBLE ACTION	18.	1999000048	Estate of Robert Cowan: Former Lightning Lube	\$7,531.34	\$7,531.34
FOR POSSIBLE ACTION	19.	1999000064	Al Park Petroleum, Inc.: Conoco Pit Stop	\$6,666.84	\$6,000.15
FOR POSSIBLE ACTION	20.	1999000066	HP Management LLC: Former Haycock Petroleum	\$4,705.25	\$4,234.72
FOR POSSIBLE ACTION	21.	1999000090	HP Management LLC: Former Haycock Petroleum	\$16,230.25	\$14,607.22
FOR POSSIBLE ACTION	22.	1999000104	Terrible Herbst Oil Co.: Terrible Herbst #118	\$2,665.70	\$2,399.13
FOR POSSIBLE ACTION	23.	1999000114	City of Fallon: Fallon Maintenance Yard	\$5,391.41	\$4,852.27
FOR POSSIBLE ACTION	24.	1999000135	Terrible Herbst Oil Company: Terrible Herbst #106	\$4,875.45	\$4,387.91
FOR POSSIBLE ACTION	25.	1999000137	Terrible Herbst Oil Company: Terrible Herbst #152	\$6,845.60	\$6,161.04
FOR POSSIBLE ACTION	26.	1999000167	City of Las Vegas: Fire Station #1	\$4,370.52	\$4,370.52
FOR POSSIBLE ACTION	27.	1999000186	Gloria Gayle Pilger: Former D&G Oil Facility	\$40,576.49	\$33,818.84
FOR POSSIBLE ACTION	28.	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station	\$70,650.21	\$70,650.21

ONGOING CASES: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	29.	1999000257	University of Nevada: Newlands Agriculture	\$4,502.10	\$4,502.10
FOR POSSIBLE ACTION	30.	1999000273	V.K. Leavitt: The Waterhole	\$33,879.88	\$30,491.89
FOR POSSIBLE ACTION	31.	2004000011	TA Operating LLC: Four Way Truck Stop	\$49,658.54	\$44,691.32
FOR POSSIBLE ACTION	32.†	2004000039	Clark Co. Dept. of Aviation: Former National Car Rental	\$0.00	\$1,880.94
FOR POSSIBLE ACTION	33.	2005000002	Carson Valley Oil Co., Inc.: Carson Valley Oil	\$10,429.94	\$9,386.89
FOR POSSIBLE ACTION	34.	2005000025	Bordertown, Inc.: Winner's Corner	\$397.50	\$357.75
FOR POSSIBLE ACTION	35.	2005000044	Ewing Brothers, Inc.: Ewing Brothers Facility	\$19,180.62	\$15,536.31
FOR POSSIBLE ACTION	36.	2007000014	Ace Cab Company: Ace Cab Company	\$47,441.55	\$42,697.40
FOR POSSIBLE ACTION	37.	2007000016	TOC Holdings Company: Former Time Oil #6-100	\$8,818.38	\$7,936.54
FOR POSSIBLE ACTION	38.	2008000005	Avis Rent A Car Systems: Former Avis Rent A Car	\$142,626.32	\$121,655.40
FOR POSSIBLE ACTION	39.	2008000017	Francois Alvandi: Flamingo AM/PM #82153	\$19,314.98	\$10,290.37
FOR POSSIBLE ACTION	40.	2008000018	Jacksons Food Stores, Inc.: Former Terrible's #830	\$111,250.64	\$90,122.95
FOR POSSIBLE ACTION	41.	2008000019	One Panou, LLC: Stop N Shop #2	\$10,571.18	\$9,514.07
FOR POSSIBLE ACTION	42.	2009000017	D&J Holdings, LLC: Convenience Corner Shell	\$17,945.63	\$16,151.07
FOR POSSIBLE ACTION	43.	2009000024	Aman Singh: Chuck's Circle C	\$22,675.72	\$20,404.77
FOR POSSIBLE ACTION	44.	2009000028	Vegas Rainbows, Inc.: Mick & Mac's Food Mart	\$26,004.10	\$22,818.60
FOR POSSIBLE ACTION	45.	2010000001	Smitten Oil & Tire Company: The Gas Store	\$6,970.00	\$5,686.58
FOR POSSIBLE ACTION	46.	2010000007	Pecos Express, Inc.: Pecos Express	\$4,621.13	\$4,159.01
FOR POSSIBLE ACTION	47.	2010000010	Pacific Convenience & Fuel: Victorian Food Mart	\$3,688.30	\$3,319.47
FOR POSSIBLE ACTION	48.	2011000007	Echo Bay Marina, LLC: Echo Bay Marina	\$14,385.00	\$12,946.50
FOR POSSIBLE ACTION	49.	2011000009	Cimarron West: Cimarron West	\$4,235.08	\$3,811.57
FOR POSSIBLE ACTION	50.	2012000004	7-Eleven, Inc.: 7-Eleven #15426	\$126,391.85	\$89,317.91
FOR POSSIBLE ACTION	51.	2012000005	ARAMARK Corporation: Zephyr Cove Resort	\$29,636.69	\$26,313.02
FOR POSSIBLE ACTION	52.	2012000011	Golden Gate Petroleum: Baldini's Grand Pavilion	\$3,565.30	\$3,208.77
FOR POSSIBLE ACTION	53.	2012000012	Dewey Has Gas, Inc.: Smart Mart	\$29,695.03	\$26,725.52
FOR POSSIBLE ACTION	54.	2013000005	RB Properties, Inc.: South Pointe Market	\$8,218.58	\$7,396.72
FOR POSSIBLE ACTION	55.	2013000009	Western Petroleum: Western Petroleum	\$10,999.75	\$9,899.78
FOR POSSIBLE ACTION	56.	2013000011	Slots Unlimited, LLC, Village Shop #4	\$17,154.98	\$14,066.54
FOR POSSIBLE ACTION	57.	2013000019	Hardy Enterprises, Inc.: Sinclair Mini-Mart	\$13,595.83	\$12,236.25
FOR POSSIBLE ACTION	58.	2014000003	Sterling-UN Reno, LLC: Former Luce & Sons	\$4,688.70	\$4,219.83
FOR POSSIBLE ACTION	59.	2014000004	Alsaker Corporation: Broadway Colt Service Center	\$53,867.62	\$48,480.85
FOR POSSIBLE ACTION	60.	2014000016	Fran Smitten: Smedley's Chevron	\$10,312.97	\$9,281.67
FOR POSSIBLE ACTION	61.	2014000020	Ken & Bonnie Goodness: Waterhole Truck Plaza	\$4,834.75	\$4,351.27
FOR POSSIBLE ACTION	62.	2014000025	Superior Campgrounds of America: Silver City RV Resort	\$7,524.50	\$4,063.23
FOR POSSIBLE ACTION	63.	2014000033	Speedee Mart, Inc.: Speedee Mart #108	\$6,378.75	\$5,740.87

ONGOING CASES: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	64.	2014000041	Callville Bay Resort Marina: Callville Bay Resort	\$23,153.00	\$20,837.70
FOR POSSIBLE ACTION	65.	2015000005	Red Lion Hotel & Casino: Red Lion Chevron	\$6,005.65	\$5,405.09
FOR POSSIBLE ACTION	66.	2015000014	City Express: City Express	\$22,410.07	\$20,169.07
FOR POSSIBLE ACTION	67.	2015000034	City of Gardnerville: Former Eagle Gas	\$6,913.90	\$6,222.51

ONGOING CASES/OTHER PRODUCTS SUB TOTAL: \$1,639,758.83 \$1,440,045.96

**CLAIMS TOTAL: REQUESTED RECOMMENDED
\$2,167,274.98 \$1,784,141.54**

Ms. Tappan moved for approval of the consent items, Heating Oil, 1 through 17, New Cases/Other Products, 1 and 2, and Ongoing Cases, 1 through 67. Mr. Saxon 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, 1,518 applications have been received for reimbursement. Of those, 126 cases were denied coverage and a total of 1,173 cases have been closed. Five applications are in pending status awaiting NDEP's review or additional information. Forty-five cases have expired. There are currently 169 active remediation sites. Since January 1, 2016, NDEP has received 11 new applications.

Ms. King stated prior to this Board meeting, the Board approved approximately \$197.3 million for reimbursement to petroleum storage tank operators throughout Nevada for cleanup expenses. With the approval of approximately \$1.77 million today, the cumulative fund expenditures are approximately \$199.1 million. With respect to tank enrollment, the tank invoices were issued in August of last year. A total of 1,314 facilities were invoiced at \$100 per tank. Out of those, 1,283 facilities, or approximately 98% have submitted the required fees.

Ms. King updated the Board on the Petroleum Fund interactive database. The contractor developing the database started actively working in June, 2014. NDEP successfully rolled out the Enrollment component. With respect to the Petroleum Fund Coverage Application, staff can now receive those electronically through the database. The entire database is anticipated to be rolled out early next year.

Ms. King said the Attorney General's office contracted with a law firm. They are interested in looking at double-dipping in the State of Nevada where large oil companies have used private insurance to pay for the costs of cleanup and also taken money from the Fund to pay for the same costs. She said right now, the status has not changed. The attorneys are still in discussions, talking about the findings and all discussions at this point are confidential.

She reminded the Board that during the previous Board meeting in March a heating oil tank case was on the agenda. NDEP's recommended reimbursement value was being disputed. The agenda item was tabled for further negotiations. Ms. King informed the Board that negotiations had been successful and that issue had been placed today in the last agenda item heard, or the Consent Items List, which you just approved.

Chairman Ross asked if the site being referred to was the Rancharra Site.

Ms. King replied yes. It is the Beedle House from the Rancharra Site.

Ms. King reminded the Board that a few weeks ago she sent an email informing the Board that Steve Fischenich had left the program. She said he moved to NDEP's Mining Bureau. She said his position was filled by Megan Slayden. Although Megan does not actually start until Monday, June 6th, she is here to observe the Board meeting. Ms. King introduced Megan to the Board. Ms. King stated that Megan has a bachelor's degree in geography with a minor in ecohydrology.

Chairman Ross welcomed Megan.

Mr. McRae updated the Board on the Eagle Gas North cleanup. He informed the Board that underneath the Board packets are 11 x 17 representations of the Eagle Gas North Site. He said the 8 x 11 is the mass recovery garnered from the system.

Mr. McRae said in December of 2015, NDEP approved a work plan to optimize the air sparge system to reach the MTBE and benzene plume in the middle of North Carson Street. The system has been running since March.

Mr. McRae stated that during that time period ground water elevations have increased about 1 ½ to 3 ½ feet, across the site. The groundwater sampling results for the second quarter have benzene still at non-detect levels on the property. As the diagram indicates, MTBE is off the property. The remediation system has run so far at 98% operational time.

Mr. McRae said the concentration that is coming out of the soil vapor extraction system is still at non-detect and consequently, the mass coming out of the system is minimal. He said they are right around 1,893 pounds of total TPH removed from the site. He stated the amount spent on the cleanup project so far is approximately \$1,111,541.

Mr. McRae said they have been working on the project for approximately two years. He said the mass coming out of the site has reached a plateau and the conversations with the contractor are now revolving around moving the project to post-remediation monitoring of the wells, both onsite and off-site, to see if there is appreciable rebound of the contamination. That will occur for four quarters. During that time, we will also be moving the project through NDEP's risk based and/or ground-water exemption process.

Mr. McRae said in a year he hopes to inform the Board that NDEP has provided a "no further action" with some conditions.

Chairman Ross stated that visually, it looks like there has been tremendous progress made. He said he thinks his predecessor, if he were present, would say thank you very much for a concise presentation.

Mr. Emme said he commends staff and the folks at McGinley and Associates for the work on this site. He knows it has been a painful thing to devote Fund resources to, but given the circumstances at this site he thinks everyone has done a good job. He said it is expensive, but then again, it has been a very efficient cleanup. He stated that the progress can be clearly seen on the maps that were provided.

12. PUBLIC COMMENTS

Mr. Mulvihill informed the Board that the June 2, 2016 meeting was his last meeting. He will be retiring before the next Board meeting in September 2016. He said it has been great working with the Board. He wanted to also thank the NDEP staff. He said they have been fantastic with all the information and support provided to the Board.

Chairman Ross said since he has been on the Board, Mr. Mulvihill has been a terrific member. He has made an extraordinary number of contributions on many, many issues and has been right on the button every time. He said he really appreciated Mr. Mulvihill's contributions.

Ms. King stated that Mr. Mulvihill will be missed.

13. CONFIRMATION OF NEXT BOARD MEETING DATE

It was confirmed the next meeting date would be Thursday, September 15, 2016 at 10:00 am.

14. ADJOURNMENT

The meeting adjourned at 11:10 am.