

**STATE OF NEVADA BOARD TO REVIEW CLAIMS  
BOARD MEETING MINUTES  
SEPTEMBER 6, 2018**

**1. CALL TO ORDER**

Chair Tappan called the meeting to order at 11:00 a.m. from Carson City at the Nevada Legislative Building, 401 South Carson Street, Room 2134. The meeting was also conducted via videoconference with Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412.

**A. BOARD MEMBERS PRESENT**

Chair Maureen Tappan - Representative of the General Public  
Vice-Chair Dawn Lietz – Department of Motor Vehicles  
Greg Lovato – Nevada Division of Environmental Protection  
Rod Smith – Representative of Petroleum Refiners  
LeRoy Perks – Representative of the Independent Retailers of Petroleum

**BOARD MEMBERS NOT PRESENT**

John Saxon - Representative of Independent Petroleum Dealers  
Bart Chambers – State Fire Marshal

**OTHERS PRESENT**

Peter Keegan, State Attorney General's Office – Carson City  
Jeff Collins, Jeff Kinder, Mike Cabble, Kim Valdez, Don Warner, Megan Slayden,  
Jonathan McRae, Michael Friend, Chuck Enberg, Diondrae White, Ben Moan,  
and Karen Kovacs – Nevada Division of Environmental Protection (NDEP)  
Caitlin Jelle – McGinley & Associates  
Patrick Vuchetich – Williams & Company Consulting  
Eric Clarke – NPM&CSA–Nevada Petroleum Marketers & Convenience Store Association  
Peter Krueger – NPM&CSA–Nevada Petroleum Marketers & Convenience Store  
Association  
Amy Carpenter – Stantec  
Matt Grandjean – Stantec  
Zach Amos – The Westmark Group  
Keith Stewart – Stewart Environmental

**2. PUBLIC COMMENT**

**Mr. Krueger** thanked NDEP for providing the resources to put out a free webinar to all tank owners regarding the new federal guidelines. The webinar will be presented by Jon McRae (underground Storage Tank Program Supervisor) of NDEP. As of October 13th, 2018, there are significant new requirements for federally regulated tank systems, which will include a financial burden for which many NPM&CSA members and tank owners are unprepared. One concern is required testing may identify new releases, which may have impacts on the Fund. Additionally, the NPM&CSA is concerned about how the NDEP's interpretation of the new requirements will affect compliance of an owner/operators. The purpose of Mr. Krueger's statement was to get notice of the webinar on the public record.

**Mr. Stewart** addressed a prior Resolution, 96-002. In 1996, the Resolution was put in place to address orphaned and abandoned tanks. Orphan tanks have been forgotten or lost. He cited a

specific case, which was never registered in any database. A tank removal was in process a couple weeks ago and upon further inspection, a previously unidentified vent line and tank were located. In 1996, the Petroleum Fund was not as well funded as it is presently. At that time, it was not uncommon to have more expenses than funds. Payments were often delayed or prorated. The resolution was passed to protect against unknown orphan tanks. Over 20 years later, the Fund moves unutilized funds of \$6 to \$7 million to NDOT annually. It may be advisable to revisit the orphan tank policy. Currently an orphaned tank must pass a tightness test. In this specific case, the tank had been underground for 30 years and was found to have several holes. Prior to 1996, it would have qualified for full coverage. He suggested the possibility of a task force and/or staff review of the current policy to be revisited by the Board.

**Mr. Lovato** noted that in 2010, Nevada received funds from the federal government through the stimulus package called the American Recovery and Reinvestment Act. At that time, there was a statewide search for abandoned tanks and a report was produced. The search did not identify a significant number of tanks. He agreed that there should be a plan to mitigate future abandoned tank discoveries.

**Mr. Cable** stated that the Fund will be reviewing older resolutions. They anticipate making revisions, updates or altogether retiring certain resolutions. Some resolutions have not been reviewed in some time. If the Board would like staff to elevate specific older resolutions, staff could begin next year possibly presenting 1 or 2 resolutions a meeting depending on the content.

### 3. APPROVAL OF THE JUNE 14, 2018 MINUTES

**Ms. Lietz moved to approve the June 14, 2018 minutes. Mr. Perks seconded the motion. Motion carried unanimously.**

### 4. STATUS OF THE FUND

**Mr. Cable** provided a status of the State of Nevada Petroleum Fund (Fund) for Fiscal Year 2018. The balance forward was \$7,500,000. Approximately \$407,400 has been received from tank enrollment fees for enrollment year 2018. The Fund has received \$175,000 in cost recovery monies to clean up petrochemicals. Approximately \$13,095,266 has been generated from the \$0.0075 per gallon fee collected by DMV. The Fund has earned approximately \$116,929 in interest. This brings the total revenue for FY 2018 to approximately \$16,492,531.

In terms of expenditures, board member salaries totaled approximately \$1,340. Board member in-state travel totaled approximately \$1,261. Board meeting operating costs total approximately \$1,289. Funds used for operating the program under NDEP for State-led cleanups, staff salaries, and ongoing database/software maintenance total \$1,468,647. Total reimbursement for paid claims was approximately \$9,617,849. A service fee paid to DMV for collecting the petroleum clean up fee was \$12,718. Total cumulative expenditures are \$11,103,100. Available funds at the end of the year totaled \$5,272,630.67.

**Mr. Lovato** asked for confirmation that approximately \$4 million was transferred to NDOT.

**Mr. Cable** stated that the actual amount transferred was \$3,608,576.47. This is the money being made available for the grant program in the upcoming year. Some of the funding must be shared for potential petrochemical cleanups, however he anticipates being able to allocate at least half of the amount to grant programs.

**5. SITE SPECIFIC BOARD DETERMINATION FOR THIRD PARTY LIABILITY**

**Ms. Slayden**, NDEP, presented Proposed Site Specific Board Determination (SSBD) No. C2018-07, which proposes to provide third party liability coverage for Carson Valley Oil, located in Carson City, Petroleum Fund Case ID No. 2005000002, Facility ID No. 1-000024. The Board previously approved the subject site owned by Carson Valley Oil Company for \$900,000.00, which represents \$1 million in fund coverage for a UST system with a 10 percent copay. As of the June 2018 Board meeting, the subject site has been reimbursed \$899,604.98. The funding has been used for free product removal, and installation and operation of a remediation system as well as groundwater monitoring and reporting. Despite progress in remediating the site, groundwater contaminants remain in concentrations above state action levels, creating potential for third party liability. Petroleum Fund staff and the leaking underground storage tank case officer agree that providing third party liability coverage will facilitate remedial action to continue toward a groundwater exemption closure in the coming quarters. In accordance with Board Policy Resolution 2007-10, the operator has acknowledged that the use of third party liability funds for corrective actions will reduce the remaining funding available in the event of a third party lawsuit. Fund staff recommends that the subject facility receive the third party liability funds, which amounts to an additional \$1 million in coverage minus the 10 percent copayment. This would increase the reimbursable cap to \$1.8 million.

**Mr. Lovato** asked the case certified environmental manager (CEM) for more detail on the schedule and status of the site's eligibility for a closure exemption in the coming quarters.

**Ms. Jelle**, CEM, explained that most recently, the issue at the site is free product LNAPL on the water table. A drawdown/bail down test was conducted last December to prove that no more petroleum product could be taken out of the ground. Based on these results, there is preliminary agreement from the leaking underground storage tank (UST) program staff to present the closure presentation. In terms of funding, there is approximately \$10,000.00 in claims that have not been submitted pending a determination of the third party liability funding. They anticipate between \$50,000.00 and \$100,000.00 is necessary to close the case. There will be a closure presentation to NDEP staff.

**Mr. Smith** sought clarification that even though upwards of \$1 million will be approved, they are only anticipating spending approximately \$100,000.00.

**Ms. Jelle** confirmed the understanding.

**Mr. Lovato moved to adopt SSBD C2018-07, as proposed. Vice-Chair Lietz seconded the motion. The motion was unanimously approved.**

**6. SITE SPECIFIC BOARD DETERMINATION FOR THIRD PARTY LIABILITY**

**Ms. Slayden**, NDEP, presented Proposed Site Specific Board Determination (SSBD) C2018-08, which proposes to provide third party liability coverage to 7-Eleven Store No. 22070 located in Las Vegas, Petroleum Fund Case ID No. 1999000244, Facility ID No. 8-000578. The Board previously approved the site for \$900,000.00, which represents \$1 million in fund coverage for a UST system

with a 10 percent copayment. As of the June 14, 2018 Board meeting, the subject site has been reimbursed \$897,058.00. This funding has been used for installation and operation of a remediation system and groundwater monitoring activities. Despite progress in remediating the site, contamination remains in concentrations above state action levels, creating the potential for third party liability. Petroleum staff and the leaking underground storage tank case officer agree that providing third party liability coverage will facilitate remedial action to continue toward a groundwater exemption closure in the coming quarters. In accordance with Board Policy Resolution 2007-10, which clarifies the policy regarding the use of third party liability funds, the owner operator has acknowledged that using the third party liability funds for corrective actions will reduce the remaining funds in the third party lawsuit. Fund staff recommends that the subject facility receive the third party liability funds, which amounts to an additional \$1 million in coverage minus the 10 percent copayment. This would increase the reimbursable cap to \$1.8 million.

**Mr. Lovato** asked whether this case is also headed for closure. He added that it is important that branches within NDEP are working together in visiting these third party liability extensions to ensure the site has a clear path to closure.

**Mr. Friend, leaking UST case officer**, commented that this case is similar to the case approved in Agenda Item 5. Mr. Friend himself requested closure on the site with the groundwater exemption. Funding will cover the closure report, closure on the site as well as restoration.

**Mr. Smith moved to adopt SSBD C2018-08, as proposed. Mr. Perks seconded the motion. The motion was unanimously approved.**

## 7. **UPCOMING REVISION OF CEM COST GUIDELINES**

**Mr. Cabble** stated that CEM Cost Guidelines include requirements for petroleum fund coverage applications, consultant guidelines for requesting not to exceed proposals, obtaining concurrence from case officers, as well as paying out claims. In addition to general updates, the Petroleum Fund regulations have recently been codified (or about to be). Chapters have been moved from 590 to 445C. As such, every resolution is now out-of-date and citations need to be corrected. The process will include review for any additional necessary updates and revisions to Fund polices. The CEM Cost Guidelines currently reference outdated processes, especially now that an online database is in place. The new online processes will be included in the guidelines. Historical data has also been reviewed in terms of hours available versus hours requested. Where it is identified that some hours are short, there will be consideration given to increase those hours. The revision will also include creation of a new task table for regulated underground storage tanks, similar to that followed for heating oil tank initial abatement, but specific to removal of commercial UST systems. It is proposed that the Fund Program develop a draft with the proposed changes by the end of September 2018. Workshops would be scheduled in October/November. A finalized version with incorporated comments would be presented to the Board at its December meeting for potential adoption.

**Chair Tappan** commented that this is an ambitious goal and she is impressed by the accelerated timeline.

**Mr. Perks** asked whether emails have been sent out to alert interested parties.

**Mr. Cabble** noted that hints have been dropped when talking with consultants regarding certain case projects. They would like to have a draft with the changes included before formal requests for feedback are issued. He welcomed members and other interested parties to email him directly with specific comments.

**Mr. Lovato** commented that whatever can be done to provide an early heads-up would be helpful.

**Mr. Cable** stated based on the Board's preference, he would send an email shortly after the meeting to provide notice that a draft is expected in September. There was Board consensus to proceed with an email.

8. **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 6, 2018**

**HEATING OIL**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>		
FOR POSSIBLE ACTION	1.	2007000013	Churchill Co. School District: Churchill Co. S.d. Bus Barn	\$1,098.00	\$1,098.00	
FOR POSSIBLE ACTION	2.	2012000017	Churchill County School District: Old High School	\$4,420.17	\$4,420.17	
FOR POSSIBLE ACTION	3.	2017000042	Washoe County School District: Reno High School	\$7,109.55	\$6,859.55	
FOR POSSIBLE ACTION	4.	2018000025	Carrie Jensen: Carrie Jane Jensen Residence	\$11,067.95	\$10,817.95	
			<b>SUB TOTAL:</b>		<b><u>\$23,695.67</u></b>	<b><u>\$23,195.67</u></b>

**NEW CASES**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>		
FOR POSSIBLE ACTION	1.	2017000039	7-Eleven Inc.: 7-Eleven #27438	\$11,344.32	\$10,209.89	
FOR POSSIBLE ACTION	2.	2018000009	Reed Incorporated: Pacific Pride	\$24,365.66	\$21,929.09	
			<b>SUB TOTAL:</b>		<b><u>\$35,709.98</u></b>	<b><u>\$32,138.98</u></b>

**ONGOING CASES**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1.	1992000126	Clark County School Dist.: Rc White (Arville) Transp. Satellite	\$15,258.26	\$15,258.26
FOR POSSIBLE ACTION	2.	1993000011	7-Eleven Inc.: 7-Eleven #29646	\$19,339.73	\$19,339.73
FOR POSSIBLE ACTION	3.	1993000103	Charlie Brown Construction: Charlie Brown Const.	\$2,949.89	\$2,890.89
FOR POSSIBLE ACTION	4.	1994000027	7-Eleven Inc.: 7-Eleven #19653	\$41,928.73	\$41,928.73
FOR POSSIBLE ACTION	5.	1994000037	Param Investments LLC: Go-Fer Supermarket	\$16,269.42	\$16,219.75
FOR POSSIBLE ACTION	6.	1994000067	Peppermill Casinos Inc.: Frmr Peppermill Truckstop	\$7,375.53	\$7,375.53
FOR POSSIBLE ACTION	7.	1995000039	Al Park Petroleum Inc: Crescent Valley Market	\$35,707.55	\$26,507.29

**ONGOING CASES: CONTINUED**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	8.	1996000064	H & A Esslinger, LLC: Red Rock Mini Mart	\$15,497.56	\$14,835.22
FOR POSSIBLE ACTION	9.	1996000101	Phillips 66 Company: Circle K #695	\$25,603.99	\$23,043.59
FOR POSSIBLE ACTION	10.	1996000102	Phillips 66 Company: Circle K #542	\$18,253.47	\$13,140.97
FOR POSSIBLE ACTION	11.	1997000071	7-Eleven Inc.: 7-Eleven #25586	\$6,957.97	\$6,262.17
FOR POSSIBLE ACTION	12.	1998000068	Phillips 66 Company: Conoco #28003	\$30,094.61	\$26,680.18
FOR POSSIBLE ACTION	13.	1998000075	Phillip M. Stone: McDermitt Motel & Convenience Store	\$5,534.10	\$4,968.59
FOR POSSIBLE ACTION	14.	1999000052	Estate of Martin T. Wessel: Ted's Chevron	\$16,630.93	\$14,967.84
FOR POSSIBLE ACTION	15.	1999000064	Al Park Petroleum Inc: Pit Stop #4 (Conoco)	\$4,562.12	\$4,105.91
FOR POSSIBLE ACTION	16.	1999000104	Terrible Herbst, Inc.: Terrible Herbst #118 (Arco)	\$3,841.25	\$3,457.13
FOR POSSIBLE ACTION	17.	1999000114	City of Fallon: Fallon Maint. Yard	\$7,278.75	\$6,550.87
FOR POSSIBLE ACTION	18.	1999000135	Terrible Herbst, Inc.: Terrible Herbst #106 (Gas) & #108 (Lube)	\$11,208.92	\$10,088.03
FOR POSSIBLE ACTION	19.	1999000243	7-Eleven Inc.: 7-Eleven #27607	\$16,487.58	\$14,838.82
FOR POSSIBLE ACTION	20.	2004000011	Travel Centers of America: Wells Petro Truck Service	\$25,450.90	\$22,905.81
FOR POSSIBLE ACTION	21.	2004000039	Clark County Dept of Aviation: Fmr National Car Rental	\$119,838.42	\$119,785.63
FOR POSSIBLE ACTION	22.	2005000036	Phillips 66 Company: Circle K #1791	\$6,251.67	\$4,485.58
FOR POSSIBLE ACTION	23.	2007000014	Ace Cab Company: Ace Cab Company	\$23,323.42	\$20,991.08
FOR POSSIBLE ACTION	24.	2008000005	Avis Rent A Car System LLC: Avis Rent A Car	\$25,385.34	\$22,846.81
FOR POSSIBLE ACTION	25.	2008000009	Pilot Travel Centers LLC: Flying J Travel Plaza #770	\$27,384.67	\$19,716.20
FOR POSSIBLE ACTION	26.	2008000018	Jacksons Food Stores Inc.: Jacksons Food Stores #0145	\$5,540.84	\$4,986.76
FOR POSSIBLE ACTION	27.	2008000019	One Panou LLC: Golden Market #3	\$15,516.80	\$13,965.12
FOR POSSIBLE ACTION	28.	2009000024	Parampreet Investment LLC: Chucks Circle C Market	\$14,631.41	\$13,166.94
FOR POSSIBLE ACTION	29.	2010000005	7-Eleven Inc.: 7-Eleven #27071	\$15,460.96	\$13,914.86
FOR POSSIBLE ACTION	30.	2010000007	Pecos Express: Pecos Station	\$11,733.86	\$10,560.47
FOR POSSIBLE ACTION	31.	2010000009	Travel Centers of America: Mill City Travel Center	\$9,821.53	\$7,955.44
FOR POSSIBLE ACTION	32.	2011000006	7-Eleven Inc.: 7-Eleven #29384	\$7,302.09	\$6,571.88
FOR POSSIBLE ACTION	33.	2012000003	7-Eleven Inc.: 7-Eleven #26627	\$22,635.04	\$16,297.23
FOR POSSIBLE ACTION	34.	2012000005	Travel Systems, LLC: Zephyr Cove Resort	\$15,810.88	\$14,229.79
FOR POSSIBLE ACTION	35.	2012000012	Dewey Has Gas, Inc.: Smart Mart	\$11,792.11	\$10,612.90
FOR POSSIBLE ACTION	36.	2013000003	7-Eleven Inc.: 7-Eleven #25586	\$6,957.92	\$6,262.13
FOR POSSIBLE ACTION	37.	2013000004	7-Eleven Inc.: 7-Eleven #29665	\$8,664.47	\$7,798.02
FOR POSSIBLE ACTION	38.	2013000019	Hardy Enterprises Inc.: Elko Sinclair #53	\$16,634.50	\$14,971.05
FOR POSSIBLE ACTION	39.	2013000020	7-Eleven Inc.: 7-Eleven #26395	\$40,157.20	\$36,141.48
FOR POSSIBLE ACTION	40.	2014000007	7-Eleven Inc.: 7-Eleven #29658	\$11,554.67	\$10,399.20
FOR POSSIBLE ACTION	41.	2014000010	7-Eleven Inc.: 7-Eleven #29667	\$24,429.08	\$21,986.17
FOR POSSIBLE ACTION	42.	2014000025	Superior Campgrounds of America LLC: Silver City Rv Resort	\$117,806.96	\$105,943.10

**ONGOING CASES: CONTINUED**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	43.	2015000005	Elko Acquisitions LLC dba Red Lion Chevron: Red Lion Chevron	\$27,829.36	\$25,046.42
FOR POSSIBLE ACTION	44.	2015000009	Travel Centers of America: Las Vegas Travel Center	\$720.00	\$648.00
FOR POSSIBLE ACTION	45.	2015000013	7-Eleven Inc.: 7-Eleven #16896	\$7,316.54	\$6,584.89
FOR POSSIBLE ACTION	46.	2016000005	Golden Gate S.e.t. Retail of NV LLC: Golden Gate Fac. #65 Fallon	\$4,151.68	\$3,736.51
FOR POSSIBLE ACTION	47.	2016000009	7-Eleven Inc.: 7-Eleven #13685	\$10,348.46	\$9,313.61
FOR POSSIBLE ACTION	48.	2016000021	7-Eleven Inc.: 7-Eleven #29647	\$29,595.88	\$26,636.29
FOR POSSIBLE ACTION	49.	2017000015	Gmr National A Nevada General Partnership: 24x7 Mini Mart	\$49,162.32	\$35,396.87
FOR POSSIBLE ACTION	50.	2017000035	Rebel Oil Company: Rebel Store #2177	\$126,518.39	\$113,866.55
			<b>SUB TOTAL:</b>	<b><u>\$1,140,507.73</u></b>	<b><u>\$1,020,182.29</u></b>
			<b>RECOMMENDED CLAIMS TOTAL:</b>	<b><u>\$1,199,913.38</u></b>	<b><u>\$1,075,516.94</u></b>

**Ms. Lietz moved for approval of the consent items, Heating Oil, 1 through 4, New Cases, 1 and 2, and Ongoing Cases 1 through 50.**  
**Mr. Smith seconded the motion. Motion carried unanimously.**



9. **DIRECT PAYMENT OF UNCONTESTED CLAIMS MADE PER POLICY RESOLUTION 2017-02**

The Board to Review Claims authorizes NDEP to make claim payments prior to a Board meeting when the recommended payment value is uncontested. This authorized delegation is consistent with the findings in the memorandum from the Attorney General's Office dated August 3, 2017 (Attachment A of Policy Resolution 2017-02). Below is a list of all quarterly claim payments made on the Board's behalf in accordance with Policy Resolution No. 2017-02.

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 6, 2018**

<b><u>HEATING OIL – DIRECT PAYMENT</u></b>				<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
FOR DISCUSSION	1.	2018000020	Stephen & Destinie Adams: Stephens H. Adams Residence	\$13,529.98	\$13,279.98
FOR DISCUSSION	2.	2018000021	Lisa Carlson: Urban Flats, LLC Series 3	\$12,208.77	\$11,958.77
FOR DISCUSSION	3.	2018000022	Richard & Nona Perry: Baker Family Trust	\$9,435.95	\$9,185.95
FOR DISCUSSION	4.	2018000023	Wanda Stevens: Edwin O. Steven Residence	\$14,213.46	\$13,963.46
<b>SUB TOTAL:</b>				<b><u>\$49,388.16</u></b>	<b><u>\$48,388.16</u></b>

<b><u>OTHER CASES – DIRECT PAYMENT</u></b>				<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
FOR DISCUSSION	1.	1994000015	Pilger Family Holdings: Former D & G Oil Company	\$44,552.31	\$44,552.31
FOR DISCUSSION	2.	1997000008	Ewing Bros Inc: Ewing Bros INC	\$5,267.39	\$4,740.65
FOR DISCUSSION	3.	1998000034	Chevron Usa Products CO.: Chevron #9-4116	\$155,025.96	\$136,316.49
FOR DISCUSSION	4.	1998000034	Chevron Usa Products CO.: Chevron #9-4116	\$472,199.68	\$423,138.31
FOR DISCUSSION	5.	1999000014	Al Park Petroleum Inc: Pit Stop #7 Conoco	\$25,084.26	\$22,575.83
FOR DISCUSSION	6.	1999000023	Nevada Ready Mix Corp: Nevada Ready Mix	\$16,507.22	\$14,856.50
FOR DISCUSSION	7.	1999000066	HP Management, LLC: Former Haycock Petroleum	\$43,410.76	\$39,040.51
FOR DISCUSSION	8.	1999000199	Village Springs, LLC: Lakeshore Orbit Station	\$12,092.84	\$12,092.84
FOR DISCUSSION	9.	1999000273	V. K. Leavitt: The Waterhole	\$15,783.96	\$14,205.56
FOR DISCUSSION	10.	2005000044	Ewing Bros Inc: Ewing Bros Inc	\$16,345.63	\$14,711.07
FOR DISCUSSION	11.	2008000018	Jacksons Food Stores Inc: Jacksons Food Stores #0145	\$16,640.59	\$14,976.53
FOR DISCUSSION	12.	2011000009	Cimarron West: Cimarron West	\$28,782.78	\$17,604.45
FOR DISCUSSION	13.	2012000012	Dewey Has Gas, Inc: Smart Mart	\$187,869.42	\$168,887.90

**OTHER CASES – DIRECT PAYMENT: CONTINUED**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR DISCUSSION	14.	2013000009	Western Petroleum: Western Petroleum	\$19,293.16	\$17,363.84
FOR DISCUSSION	15.	2013000011	Har Moor Investments, LLC: Village Shop #4	\$20,397.25	\$18,357.53
FOR DISCUSSION	16.	2014000004	Alsaker Corp: Broadway Colt Service Center	\$26,462.06	\$23,815.85
FOR DISCUSSION	17.	2014000016	Smitten Oil And Tire Co Inc: Former Smitten Oil	\$4,768.43	\$4,291.59
FOR DISCUSSION	18.	2014000025	Superior Campgrounds of America LLC: Silver City RV Resort	\$56,732.88	\$51,059.59
FOR DISCUSSION	19.	2014000033	Speedee Mart Inc: Speedee Mart #108	\$16,562.47	\$14,906.22
FOR DISCUSSION	20.	2014000041	Forever Resorts: Callville Bay Resort Marina	\$9,645.41	\$8,680.87
FOR DISCUSSION	21.	2016000023	Al Park Petroleum Inc: Pit Stop #1	\$38,582.91	\$27,743.96
FOR DISCUSSION	22.	2017000027	John Edmond: MLK Gas Mart	\$18,019.50	\$16,217.55
FOR DISCUSSION	23.	2017000041	Reno Seven Seas Inc: Arco Am/pm	\$5,263.75	\$3,789.90
FOR DISCUSSION	24.	2017000043	Jeanne W Murr Living Trust: Jeanne W Murr Living Trust	\$17,166.52	\$12,359.90
			<b>SUB TOTAL:</b>	<b><u>\$1,272,457.14</u></b>	<b><u>\$1,126,285.75</u></b>
			<b>DIRECT PAYMENT CLAIMS TOTAL:</b>	<b><u>\$1,321,845.30</u></b>	<b><u>\$1,174,673.91</u></b>
			<b>BOARD MEETING CLAIMS TOTAL:</b>	<b><u>\$2,521,758.68</u></b>	<b><u>\$2,250,190.85</u></b>

**Mr. Cabble** noted that this item is for informational purposes, as required for the Policy Resolution. It outlines claims paid out on the Board's behalf through the direct payment process. There were 28 claims for the quarter, representing approximately three times as many claims submitted as the last quarter. It is expected that this list will become much larger than the consent item list.

## 10. EXECUTIVE SUMMARY

**Mr. Cabble** presented the Executive Summary. He stated that since the inception of the Fund in 1989, a total of 1,601 remediation cases have applied for Fund coverage. Of those, approximately 173 cases were denied coverage for ineligibility or other reasons. Of the cases provided coverage, 1,286 cases have closed. Currently 141 cases are active under the Fund. Since January 1, 2018, NDEP has received 27 new applications, including both commercial and residential heating oil sites. Only one of these is currently pending.

**Mr. Cabble** stated that prior to this Board meeting, funds approved to date total \$225,888,860.83 for reimbursement of petroleum claims. The above total includes the 28 direct payment claims processed during the past quarter (\$1,174,673.91). With today's approval of the consent item list, an additional \$1,075,516.94 will be added to the total, bringing the cumulative total to \$226,964,377.77. The enrollment year runs October 1st, 2017 through September 30th, 2018. For the year, approximately 1,306 facilities have been invoiced with receipt of approximately 99 percent of payments to date. FY 2019 enrollment invoicing has already begun, with invoices issued the second week of August. With this invoicing, staff included the grant application flyer. In addition, all above ground storage tank owners and operators were mailed a two item checklist that asked two questions: 1) Do they have underground piping? 2) Is this piping metallic? The responses will provide information on which recipients will require annual testing prior to enrollment as well as corrosion prevention. Most respondents have indicated they have above ground piping as opposed to underground.

**Mr. Perks** asked whether notification of the program was sent to underground tank handlers, CEMs and tank testers, noting that these will drive the program.

**Mr. Cabble** replied that the grant program flyer was sent more than once via email to the certification list. This effort was directed towards owners and operators to ensure that every notification attempt has been exhausted. Enrollment invoices are not mailed to certified individuals. The UST program also actively solicits handlers, CEMs and owners about the grant program.

**Mr. Perks** commented that on a personal level, tank handlers he is familiar with have indicated they have not received correspondence from the State.

**Mr. Cabble** assured that he will look into this and ensure that the list is up to date.

**Mr. Cabble** Continued with the summary, indicating they continue to stay on top of the miscellaneous 1099 tax form issue. This application resides with the Department of Agriculture, whose general legal counsel continues to review and prepare comments for resolution. An update will be provided to the Board when available.

The Eagle Gas cleanup has been completed. There have been no additional changes to the site since the last meeting. The closure presentation on the site is forthcoming.

**Mr. Perks** asked about the upcoming October 13th date and whether staff has an update on results.

**Mr. McRae, UST Program**, said that since 2015, when the federal government released its updated federal regulation, the UST program proceeded to accomplish its goal of revising regulations to meet the intent of the new federal rules. Part of this process was to go through a state program approval (SPA) process, similar to what Nevada went through in the late 80s/early 90s to create the program. The SPA application is in process. There was also an update of the Nevada Administrative Code to make additional regulation changes since the 2008 Energy Policy Act.

There has been communication back and forth with petroleum marketers, purveyors, owners, operators, CEMs and out of state environmental companies to make all affected parties aware that the State of Nevada will be implementing the new rules effective October 13th, 2018, which mirrors the federal regulation. The Federal EPA provided a statement letter in response to letters from congressmen and senators regarding the fact that there will be no additional extensions for the regulations to go live. Additional requirements will include recording of monthly walk-throughs. Sumps will need to be tested when being used for leak detection. Leak detection equipment must be physically tested. During 2018, mass mailers were sent out to owners and operators regarding all the new requirements beginning in October, 2018.

**Mr. Perks** asked whether an owner can do its own testing.

**Mr. McRae** stated that according to federal regulations, some provisions of the test can be done by the owner and operator.

**Mr. Perks** asked about NDEP's position on who can perform the testing and certifications for owners.

**Mr. McRae** noted that the regulations outline which entities may perform the testing. Owners can perform most tests on their own, including sump tests and UDC tests. There is a three-year requirement for sump testing. The testing can be hydrostatically done.

**Mr. Cabbie** added that owners will have to consider disposal of liquids if they elect to do their own testing.

**Mr. Lovato** stated that it is expected that some tank owners will not be in compliance as of the requirement date. For the first inspection in late October, he asked about processes to address violations in terms of effects on Fund coverage.

**Mr. Cabbie** said that in terms of policy resolutions, it specifically comes down to one: 94-023 with regard to reductions at the time coverage is awarded. The failure of a test does not mean a site is not compliant. The test is required. The result of the test simply dictates what happens next. Failure of the test requires repair or replacement of the component. If the repair is made in a timely manner, there is no compliance issue. Compliance issues relate to non-reporting of test failures to the regulatory agency. In terms of coverage, if an operator reports to the agency, has a schedule with the UST inspector and is acting diligently to meet the schedule, there would not be a recommendation for reduction in coverage. For operators failing to report and replace faulty components, this is where the noncompliance issue comes into play, and a recommendation for reduction will be made. Reductions may be changed, modified or otherwise waived by the Board.

**Mr. Perks** asked for an assessment on progress related to the schedule and likely number of sites that have tested and/or may fail testing.

**Mr. McRae** said that New Jersey and California implemented these types of rules and requirements ten years ago. He could not provide definitive details as to the deadline, but estimates approximately a 70 percent failure rate. At this time, probably 25 to 30 percent of facilities in the state are compliant with the new rules. By the third year in California, that state reported an 80 percent compliance rate and they are now in the 95th percent rate. In Nevada, the State will definitely take into consideration operators that have obtained a schedule from a contractor to have testing performed when making a compliance determination, even if it is after the October 13, 2018 deadline. Timelines for compliance may also be extended when the owner operator is exercising due diligence.

11. **PUBLIC COMMENTS**

There were no requests to speak.

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

Mr. Cabbie identified a tentative date of Wednesday, December 12, 2018 at 10:00 am. He invited Board members to notify him of a date that would work better for them.

13. **ADJOURNMENT**

The meeting adjourned at 12:04 pm.