

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
SEPTEMBER 12, 2019**

1. CALL TO ORDER

Chair Tappan called the meeting to order at 10:00 a.m. from Carson City at the Nevada Legislative Building, 401 S. Carson Street, Room 2134. The meeting was also conducted via videoconference with Las Vegas at the Grant Sawyer Building, 555 E. Washington Ave., Room 4412.

A. BOARD MEMBERS PRESENT

Chair Maureen Tappan – Representative of the General Public
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

Vice-Chair Dawn Lietz – Department of Motor Vehicles
Bart Chambers – State Fire Marshal’s Office
Vacant – Representative of Independent Petroleum Dealers

OTHERS PRESENT

Peter Handy, State Attorney General’s Office – Carson City
Jeff Collins, Michael Cabble, Victoria Joncas, Kim Valdez, Don Warner, Megan Slayden, Jonathan McRae, Brian Diezel, Diondrae White, Ben Moan, Chuck Enberg, and Karen Kovacs – Nevada Division of Environmental Protection (NDEP)
Joe McGinley – McGinley & Associates
Caitlin Jelle – McGinley & Associates
Ryan Defilippi – McGinley & Associates
Kathleen Johnson – The Westmark Group
Ian Carr – State Attorney General’s Office
Laena St Jules – State Attorney General’s Office
Jon Bell – Broadbent and Associates
Rex Heppe – Terracon
Keith Stewart – Stewart Environmental

2. PUBLIC COMMENT

There were no requests to speak.

3. APPROVAL OF THE JUNE 4, 2019 MINUTES

Chair Tappan invited comments, questions or changes to the minutes.

Mr. Lovato moved to approve the June 4, 2019 minutes as submitted. Mr. Smith seconded the motion. Motion carried unanimously.

4. STATUS OF THE FUND

Mr. Cabble provided a budget status for the State of Nevada Petroleum Fund (Fund) for Fiscal Year 2019. He summarized the financial results. At the start of the fiscal year the balance forward was \$7,500,000. Approximately \$392,900 has been received from tank enrollment fees to date. The \$0.0075 petroleum fee on each gallon of fuel purchased in the State has generated approximately \$14,941,913. Interest income is approximately \$197,354. The Fund received \$6,250 for the sale of state purchased remediation equipment. Total revenue of the Fund for FY 2019 is \$15,538,416.73.

Mr. Cabble reviewed expenditures for FY2019. Board member salaries totaled approximately \$1,259 and Board member in-state travel totaled approximately \$236. Board meeting operating costs total approximately \$2,018. Funding spent operating the program under NDEP, including State-led cleanups, staff salaries, and ongoing database/software maintenance totals \$1,428,004. The service fee paid to DMV to administer the cleanup fee is \$12,714. Total reimbursement for paid claims was approximately \$6,523,110. The Fund has administered one underground storage tank (UST) upgrade grant in the amount of \$52,948. Lastly, \$7,518,127.38 was transferred to State Highway Fund, which leaves total cumulative Fund expenditures at \$15,538,416.73 for FY 2019. The current balance for the new FY (2020) is \$6,812,699.74.

5. APPEAL FOR 561 N. CENTER ST. HEATING OIL TANK APPLICATION DENIAL

This item was pulled from the meeting.

6. GOVERNOR'S OFFICE OF FINANCE AUDIT FINDINGS

Mr. Cabble reviewed the findings of the audit conducted by the Governor's Office of Finance, Division of Internal Audits (DIA) from January 2019 through June 2019, highlighting the recommendations made by audit staff. It was noted that these same recommendations were presented by the audit staff to the Executive Branch Audit Committee on June 25, 2019. Three of the five recommendations must have a plan for implementation in place within six months of the audit report date – June 25, 2019. The recommendations were presented as outlined in the DIA report's outline on page #41.

- **Recommendation #2: NDEP should follow the statute for third party liability. Board Policy Resolution 2007-10 was specifically called into question.**

With the assistance of the Attorney General's Office, NDEP will conduct a review of the legally permissible use of third party funds and present that review for the Board's consideration and potential action at a later date.

Mr. Perks asked if the third party valuation was intended for the courts to make a determination.

Mr. Cabble explained that the audit is of the opinion that the third party liability funds should be reserved and kept separate from cleanup costs and that the use of third party liability funds for cleanup cost is contradictory to statute. The Attorney General's Office will determine whether or not the policy resolution is in agreement with the statute.

Mr. Lovato clarified that the audit finding interpreted the statute to only allow use of third party funds in the event that a settlement had been reached with an outside party. The Division staff and attorney's interpretation was that it is allowable to use those third party funds to conduct cleanup

and that in all those cases, it is mitigating potential damages to third party. This interpretation was presented in NDEP's response to the DIA report; however, the DIA recommendation stood. The Division is now in the position to reevaluate the findings and present a recommendation for the Board's consideration at a later date.

Mr. Smith said that another point to consider, and identified in the report, was that third party monies are being used for cleanup cases that have received a reduction in coverage, presumably for not meeting standards, which effectively allows funding for cleanup that would not otherwise be available. He felt this point needs to be addressed.

- **Recommendation #3: NDEP should adopt adequate internal controls and processes to prevent Petroleum Fund fraud.**

Mr. Cabble stated the audit staff conclusion was based on the idea that NDEP does not audit Fund reimbursement claims for fraud or misuse of funds, there are no written policies for reimbursement in the process, the current bid process is insufficient, and staff do not conduct field audits of cleanup work performed or verify that reimbursed remediation equipment has been installed.

Mr. Cabble noted that staff does review each claim that is submitted for reimbursement and routinely denies payments for claims determined to be ineligible or unsubstantiated. The CEM Cost Guidelines outline expectations of operators during the claims process.

Mr. Cabble said NDEP is developing a written internal user guide for staff to follow when using the database to process claims and could revisit the current bid policy, Board Policy Resolution 2015-01, if directed to do so by the Board. NDEP agrees that efforts to reduce fraud or misuse of funds could be furthered by conducting field audits of remediation equipment purchases reimbursed by the Fund.

Mr. Perks said he is in favor of staff making site visits as a support mechanism for contractors and CEM's. He noted the report mentions the use of sealed bids, but he questioned the feasibility of accepting sealed bids. Opening bids during the quarterly meetings would slow the cleanup process, and it would be a burden on Fund staff to set up more frequent meetings for bid openings.

Mr. Cabble said that staff can look into the pros and cons of accepting sealed bids. It was also noted that Policy Resolution 2015-01 was developed specifically in response to questionable bid activities in the past.

Mr. Lovato stated that after some of these questionable practices occurred, the Board substantially reduced claims awarded and enacted policy resolutions to prevent manipulation of bids and cap costs on heating oil and tank clean ups. He questioned whether the audit recommendations accurately reflect previous actions taken by the Board to address the potential fraud instances identified in the audit report. NDEP's response to the DIA recommendation could be found in Attachment B of the audit report.

Mr. Cabble asked for confirmation from the Board that there is no need to re-evaluate the current bid policy resolution (2015-01). He further asked for confirmation that the Board would like staff to pursue review of the equipment policy resolutions and associated inspection program.

It was the consensus of the Board for staff to move forward with review of the equipment policy resolution and inspection process.

Chair Tappan asked if the equipment is present prior to or following Fund payment receipt.

Mr. Cabbie explained that it is on a case-by-case basis.

Chair Tappan suggested that when remediation equipment has been installed prior to an operator submitting a claim for its reimbursement, staff should attempt to inspect that equipment prior to approving the claim, if feasible.

Mr. Lovato asked for clarification as to whether Fund staff would develop written procedures for just initial claim review, or also include new procedures for post-claim audits.

Mr. Cabbie responded that staff planned to put current initial claim review procedures in writing. Regarding post-claim review, there are many factors that would need to be considered such as staff resources and time, which cases should be focused on (active or closed cases), how far back into a case history would staff be expected to look, and can costs be recovered if there is no longer a viable operator to pursue. Currently, staff invest a significant amount of time in the initial claim review process and can show through the new database system data that approximately 2% of requested values have been disallowed as a result of that review process. This percentage falls within the range specified in the audit report that could be recovered through post-claim audits.

Mr. Lovato suggested that since the audit findings focused on other states finding fraud during post-claim audits, research be done to compare Nevada's pre-claim controls versus other states' pre-claim controls. Are other states' pre-claim controls less rigorous than Nevada's, and if so, is that what warrants post-claim audits?

Mr. Cabbie indicated that he would look into Mr. Lovato's concern.

- **Recommendation #5: NDEP should revise enrollment and reimbursement policies.**

Mr. Cabbie said NDEP agrees that options for enrollment and reimbursement policies could be evaluated for better regulation of underground tanks. Evaluations should be presented as appropriate to the Board for consideration and potential action. Two policies are currently in place, Policy Resolution 95-001, which prevents enrollment of tank systems that previously had a release, and 94-023, which allows reduction in the amount paid based on non-compliance issues at the time of release discovery.

Mr. Lovato commented that the recommendation in the audit report was predicated on a single case finding for which the auditors contend underground storage tank operators are receiving Fund reimbursement for systems that should not be covered. The case identified in the report was for an underground storage tank located at a private residence, which is not representative of the majority of storage tanks covered by the Fund.

Mr. Lovato asked if Mr. Cabbie could elaborate on how this residential case obtained coverage from the Fund.

Mr. Cabbie explained all storage tanks, including residential gasoline tanks, must demonstrate the tank system is not leaking and pay a fee prior to enrollment into the Fund. Tank system tightness is demonstrated by testing the tank and product line for leaks. The process of testing tank systems to determine tightness and whether or not they had a leak or are currently leaking was explained in detail. It was also noted that there are various test methods available to do this. The tank system in

question used the most stringent test method available, passed the test, paid the enrollment fee, and was enrolled pursuant to the current policies in place.

Mr. Lovato surmised that the current policy and testing methods used to evaluate system tightness seem to do a good job in striking a balance in not covering releases of recalcitrant operators and incentivizes others to come into compliance. This tank system would have likely meet monitoring criteria and been in compliance had it not been for the fact they failed to notify the State of the tank's existence. This is further supported by the fact the release was small in comparison to other covered storage tank systems. Additionally, the Board did penalize the operator of this case for the failure to notify the state and conduct routine leak detection with a reduction in coverage. Allowing reduced cleanup coverage incentivizes operators to come into compliance with storage tank requirements and supports the mission of the Board to get cleanups done. If this policy resolution were revised to exclude tank systems in this situation, these releases may not be reported at all.

Mr. Perks Asked if the tank was exempt from paying the enrollment fee.

Mr. Cabbie answered no, and the fee was paid.

Mr. Perks asked if Fund staff felt the policy should be revised or is staff comfortable with the current language.

Mr. Cabbie stated that with the exception of updating some regulation citations, staff does feel the current policy is well written and protective of the Fund.

It was the consensus of the Board that Resolutions 95-001 and 94-023 are fine as written.

The following recommendations have a longer timeline for completion and do not require completion within a six-month period:

- **Recommendation #1: NDEP should adhere to Legislative intent for Petroleum Fund awards. Time frame for completion is January of 2022.**

Mr. Cabbie said NDEP contends that petroleum cleanup funds have been administered in adherence with Legislative intent. NDEP does intend to further research and evaluate opportunities for increasing benefits for small businesses.

Mr. Perks commented that the \$500,000 income for small businesses is unrealistic. The audit did not address whether state and county sites are considered small businesses or corporations. He suggested that the statute be reviewed to find a way to upgrade small businesses for fuel distribution. A more reasonable minimum would be \$3 million to \$5 million.

Mr. Cabbie said that the topic of redefining a small operator and the minimum requirements would have to go to the next State Legislative session in 2021, but the small business concerns raised by Board members would be evaluated at the same time.

Mr. Lovato supported the idea that staff move forward with researching the definition of small business/small operator and a revaluation of whether the \$50,000 cap that applies to small businesses should apply to businesses with revenues greater than \$500,000 per year, or whether adjustments should be made for inflation.

Chair Tappan opined that the limit could be evaluated based on \$500,000 net, not \$500,000 gross.

It was the consensus of the Board to leave the statute as is, with the exception of reviewing the definition of a small business/small operator.

- **Recommendation #4: NDEP should develop additional risk-based decision making tools to assist in reducing cleanup times. Time frame for completion is July 2020.**

Mr. Cabbie said the use of risk-based decision making tools and their implementation falls under the Leaking UST and Corrective Action programs, but those program decisions do impact the Fund. As such, Fund staff would have to work with those two programs if the Board were interested in having Fund staff pursue additional action on this task.

Mr. Cabbie said NDEP feels that effective tools are currently in place, but those tools could be further developed to increase their use to expedite closure of legacy cases. Case officers have been directed to focus on the legacy cases with the risk based corrective action approach in mind. Further information on case closures and possible amendments to current practices should be available by the Board's March meeting.

Discussion ensued regarding using a risk-based method versus cleaning up a site to a certain standard. Nevada is using the similar methods as compared with what other states are currently doing.

Mr. Collins elaborated Nevada implemented risk-based decision making regulations in 2009 to provide an opportunity to close cases based on health or environmental risk instead of requiring sites to be cleaned up to a drinking water standard, which are very conservative and extend cleanup timelines. Moving forward, case officers will focus on a risk-based standard, not a drinking water standard, which will shorten the time frame required for cleanup.

Board members agreed that the current process is reasonable.

Chair Tappan commented that field inspections could be done on some of the older cases to ensure cleanup is moving along expeditiously.

7. **ADOPTION OF CONSENT ITEMS**

The Board reviewed all items as a consent calendar item. There were no items marked by an asterisk (*), or a members of the public who wished 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 12, 2019**

<u>HEATING OIL</u>				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	2012000017	Churchill County School District: Old High School	\$5,645.56	\$5,645.56
FOR POSSIBLE ACTION	2	2013000012	Roger & Gemma Mateossian: Mateossian Residence	\$5,009.25	\$5,009.25
FOR POSSIBLE ACTION	3	2018000041	Adolf Allesch: Adolf S. Allesch Property	\$1,990.00	\$0.00
FOR POSSIBLE ACTION	4	2019000012	Mark LA Barber: Mark Labarber Residential Heating Oil Tank	\$10,583.02	\$10,183.02
FOR POSSIBLE ACTION	5	2019000018	Canyon Flats III LLC: 621, 623, 625 N. Center St. Heating Oil Tank	\$25,488.77	\$11,438.40
FOR POSSIBLE ACTION	6	2019000020	Canyon Flats III LLC: 615 N., 617 N. & 619 N. Center St. Heating Oil	\$20,947.90	\$9,968.86
FOR POSSIBLE ACTION	7	2019000022	Poker Brown LLC.: Poker Brown, LLC	\$18,509.40	\$18,259.40
FOR POSSIBLE ACTION	8	2019000026	Albrecht Family Trust: Michael Fischer Residential Heating Oil Tanks	\$14,169.67	\$11,169.67
FOR POSSIBLE ACTION	9	2019000028	Danielle Dewey: Danielle Dewey Residence	\$28,409.97	\$27,909.97
FOR POSSIBLE ACTION	10	2019000029	Jamie Rittenbach: Chris L. Rittenbach Residence	\$18,190.76	\$17,940.76
SUB TOTAL:				<u>\$148,944.30</u>	<u>\$117,524.89</u>
 <u>NEW CASES</u>				 <u>REQUESTED</u>	 <u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	2018000035	Cd/park7 Reno Owner, LLC: Wolf Fastop	\$75,103.44	\$60,833.79
FOR POSSIBLE ACTION	2	2019000002	Rebel Oil Company: Rebel Store #2166	\$57,414.46	\$51,454.84
FOR POSSIBLE ACTION	3	2019000005	Fairway Chevrolet Co: Fairway Chevrolet CO	\$79,232.25	\$65,819.93
SUB TOTAL:				<u>\$211,750.15</u>	<u>\$178,108.56</u>

ONGOING CASES

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	1992000126	Clark County School District: Rc White (Arville) Transportation Satellite	\$23,142.16	\$23,142.16
FOR POSSIBLE ACTION	2	1993000011	7-Eleven Inc.: 7-Eleven #29646	\$14,426.57	\$14,426.57
FOR POSSIBLE ACTION	3	1993000103	Charlie Brown Construction: Charlie Brown Const.	\$5,210.50	\$5,106.29
FOR POSSIBLE ACTION	4	1994000015	Pilger Family Holdings: Former D & G Oil Company	\$45,879.06	\$44,431.54
FOR POSSIBLE ACTION	5	1994000027	7-Eleven INC: 7-Eleven #19653	\$41,389.02	\$41,209.86
FOR POSSIBLE ACTION	6	1994000037	Param Investments LLC: Go-Fer Supermarket	\$85,085.93	\$40,943.37
FOR POSSIBLE ACTION	7	1994000067	Peppermill Casinos INC: Frmr Peppermill Truckstop	\$46,120.90	\$46,120.90
FOR POSSIBLE ACTION	8	1994000113	Pilot Travel Centers LLC: Former Unocal Truck Stop #6328	\$8,835.56	\$8,835.56
FOR POSSIBLE ACTION	9	1995000039	Al Park Petroleum Inc: Crescent Valley Market	\$31,168.14	\$6,113.83
FOR POSSIBLE ACTION	10	1996000063	Joan Pennachio: V & V Automotive	\$8,567.04	\$8,526.44
FOR POSSIBLE ACTION	11	1996000064	The Esslinger Family Trust: Red Rock Mini Mart	\$28,726.80	\$27,690.80
FOR POSSIBLE ACTION	12	1996000101	Phillips 66 Company: Circle K #695	\$46,846.52	\$41,525.95
FOR POSSIBLE ACTION	13	1997000071	7-Eleven INC: 7-Eleven #25586	\$6,335.02	\$5,701.52
FOR POSSIBLE ACTION	14	1998000034	Chevron Usa Products CO.: Chevron #9-4116	\$115,693.80	\$96,703.54
FOR POSSIBLE ACTION	15	1999000014	Al Park Petroleum Inc: Pit Stop #7 Conoco	\$6,857.66	\$6,171.89
FOR POSSIBLE ACTION	16	1999000022	Terrible Herbst, INC.: Terrible Herbst #129	\$4,632.50	\$4,169.25
FOR POSSIBLE ACTION	17	1999000023	Nevada Ready Mix Corp: Nevada Ready Mix	\$25,853.52	\$22,999.07
FOR POSSIBLE ACTION	18	1999000064	Al Park Petroleum Inc: Pit Stop #4 (Conoco)	\$7,007.00	\$6,306.30
FOR POSSIBLE ACTION	19	1999000086	Terrible Herbst, INC.: Terrible Herbst #126	\$8,108.30	\$7,297.47
FOR POSSIBLE ACTION	20	1999000104	Terrible Herbst, INC.: Terrible Herbst #118 & #120 Lube	\$1,568.75	\$1,411.87
FOR POSSIBLE ACTION	21	1999000114	City Of Fallon: Fallon Maint. Yard	\$7,717.87	\$6,946.08
FOR POSSIBLE ACTION	22	1999000244	7-Eleven INC: 7-Eleven #22070	\$33,092.94	\$29,783.65
FOR POSSIBLE ACTION	23	2004000011	Travel Centers Of America: Wells Petro Truck Service	\$37,033.03	\$33,115.71
FOR POSSIBLE ACTION	24	2004000039	Clark County Dept Of Aviation: Frmr National Car Rental	\$80,825.94	\$79,161.83
FOR POSSIBLE ACTION	25	2005000002	Carson Valley Oil Co Inc: Carson Valley Oil CO	\$1,645.00	\$1,480.50
FOR POSSIBLE ACTION	26	2005000036	Phillips 66 Company: Circle K #1791	\$17,732.17	\$12,767.17
FOR POSSIBLE ACTION	27	2007000014	Ace Cab Company: Ace Cab Company	\$26,257.37	\$23,631.63
FOR POSSIBLE ACTION	28	2007000016	Golden Gate Petroleum Of Nevada LLC: Golden Gate Petroleum	\$5,202.59	\$4,682.33
FOR POSSIBLE ACTION	29	2008000005	Avis Rent A Car System LLC: Avis Rent A Car	\$30,265.00	\$27,238.50
FOR POSSIBLE ACTION	30	2008000019	One Panou LLC: Golden Market #3	\$60,329.85	\$54,296.87
FOR POSSIBLE ACTION	31	2009000024	Parampreet Investment LLC: Chucks Circle C Market	\$32,179.94	\$27,932.81
FOR POSSIBLE ACTION	32	2010000005	7-Eleven INC: 7-Eleven #27071	\$46,309.53	\$41,666.53
FOR POSSIBLE ACTION	33	2010000007	Pecos Express: Pecos Express	\$8,150.89	\$7,312.83
FOR POSSIBLE ACTION	34	2010000009	Travel Centers Of America: Mill City Travel Center	\$122,082.91	\$91,800.12
FOR POSSIBLE ACTION	35	2011000006	7-Eleven INC: 7-Eleven #29384	\$36,324.46	\$32,692.01

ONGOING CASES: CONTINUED

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	36	2011000009	Cimarron West: Cimarron West	\$33,834.41	\$30,450.97
FOR POSSIBLE ACTION	37	2012000003	7-Eleven INC: 7-Eleven #26627	\$8,446.36	\$6,081.38
FOR POSSIBLE ACTION	38	2012000004	7-Eleven INC: 7-Eleven #15426	\$19,211.22	\$17,245.10
FOR POSSIBLE ACTION	39	2012000011	Golden Gate Petroleum Of Nevada LLC: Baldinis Grand Pavilion	\$21,442.89	\$19,164.28
FOR POSSIBLE ACTION	40	2012000012	Dewey Has Gas, INC: Smart Mart	\$36,917.31	\$33,080.68
FOR POSSIBLE ACTION	41	2013000003	7-Eleven INC: 7-Eleven #25586	\$5,896.70	\$5,307.03
FOR POSSIBLE ACTION	42	2013000004	7-Eleven INC: 7-Eleven #29665	\$53,896.62	\$48,492.43
FOR POSSIBLE ACTION	43	2013000011	Har Moor Investments, LLC: Village Shop #4	\$22,262.38	\$18,389.64
FOR POSSIBLE ACTION	44	2013000021	7-Eleven INC: 7-Eleven #27700	\$11,212.39	\$10,091.15
FOR POSSIBLE ACTION	45	2014000004	Alsaker Corp: Broadway Colt Service Center	\$42,488.81	\$38,072.60
FOR POSSIBLE ACTION	46	2014000007	7-Eleven INC: 7-Eleven #29658	\$9,621.12	\$8,659.01
FOR POSSIBLE ACTION	47	2014000010	7-Eleven INC: 7-Eleven #29667	\$31,951.99	\$28,756.79
FOR POSSIBLE ACTION	48	2014000016	Smitten Oil And Tire Co Inc: Former Smitten Oil	\$3,653.26	\$3,287.93
FOR POSSIBLE ACTION	49	2015000005	Elko Acquisitions LLC dba Red Lion Chevron: Red Lion Chevron	\$18,770.89	\$16,893.80
FOR POSSIBLE ACTION	50	2015000009	Travel Centers Of America: Las Vegas Travel Center	\$5,506.25	\$4,955.63
FOR POSSIBLE ACTION	51	2016000005	Golden Gate S.e.t. Retail Of Nevada LLC: Golden Gate Facility #65 - Fallon	\$1,918.20	\$1,726.38
FOR POSSIBLE ACTION	52	2016000009	7-Eleven INC: 7-Eleven #13685	\$60,292.37	\$54,243.80
FOR POSSIBLE ACTION	53	2016000012	DLF Corporation: Mr Ds Fastlane	\$25,033.25	\$22,529.93
FOR POSSIBLE ACTION	54	2016000021	7-Eleven INC: 7-Eleven #29647	\$10,517.89	\$9,466.10
FOR POSSIBLE ACTION	55	2016000023	Al Park Petroleum Inc: Pit Stop #1	\$28,315.48	\$20,387.14
FOR POSSIBLE ACTION	56	2017000004	Regional Transportation Commission: Regional Transportation Commission	\$32,518.89	\$32,518.89
FOR POSSIBLE ACTION	57	2017000015	Gmr National A Nevada General Partnership: 24x7 Mini Mart	\$12,565.07	\$9,046.85
FOR POSSIBLE ACTION	58	2017000019	Rebel Oil Company: Rebel Store #2197	\$89,410.58	\$77,506.33
FOR POSSIBLE ACTION	59	2018000009	Reed Incorporated: Pacific Pride	\$3,827.50	\$3,444.75
			SUB TOTAL:	<u>\$1,696,116.07</u>	<u>\$1,453,141.34</u>
			RECOMMENDED CLAIMS TOTAL:	<u>\$2,056,810.52</u>	<u>\$1,748,774.79</u>

Mr. Smith moved for approval of the consent items. Heating Oil Cases 1 through 10, New Cases, 1 through 3, Ongoing Cases, 1 through 59.

Mr. Perks seconded the motion. Motion carried unanimously.

8. 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.

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 4, 2019**

HEATING OIL – DIRECT PAYMENT

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1	2013000012	Roger & Gemma Mateossian: Mateossian Residence	\$39,041.05	\$39,041.05
FOR POSSIBLE ACTION	2	2019000003	Marlow Living Trust: Steve Marlow Property	\$18,269.64	\$18,019.64
FOR POSSIBLE ACTION	3	2019000007	324 E. 4th Street, LLC: 324 E. 4th Street, LLC	\$7,080.35	\$6,830.35
FOR POSSIBLE ACTION	4	2019000025	Kira Sorensen: Kira Sorensen Residence	\$17,030.90	\$16,780.90
			SUB TOTAL:	<u>\$55,684.26</u>	<u>\$53,904.26</u>

OTHER CASES – DIRECT PAYMENT

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1	1997000008	Ewing Bros Inc: Ewing Bros INC	\$3,975.02	\$3,577.52
FOR POSSIBLE ACTION	2	1999000029	Terrible Herbst, INC.: Terrible Herbst #136 (Arco)	\$8,690.29	\$7,821.26
FOR POSSIBLE ACTION	3	1999000066	HP Management, LLC: Former Haycock Petroleum	\$29,404.26	\$26,463.83
FOR POSSIBLE ACTION	4	1999000135	Terrible Herbst, INC.: Terrible Herbst #106 (Gas) & #108 (Lube)	\$9,147.06	\$8,232.35
FOR POSSIBLE ACTION	5	1999000137	Terrible Herbst, INC.: Terrible Herbst #152 (Gas) & #155 (Lube)	\$16,161.13	\$14,545.02
FOR POSSIBLE ACTION	6	1999000199	Village Springs, LLC: Lakeshore Orbit Station	\$9,134.85	\$9,134.85
FOR POSSIBLE ACTION	7	2005000044	Ewing Bros Inc: Ewing Bros INC	\$13,128.91	\$11,816.02
FOR POSSIBLE ACTION	8	2010000003	Sira Truck Holdings, Lllp: Big Wheel Truck Center	\$321,326.52	\$281,471.87
FOR POSSIBLE ACTION	9	2013000009	Western Petroleum: Western Petroleum	\$21,926.67	\$19,734.00
FOR POSSIBLE ACTION	10	2013000019	Hardy Enterprises INC: Elko Sinclair #53	\$192,523.43	\$169,973.94
FOR POSSIBLE ACTION	11	2014000033	Speedee Mart INC: Speedee Mart #108	\$18,649.99	\$16,784.99
FOR POSSIBLE ACTION	12	2014000041	Forever Resorts: Callville Bay Resort Marina	\$24,060.00	\$21,654.00

OTHER CASES – DIRECT PAYMENT: CONTINUED

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	13	2016000027	Terrible Herbst, INC.: Terrible Herbst #272	\$7,587.50	\$6,145.87
FOR POSSIBLE ACTION	14	2017000027	Nucleus Investments INC: Milk Gas Mart	\$18,830.00	\$16,947.00
			SUB TOTAL:	<u>\$694,545.63</u>	<u>\$614,302.52</u>
			DIRECT PAYMENT CLAIMS TOTAL:	<u>\$750,229.89</u>	<u>\$668,206.78</u>
			BOARD MEETING CLAIMS TOTAL:	<u>\$2,807,040.41</u>	<u>\$2,416,981.57</u>

9. **EXECUTIVE SUMMARY**

Mr. Cabbie presented the Executive Summary. Tank enrollment fees are tracked pursuant to the Federal fiscal year, which runs October 1st through September 30th. For tank invoices for Enrollment Year 2019, a total of 1,295 facilities have been invoiced. As of August 29, 2019 approximately 98 percent of those invoices have been paid. Since the inception of the Fund, a total of 1,643 remediation cases have applied for coverage, of which 171 have been denied due to ineligibility or other reasons. Of the total cases provided Fund coverage, 1,319 have been closed and are no longer receiving funding. There are currently 149 active cases. NDEP has received 28 new applications since January 1, 2019, four of which are still pending. Prior to this meeting, the Board has approved a cumulative total of \$232,060,586.96 for reimbursement of petroleum claims. The total includes \$668,206.78 paid out using the direct payment method this quarter. With today's Board approval of \$1,748,774.79 of pending claims, the cumulative expenditure rises to \$233,809,361.75.

Discussion regarding the U.S. Department of Agriculture determination on the 1099 tax form issue is expected to be on the meeting agenda for the December meeting.

Mr. Cabbie stated the Eagle Gas case has been completed. All wells and equipment have been removed from the site. Discussions are continuing with the Attorney General's Office to negotiate a third party contract for cost recovery.

Mr. Perks asked if staff thought it would be beneficial to schedule a UST upgrade grant workshop to review procedures.

Mr. Cabbie said that people have implied that the process of submitting applications and financial documentation for grants has become a hindrance, so a discussion could be beneficial at some point. However, because of limited staff, it would be best to complete the process of addressing audit recommendations first.

10. **PUBLIC COMMENTS**

There were no requests to speak.

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

It was confirmed the next meeting date would be Thursday, December 12, 2019 at 10:00 am.

12. **ADJOURNMENT**

The meeting adjourned at 11:15 a.m.