

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
SEPTEMBER 12, 2013**

1. CALL TO ORDER

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

A. BOARD MEMBERS PRESENT

Chairman John Haycock, Representative of independent petroleum dealers
Vice-Chairman George Ross, Representative of petroleum refiners
Maureen Tappan, Representative of the general public
Wayne Seidel, Department of Motor Vehicles
Peter Mulvihill, State Fire Marshal
Michael Cox, Representative of the independent retailers of petroleum

BOARD MEMBERS ABSENT

Colleen Cripps, Ph.D., Nevada Division of Environmental Protection

OTHERS PRESENT

Rose Marie Reynolds, State Attorney General's Office – Las Vegas
Katie Armstrong, State Attorney General's Office – Carson City
Chad Schoop, Greg Lovato, Marlene Huderski, Matt McAuliffe, Rex Heppe, Sandi Gotta, Todd Croft, Valerie King, Victoria Joncas – Nevada Division of Environmental Protection (NDEP)
Matt Herrick and Jon Bell – Broadbent & Associates, Inc.
John Wainwright – Stantec
Jose Rios – 7-Eleven, Corporate
Will Thompson and Brian Northam – Southern Nevada Health District
Mark Zimmerman – Frias
Keith Stewart – Stewart Environmental Inc.
Rob Gegenheimer and Keith Houk – Converse Consultants

Terrible Herbst Oil Company

Jeremy Westmark and Lawrence Banks – The Westmark Group – Representing Terrible Herbst
Bob Laszcik – Terrible Herbst Oil Company
Paul Roach – Service Station Compliance Testing, Inc.

2. PUBLIC FORUM

There were no requests to speak.

3. APPROVAL OF THE AGENDA

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

4. **APPROVAL OF THE JUNE 5, 2013 MINUTES**

Mr. Cox moved to approve the minutes. Mr. Mulvihill seconded the motion. There was no discussion. Motion carried unanimously.

5. **STATUS OF THE FUND**

Ms. King reported on the status of the State of Nevada Petroleum Fund (Fund) indicated there were two balance sheets, one for fiscal year 2013 and one for fiscal year 2014. Fiscal year 2014 would normally be presented; however, there was very little financial activity, as it just began July 1st. Ms. King addressed the closing of fiscal year 2013. She noted \$3 million had been transferred from fiscal year 2013 to fiscal year 2014 to allow for payment of bills. In FY 2013, \$7.5 million was forwarded from FY 2012. Approximately \$424,000 had been collected for storage tank enrollment. Approximately \$12.7 million was collected from the ¾ cent per gallon fee and approximately \$31,000.00 in interest was earned. The cumulative revenue was \$17.7 million.

Ms. King reported the expenditures were approximately \$1,300 for the Board's salary. There has been approximately \$1,000 In-state travel and approximately \$1,000.00 in operating. The final transfer to the highway fund was just under \$4.2 million. \$587,000 was transferred to NDEP. Approximately \$1,000 was transferred to the Environmental Commission. The transfer to the DMV for administration of the Petroleum Fee was \$12,714.00. Reimbursement of claims for FY 2013 was \$8.38 million. Cumulative expenditures were \$13.1 million. The liabilities are the difference between the projected expenditures versus what was actually spent. The actual funding available is the cumulative revenue minus the cumulative expenditures, resulting in \$4.5 million. FY 2014 has \$3 million. The \$4.5 million in FY 2013 plus \$3 million in FY 2014 is \$7.5 million, which the Fund is required to start the year with.

6. **SITE SPECIFIC BOARD DETERMINATION**

Site Specific Board Determination No. C2013-02

Proposed Site Specific Board Determination to Provide Reduced Fund Coverage for Terrible Herbst Station No. 272, 2395 N. Ranch Dr., Las Vegas, NV., Facility ID No. 8-001810, Petroleum Fund Case ID No. 2013000018

Ms. King presented this case to the Board. She stated Terrible Herbst's Coverage application had been processed by Mr. Steve Fischenich, but do to a family emergency, would be presented by her. She stated that NDEP is recommending to the Board to approve Fund Coverage for the facility with a 40% Coverage Reduction. The recommendation is based upon violation issues, in this case, two violations. One violation was "Failure to Report a Suspected Release" and the other violation was "Failure to Investigate a Suspected Release."

During a Southern Nevada Health District (SNHD) inspection on July 6, 2012, the inspector observed the regular unleaded product line located in the submersible turbine sump, leaking into the sump, which was not tight and therefore had the ability to allow flow into the environment. Additionally, and more importantly with respect to NDEP's recommendation for a Coverage reduction, is the SNHD inspector observed the liquid sensor in the sump was in alarm, and had been in alarm since May 28, 2012, or approximately 6 weeks.

Title 40 of the Code of Federal Regulations Section 280.50 states "*Owners and operators of UST systems must report to the implementing agency within 24 hours, or another time period specified*

by the implementing agency, and follow the procedures in Section 280.52.” This section states that, “Owners and operators must immediately investigate and confirm all suspected releases...within 7 days , or another reasonable time period specified by the implementing agency.”

Ms. King stated that Terrible Herbst did not report, nor did it investigate whether the alarm was an indication of a potential release to the environment. Each of these violations requires staff to recommend a 40% reduction in coverage. However, Board Resolution No. 94-023 states, *“In the case of more than one non-compliance determination, the staff recommendation to the Board will list each as a separate item for the Board’s consideration and will recommend to the Board that any reimbursement awarded be reduced by the largest percentage associated with any single item.”* In this case both violations require a 40% recommendation and therefore NDEP is recommending to the Board a 40% reduction.

Ms. King stated there is a letter provided on behalf of Terrible Herbst in the Boards’ packets from Service Station Compliance Testing, Inc. She asked the Board to be aware the letter challenges the validity of the inspector’s observations regarding the severity of the release; however, the observed release, regardless of how severe it was, had nothing to do with the violations NDEP has identified that impact Coverage. It was the fluid sensor that was in alarm for the previous six weeks that was neither reported nor investigated that is what triggered the recommendation for a Coverage Reduction.

Ms. King stated that within Board Resolution 94-023, Finding No. 2 states that, *“although noncompliance may not be proximate cause for a discharge, it may result in increased costs for site remediation.”* For this case, the delay in the initiation of corrective action activities may have resulted in increased cleanup costs.

In Conclusion, Ms. King stated that NDEP’s formal recommendation to the Board is the Adoption of Site Specific Board Determination #2013-01, as proposed, granting Fund Coverage to the site with a reduction of 40%, in addition to the 10% co-payment, for failure to investigate a suspected release in accordance with State and Federal regulations. She noted the Board has the authority to modify the recommended reduction as it sees fit. She also notified the Board that a claim had been filed for the site and was included in today’s meeting.

Ms. King stated Terrible Herbst was present in the Las Vegas venue and would be presenting its case and also that SNHD and NDEP’s UST/LUST supervisor were on hand to answer questions. She then turned the presentation over to Terrible Herbst.

Mr. Laszcik, Mr. Roach and Mr. Westmark presented the Terrible Herbst case. Mr. Westmark introduced Mr. Laszcik and Mr. Roach. Mr. Westmark began by addressing the response to the alarm which he stated Ms. King indicated was the crux of the issue.

Mr. Westmark stated on the date of the alarm Terrible Herbst did respond to the alarm by following their standard operating procedures, which is to inspect the sump where the alarm was occurring. Terrible Herbst observed water in the sump and also reviewed the SIR (Statistical Inventory Report) indicated there was not an inventory release. Pursuant to their standard operating procedures, they put this case in the queue for sump water pump-out, which he stated is a common occurrence, especially in Southern Nevada. He stated they did not see evidence of a release at that time beyond the alarm event, which he said Mr. Laszcik and Mr. Roach could verify are common events.

Mr. Roach stated he has been responsible for compliance testing at Terrible Herbst for ten years.

Mr. Haycock asked if Mr. Roach was with Terrible Herbst and Mr. Roach clarified that he was a contractor with Service Station Compliance Testing, Inc.

Mr. Roach stated that every time it rains or they pressure wash the lot, the 87 sump goes into alarm. Mr. Roach stated that when he met John Wagoner, SNHD, at the site, there was water and gas in the sump, not just gas. The leak was very small. He stated he believed the original alarm was caused by water.

Mr. Haycock asked if the alarm is a blinking light or a digital readout.

Mr. Roach responded that it is a Veeder Monitor, or a liquid sensor in the manager's office which cannot discern between gas and water. He stated it is just a float whereby if water gets into the sump and raises the float, it will trigger the alarm.

Mr. Haycock asked if the alarm was ignored because it was audible.

Mr. Roach responded it was audible, but the audible can be turned off. He stated there was water with a little gas in the sump on the day he met with John Wagoner.

Mr. Haycock asked who responded to the alarm first.

Mr. Roach responded Terrible Herbst maintenance responded first. Mr. Laszcik agreed.

Mr. Haycock asked if a determination was made that it was water that caused the alarm.

Mr. Roach responded affirmatively.

Mr. Haycock asked if Mr. Roach's position is that water caused the alarm or mostly water.

Mr. Laszcik responded his opinion is that it was mostly water.

Mr. Haycock stated that petroleum product mixed with water floats to the surface and they would be able to identify that.

Mr. Laszcik responded there was a sheen visible.

Mr. Ross asked for confirmation that this was not a case where the system was under alarm for days and ignored. He asked for clarification that the first time the alarm was checked was not when the inspector was present. Mr. Ross asked if Terrible Herbst had previously inspected the situation, and based upon the professional and technical experience over many years in addition to the site-specific experience, the alarm had been caused by water with sheen on it and did not require reporting.

Mr. Laszcik confirmed that what Mr. Ross stated was correct.

Mr. Ross requested for clarification that Terrible Herbst did not disregard the alarm.

Mr. Laszcik confirmed he was correct.

Mr. Ross again asked for clarification that when Terrible Herbst investigated the alarm it determined the problem was not a leak from the system and did not require to be reported.

Mr. Westmark agreed and stated Mr. Roach has an extensive history testing the facility. That,

combined with the operational knowledge Terrible Herbst has with water infiltration into the sump allowed for the decision that there was not a reportable release when the alarm went off.

Mr. Westmark addressed the letter written by Mr. Roach. He stated that on July 6th when SNHD was inspecting the site, Mr. Roach arrived within a couple of hours and pressure tested the line. The line held 15 pounds of pressure for almost an hour. If the system was leaking in the manner reported by SNHD, then it was Mr. Westmark's opinion that the pressure would not have held as long as it did. He stated that if that information is added to the electronic data provided in the package which demonstrate via SIR the system passing in the months prior and after the event, there are three lines of evidence. It was Mr. Roach's observation that there was not a profuse leak. The pressure test was holding and the SIR data concluding no inventory loss, which supports there was not a leak on the day the alarm trigger went off. This was investigated by Terrible Herbst maintenance staff.

Mr. Roach added the line is equipped with an automatic leak detector. He stated on July 6th he tested the leak detector and it was working properly. He stated the detector did not detect any slow flow before or while he was there and therefore every indication is that the leak was less than 3 gallons per hour.

Mr. Westmark stated that if the Coverage reduction of 40% is based upon the alarm not being responded to, then it is his opinion that they did appropriately responded to the appropriate actions that were taken based upon Terrible Herbst's standard procedures.

Ms. King asked if Mr. Brian Northam, with SNHD, had anything to add. She stated Mr. Northam had provided NDEP a SIR report that was not originally submitted by Westmark. The June report supplied by Mr. Northam demonstrated the SIR test for that month when the alarm was triggered, was inconclusive. She asked if Mr. Northam could provide any information regarding the inconclusive report.

Mr. Haycock asked if Mr. Laszcik had anything to add before Mr. Northam responded.

Mr. Laszcik said Terrible Herbst is experiencing, in general, alarms being triggered by the wet weather in the area and water getting into the sumps. He stated that they have a maintenance team that investigates the alarms to ensure there is not a product leak. Once that is verified, it goes on a list to be addressed by a pump-out team. The pump-out team goes to each site, removes the water from the sump, then properly disposes the water.

Mr. Haycock asked if they are domed.

Mr. Laszcik replied they are domed but water will still get in, even with gasket replacements. There are people in and out of the sumps and it's difficult to completely seal the sumps.

Mr. Roach added the construction of the facility was poor because the 87 manhole is lower than the concrete and water flows into it.

Mr. Northam stated the June SIR (Statistical Inventory Report) was inconclusive. He stated the SIR results are not instantaneous. The alarm went off in May, if the system had been failing, the SIR result would not be instantaneous and May's SIR report would not indicate if the system was or was not failing. He stated he did not have the inspector or supervisor who had been at the site present.

Ms. King asked Mr. Northam if he had the records documenting Terrible Herbst had inspected the alarm as they reported they did.

Mr. Northam stated he did not.

Mr. Haycock asked for verification of the facility's address.

Mr. Laszcik stated Terrible Herbst has an in-house WMS system, which is a Web Management System which computerizes all of the information. He stated he could go back 2 years ago and collect the paperwork on the event, including who responded and what they did. He stated the same is true for the SIR data. He has SIR data from the day the facility was opened. He stated that the SIR is conducted externally. The data is available from the day the facility opened until today. He stated Mr. Northam is correct in that the SIR is not instantaneous but is always available.

Mr. Mulvihill asked how extensive the release was.

Ms. King stated she did not believe there has been much characterization done and deferred the question to Mr. Westmark.

Mr. Westmark stated he is working with the NDEP case officer to respond to the R-Spill letter which includes characterization to the extent, if any, of the contamination.

Mr. Haycock stated Mr. Westmark's response created a disconnect in his mind. He stated the Terrible Herbst's position is that the leak is nominal. The alarm was caused by water. That being the case, there should be no clean up required. There must be a clean-up necessary or this issue would not be being discussed right now. There could not be a clean-up if there was no leak. Mr. Haycock stated another concern he had was Mr. Roach surmising the leak was not more than 3 gallons per hour, which would be a significant leak. That would be hundreds of gallons per week. The alarm was triggered from May to July, which is significant if it leaked just less than 3 gallons per hour. He stated it would be helpful to learn more about the characterization of the release that is being discussed.

Mr. Mulvihill stated that too was his concern and he wanted more information on what happened and what was actually released into the environment. He asked how much time it would take to get the information.

Mr. Croft responded he was not familiar how the release was called in. He stated once a release is called in, NDEP sends out a Release Spill letter within a week. One question requires characterization. Depending upon the access to soil/groundwater, limited information can be gathered to indicate if we need further follow-up. After a sequence of correspondence, NDEP will have enough information to request a clean-up plan. He stated Mr. Westmark will be better able to answer where they are in the process.

Mr. Westmark stated there is a grey area associated with underground tank investigations. He stated the area the release occurred is in the top part of the tank in the sump near the turbines. Mr. Westmark stated in his experience he finds evidence of contamination typically through sampling material. In this case it was pea gravel. A TPH value can be obtained above the limit of 100 ppb without the information of where the release occurred. In this case, the disconnect is that there is potential that a release occurred based upon an alarm event. He stated that when they got out there the top of the tanks were peeled back. The soil samples taken exceeded the action level for TPH. With or without a release it is common to detect fuel from other events such as refueling, age, maintenance over time, or a slow leak that cannot be detected. Fuel can be found in the area of interest. He stated they have not investigated underneath the tanks yet because they are in operation but they are coming up with a plan to do that. They do not know if the soil underneath the tanks has been contaminated. Groundwater in the area is deep. He stated that at this point there is no evidence that there was a release.

Ms. King stated that without a release source, coverage must be denied.

Mr. Haycock stated that one of three scenarios exist: either the leak is miniscule, or there is a significant leak not more than 3 gallons per hour, or somewhere in between. If the leak is insignificant, the cost to clean it will be smaller and the more significant it is, the more it will cost to clean and the more significant a 40% reduction will be. Mr. Haycock stated he would like to know more about the magnitude of the release before deliberating on a reduction.

Mr. Haycock noted the strict definition of responding is to report to the implementing agency within 24 hours, not to respond via the company's operating procedures. The company's procedure should be to report to the implementing agency any time the alarm goes off, according to the law. He stated what he understands Terrible Herbst's position is that when it rains or they wash the lot their alarms go off all of the time. He stated the law may be flawed, but that is what is required. Mr. Haycock stated he would like to table the agenda item until more information is obtained.

Mr. Cox stated he would like to speak with Mr. John Wagner, the inspector, who wrote in the report that the product line was ruptured and product was pouring into the sump.

Mr. Westmark stated that Mr. Wagner was no longer with the SNHD. Mr. Westmark commented on the release source mentioned earlier by Ms. King. He stated that tanks can leak but within regulatory standards that cannot be detected through standard leak detection methods. He stated it could be the situation at the top of the tank, in this case, where the pea gravel had TPH exceeding 100 ppm.

Ms. King stated that NDEP has only an application to review. The application states the release was along the product line. Had there not been an alarm going off for 6 weeks at the time the release source was identified, which was July 6, NDEP would have recommended full coverage. The release may or may not have been what caused the alarm to trigger. NDEP now has to evaluate the release based upon the fact that it could have been going on for six weeks which would increase the cost of the cleanup.

Ms. King asked that Terrible Herbst notify NDEP if the conditions of the application change in the time they are gaining new information.

Mr. Haycock stated it can either be tabled or granted coverage with a reduction.

Mr. Cox made a motion that the coverage determination be tabled until further information is obtained. Mr. Mulvihill seconded the motion.

Mr. Ross asked for clarification from Ms. King regarding her original presentation discussing two issues. First being the leak and second the way the leak was reported. He asked if we now have two items that could each result in a 40% reduction. He asked if how they managed the leak is not a function of the total volume released.

Ms. King stated the reduction is based only on the fact that the alarm was on for six weeks. The release source identified provided information for the cleanup being eligible for coverage, but the reduction recommendation is due to the alarm not being reported and not being investigated. Each of the violations was a 40% reduction.

Mr. Haycock asked Ms. Reynolds if the motion was accurate.

Ms. Reynolds stated if the reduction was based upon the failure to report and the failure to investigate, she did not know what additional information the Board required.

Mr. Haycock stated the additional information would be if it was water that triggered the alarm. If the investigation demonstrates there is no more contamination beyond the surface pea gravel, then Terrible Herbst's position may be valid. He stated there may still be a reduction based upon the fact they failed to report the alarm. Mr. Haycock stated the amount of contamination will reflect if it was water or fuel that triggered the alarm. Mr. Haycock then stated Terrible Herbst has a good track record. He stated they have been before the Board numerous times and do things right. He stated that should weigh in at some level.

Ms. Reynolds asked if the coverage determination is tabled, how does that affect the pending claim.

Ms. King stated the claim would also be tabled and the current claim amount would be subtracted from the total on the consent item list.

Mr. Ross stated they would probably want to get the characterization information quickly to get reimbursed as soon as possible.

Mr. Haycock stated this in no way relieves Terrible Herbst of its responsibility to clean the contamination, but characterization is part of the cleanup.

Mr. Ross stated that Mr. Haycock did a good job summarizing the relationship between the two issues.

The motion carried unanimously.

7. 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.

**STATE BOARD TO REVIEW CLAIMS
REQUESTED/RECOMMENDED AMOUNTS – SEPTEMBER 12, 2013**

<u>HEATING OIL</u>				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1.	1992000102H	Lyon County School District: Yerington Elementary	\$11,237.84	\$11,207.84
FOR POSSIBLE ACTION	2.	2007000013H	Churchill County School District: Bus Barn	\$7,921.63	\$7,921.63
FOR POSSIBLE ACTION	3.	2012000017H	Churchill Co. School District: Old High School	\$13,504.18	\$12,828.97
FOR POSSIBLE ACTION	4.	2013000012H	Roger & Gemma Mateossian: Mateossian Residence	\$4,817.09	\$4,817.09
FOR POSSIBLE ACTION	5.	2013000015H	Gary Cornwall: Gary Cornwall Property	\$30,194.32	\$29,944.32

HEATING OIL SUB TOTAL: \$67,675.06 \$66,719.85

<u>NEW CASES, OTHER PRODUCTS</u>				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1.	2013000013	7-Eleven, Inc.: 7-Eleven #25156	\$19,185.83	\$17,267.25
FOR POSSIBLE ACTION	2.*	2013000018	Terrible Herbst Oil Co.: Terrible Herbst #272	\$7,673.75	\$3,417.15
FOR POSSIBLE ACTION	3.	2013000019	Hardy Enterprises, Inc.: Sinclair Mini-Mart	\$6,149.06	\$5,534.15

NEW CASES, OTHER PRODUCTS SUB TOTAL: \$25,334.89 \$22,801.40

<u>ONGOING CASES/OTHER PRODUCTS</u>				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1.	1993000051	Atlantic Richfield Company: ARCO Station #4950	\$2,730.30	\$2,722.10
FOR POSSIBLE ACTION	2.	1993000102	Rebel Oil Company: Rebel #8	\$6,928.71	\$6,928.71
FOR POSSIBLE ACTION	3.	1993000103	Russell Yardley: Charlie Brown Construction	\$17,223.25	\$16,878.60
FOR POSSIBLE ACTION	4.	1993000115	City of Fallon: Former Bootlegger Texaco	\$4,411.65	\$4,411.65

ONGOING CASES/OTHER PRODUCTS: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	5.	1994000003	Allied Washoe: Allied Petroleum	\$6,642.00	\$6,642.00
FOR POSSIBLE ACTION	6.	1994000012	Wirtz Beverage NV, Inc.: Fmr DeLuca Liquor & Wine	\$42,704.55	\$42,704.55
FOR POSSIBLE ACTION	7.	1994000027	7-Eleven, Inc.: 7-Eleven #19653	\$35,914.98	\$35,914.98
FOR POSSIBLE ACTION	8.	1994000065	Avis Rent A Car Systems: Avis Rent A Car	\$70,666.96	\$70,310.54
FOR POSSIBLE ACTION	9.	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop	\$66,248.81	\$66,164.82
FOR POSSIBLE ACTION	10.	1994000122	Mike's Gas-A-Mart: Mike's Gas-A-Mart	\$13,926.40	\$13,926.40
FOR POSSIBLE ACTION	11.	1995000012	N Nevada Asset Holdings LLC: Parker's Model T	\$29,542.97	\$26,588.67
FOR POSSIBLE ACTION	12.	1995000039	Al Park Petroleum, Inc.: Crescent Valley Market	\$25,295.24	\$22,765.72
FOR POSSIBLE ACTION	13.	1995000042	FBF Inc. DBA Gas For Less: Gas For Less	\$7,353.20	\$6,617.88
FOR POSSIBLE ACTION	14.	1995000074	Vera Hester: Glendale Service Facility	\$36,549.30	\$32,894.37
FOR POSSIBLE ACTION	15.	1995000105	Redman Petroleum Corp.: Redman Petroleum	\$8,106.26	\$7,295.64
FOR POSSIBLE ACTION	16.	1995000142	7-Eleven, Inc.: 7-Eleven #29644	\$6,172.52	\$5,555.27
FOR POSSIBLE ACTION	17.	1996000063	Joan Pennachio: V&V Automotive	\$5,084.45	\$4,576.00
FOR POSSIBLE ACTION	18.	1996000064	H&A Esslinger, LLC: Red Rock Mini Mart	\$1,029.50	\$998.61
FOR POSSIBLE ACTION	19.	1996000101	Phillips 66 Company: Circle K #695	\$35,589.31	\$32,030.37
FOR POSSIBLE ACTION	20.	1996000102	Phillips 66 Company: Circle K #542	\$3,867.55	\$2,784.63
FOR POSSIBLE ACTION	21.	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility	\$3,617.00	\$3,255.30
FOR POSSIBLE ACTION	22.	1997000024	BP Products N America: ARCO #399	\$7,799.12	\$7,019.21
FOR POSSIBLE ACTION	23.	1998000046	Willdens Automotive Holdings: Allstate Rent A Car	\$37,432.82	\$33,633.06
FOR POSSIBLE ACTION	24.	1998000053	7-Eleven, Inc.: 7-Eleven #27361	\$12,545.42	\$2,819.55
FOR POSSIBLE ACTION	25.	1998000068	Phillips 66 Company: Conoco #28003	\$22,135.81	\$19,922.23
FOR POSSIBLE ACTION	26.	1999000011	Terrible Herbst Oil Company: Terrible Herbst #133	\$622.85	\$560.56
FOR POSSIBLE ACTION	27.	1999000014	Al Park Petroleum: Conoco Pit Stop #7	\$25,481.26	\$22,933.13
FOR POSSIBLE ACTION	28.	1999000022	Terrible Herbst Oil Company: Terrible Herbst #129	\$20,522.39	\$15,772.40
FOR POSSIBLE ACTION	29.	1999000029	Terrible Herbst Oil Company: Terrible Herbst #136	\$2,618.25	\$2,356.43
FOR POSSIBLE ACTION	30.	1999000048	Estate of Robert Cowan: Former Lightning Lube	\$4,302.88	\$4,302.88
FOR POSSIBLE ACTION	31.	1999000052	Estate of Martin T. Wessel: Ted's Chevron	\$8,224.26	\$7,401.84
FOR POSSIBLE ACTION	32.	1999000064	Al Park Petroleum, Inc.: Conoco Pit Stop	\$24,526.45	\$22,073.80
FOR POSSIBLE ACTION	33.	1999000066	HP Management LLC: Former Haycock Petroleum	\$12,335.25	\$11,101.72
FOR POSSIBLE ACTION	34.	1999000086	Terrible Herbst Oil Company: Terrible Herbst #126	\$15,588.85	\$14,009.71
FOR POSSIBLE ACTION	35.	1999000090	HP Management LLC: Former Haycock Petroleum	\$14,184.25	\$12,765.82
FOR POSSIBLE ACTION	36.	1999000104	Terrible Herbst Oil Company: Terrible Herbst #118	\$91,496.78	\$82,347.10
FOR POSSIBLE ACTION	37.	1999000114	City of Fallon: Fallon Maintenance Yard	\$5,443.57	\$4,899.21
FOR POSSIBLE ACTION	38.	1999000115	Shell Oil Products US: Former Shell Service Station	\$18,606.63	\$16,745.97
FOR POSSIBLE ACTION	39.	1999000135	Terrible Herbst Oil Company: Terrible Herbst #106	\$6,342.10	\$5,707.89

ONGOING CASES/OTHER PRODUCTS: CONTINUED

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	40.	1999000137	Terrible Herbst Oil Company: Terrible Herbst #152	\$17,615.49	\$15,853.94
FOR POSSIBLE ACTION	41.	1999000167	City of Las Vegas: Fire Station #1	\$5,920.42	\$5,920.42
FOR POSSIBLE ACTION	42.	1999000186	Gloria Gayle Pilger: Forger D&G Oil Facility	\$37,744.24	\$33,969.82
FOR POSSIBLE ACTION	43.	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station	\$43,832.03	\$43,607.03
FOR POSSIBLE ACTION	44.	1999000257	University of Nevada: Newlands Agriculture	\$3,684.80	\$3,684.80
FOR POSSIBLE ACTION	45.	1999000273	V.K. Leavitt: The Waterhole	\$68,549.31	\$59,282.38
FOR POSSIBLE ACTION	46.	2004000011	William Rodriguez: Four Way Truck Stop	\$21,129.88	\$19,016.89
FOR POSSIBLE ACTION	47.	2004000011	TA Operating: Four Way Truck Stop	\$17,001.09	\$15,195.98
FOR POSSIBLE ACTION	48.	2004000013	NV Nanak Petroleum, Inc.: Nevada Nanak Petroleum	\$3,732.00	\$2,015.28
FOR POSSIBLE ACTION	49.	2004000014	Atlantic Richfield Company: ARCO #437	\$20,691.31	\$17,888.90
FOR POSSIBLE ACTION	50.	2004000025	Scott Snow: Former ARCO #1580	\$71,590.60	\$64,255.95
FOR POSSIBLE ACTION	51.	2004000039	Clark Co. Dept. of Aviation: Former National Car Rental	\$44,571.14	\$44,571.14
FOR POSSIBLE ACTION	52.	2005000002	Carson Valley Oil Co., Inc.: Carson Valley Oil	\$11,593.22	\$10,433.90
FOR POSSIBLE ACTION	53.	2005000025	Bordertown, Inc.: Winner's Corner	\$9,829.14	\$8,846.22
FOR POSSIBLE ACTION	54.	2005000029	Phillips 66 Company: Circle K #1302	\$2,425.36	\$2,182.83
FOR POSSIBLE ACTION	55.	2005000036	Phillips 66 Company: Circle K #1791	\$4,022.43	\$2,896.15
FOR POSSIBLE ACTION	56.	2005000044	Ewing Brothers, Inc.: Ewing Brothers Facility	\$21,183.97	\$17,159.02
FOR POSSIBLE ACTION	57.	2007000003	7-Eleven, Inc.: 7-Eleven #29648	\$22,794.38	\$12,308.97
FOR POSSIBLE ACTION	58.	2007000014	Ace Cab Company: Ace Cab Company	\$24,036.96	\$21,630.04
FOR POSSIBLE ACTION	59.	2007000016	TOC Holdings Company: Former Time Oil #6-100	\$14,835.66	\$13,352.10
FOR POSSIBLE ACTION	60.	2008000005	Avis Rent A Car Systems: Former Avis Rent A Car	\$5,089.65	\$4,580.69
FOR POSSIBLE ACTION	61.	2008000009	Pilot Travel Centers, LLC: Flying J Travel Plaza	\$24,755.53	\$15,966.74
FOR POSSIBLE ACTION	62.	2008000017	Francois Alvandi: Flamingo AM/PM #82153	\$25,415.08	\$13,724.15
FOR POSSIBLE ACTION	63.	2008000018	B-H Ind. dba Terrible's: Terrible Herbst #830	\$5,836.78	\$5,182.22
FOR POSSIBLE ACTION	64.	2008000019	One Panou, LLC: Stop N Shop #2	\$2,816.23	\$2,534.61
FOR POSSIBLE ACTION	65.	2009000009	Mr. Tom Schwarz: Zak's Mini Mart	\$7,059.03	\$5,082.49
FOR POSSIBLE ACTION	66.	2009000017	D&J Holdings, LLC: Convenience Corner Shell	\$24,278.15	\$21,850.34
FOR POSSIBLE ACTION	67.	2009000020	Western Energetix: Flyers Energy Bulk Plant	\$8,148.86	\$7,333.98
FOR POSSIBLE ACTION	68.	2009000024	Parampreet Investment, LLC: Chuck's Circle C	\$36,404.21	\$32,583.79
FOR POSSIBLE ACTION	69.	2009000028	Vegas Rainbows, Inc.: Mick & Mac's Food Mart	\$40,430.67	\$35,027.91
FOR POSSIBLE ACTION	70.	2010000001	Smitten Oil & Tire Company: The Gas Store	\$13,649.70	\$12,284.73
FOR POSSIBLE ACTION	71.	2010000007	Pecos Express, Inc.: Pecos Express	\$40,585.60	\$36,527.04
FOR POSSIBLE ACTION	72.	2010000009	TA Operating: Mill City Travel Center	\$23,998.40	\$19,369.77
FOR POSSIBLE ACTION	73.	2010000010	Petrosun Fuel, Inc.: Victorian Food Mart	\$14,192.68	\$12,485.41
FOR POSSIBLE ACTION	74.	2010000013	Argyris Enterprises, LLC: City Stop #12	\$30,144.26	\$27,113.79

ONGOING CASES/OTHER PRODUCTS: CONTINUED

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	75.	2011000001	Short Line Express Market: Short Line Express	\$19,121.56	\$17,209.41
FOR POSSIBLE ACTION	76.	2011000003	7-Eleven Inc.: 7-Eleven #29662	\$3,215.71	\$2,894.13
FOR POSSIBLE ACTION	77.	2011000007	Echo Bay Marina, LLC: Echo Bay Marina	\$19,331.95	\$17,135.77
FOR POSSIBLE ACTION	78.	2011000009	Cimarron West: Cimarron West	\$8,720.71	\$7,848.63
FOR POSSIBLE ACTION	79.	2012000004	7-Eleven, Inc.: 7-Eleven #15426	\$88,882.55	\$77,837.27
FOR POSSIBLE ACTION	80.	2012000005	ARAMARK Corporation: Zephyr Cove Resort	\$195,453.38	\$163,835.84
FOR POSSIBLE ACTION	81.	2012000011	Golden Gate Petroleum: Baldini's Grand Pavilion	\$5,346.25	\$4,811.62
FOR POSSIBLE ACTION	82.	2012000012	Dewey Has Gas, Inc.: Smart Mart	\$16,260.48	\$14,634.43
FOR POSSIBLE ACTION	83.	2012000018	Kamar Brothers LV, LLC: Arco AM/PM	\$5,252.55	\$3,781.84
FOR POSSIBLE ACTION	84.	2012000020	Francois Alvandi: Charleston AM/PM #85155	\$6,280.50	\$4,207.28
FOR POSSIBLE ACTION	85.	2012000022	7-Eleven, Inc.: 7-Eleven #26873	\$5,071.75	\$4,564.58
FOR POSSIBLE ACTION	86.	2013000004	7-Eleven Inc.: 7-Eleven #29665	\$7,941.41	\$7,147.27
FOR POSSIBLE ACTION	87.	2013000008	TA Operating, LLC: Petro Stopping Center	\$3,280.00	\$2,952.00
FOR POSSIBLE ACTION	88.	2013000009	Western Petroleum: Western Petroleum	\$7,377.00	\$6,639.30
FOR POSSIBLE ACTION	89.	2013000010	Slots Unlimited, LLC, Village Shop #2	\$15,341.50	\$11,045.88
FOR POSSIBLE ACTION	90.	2013000011	Slots Unlimited, LLC, Village Shop #4	\$4,306.50	\$3,875.85

ONGOING CASES/OTHER PRODUCTS SUB TOTAL: \$1,940,585.91 \$1,714,479.84

REQUESTED RECOMMENDED

CLAIMS TOTAL: \$2,033,595.86 \$1,804,001.09

Ms. King provided the new total for the consent item list's recommended amount with the Terrible Herbst claim removed from the list.

Chairman Haycock informed the Board that under Ongoing Cases C, item numbers 33 and 35, because he is involved and his vote will therefore not relate to those two items.

Vice Chairman Ross informed the Board that under Ongoing Cases C, item number 58, Ace Cab Company is still being represented by a member of the law firm by which he is employed. However, he stated this associate has no bearing on his employment or pay so he will vote.

Michael Cox informed the Board that under Ongoing Cases C, item number 5, because he is the principal of the company and he will not vote on that item.

Mr. Seidel moved for approval of the consent items, Heating Oil, 1 through 5, New Cases/Other Products, 1 through 3 except for item number 2 Petroleum Fund number 2013000018 Terrible Herbst, Ongoing Cases/Other Products, 1 through 90. Ms. Tappan seconded the motion.

Motion carried unanimously.

8. EXECUTIVE SUMMARY

Ms. King presented the Executive summary and informed the Board that the Petroleum Fund (Fund) was established in 1989. Since then 1,437 cases have been evaluated for reimbursement, 122 cases were denied coverage and a total of 1,054 cases have been closed. 11 applications are in pending status awaiting staff review or additional information. 45 cases have expired. The State Fiscal Year 2014 began on July 1 of this year, and since that time 9 new cases have been received by NDEP for evaluation of Fund coverage. There are currently 199 active remediation sites expected to continue with requests for reimbursement.

Not including today's Board authorization, approximately \$174.1 million has been reimbursed. Adding today's reimbursement, approximately \$1.8 million has been reimbursed from the Fund to date. The cumulative Fund expenditure is approximately 175.9 million.

The invoicing for storage tank Fund enrollment for Federal fiscal year 2014, which runs from October 1, 2013 through September 30, 2014, commenced on August 19, 2013. 1,413 facilities have been invoiced at \$100 per storage tank system. As of August 20, 2013, 1,337 facilities, or approximately 95% have submitted the required fees.

Ms. King stated that in looking forward with respect to the management of the Petroleum Fund Program, the NDEP administration has recently approved the development of a new database. The database will create a more efficient mechanism for enrollment submittals and the claim processing, NTEP processing and Proof of Payment processing which occurs after reimbursement is received. The proposed database is anticipated to be interactive, allowing for UST enrollment requests to be made on-line. In addition, claims will also be able to be submitted on-line, which will increase efficiency, accuracy and effectiveness for both the consultants and NDEP, ultimately benefiting the owner/operator. The proposed database will be developed by a state contractor and is expected to take no longer than 2.5 years to complete. The expected cost is approximately \$618,000.00, which the Fund can accommodate, as demonstrated by the transfer of Funds not used by the program and transferred to NDOT. This year, NDEP is transferring \$4.2 million.

Ms. King asked if there are any questions.

Mr. Ross stated he was encouraged by the database effort because Nevada is behind in computer capability. He asked if the new database would be easily updated and modified if needed.

Ms. King responded affirmatively, as that is part of the criteria requested for the development of the database.

Ms. King then introduced Ms. Katie Armstrong, the Deputy Attorney General, and Mr. Todd Croft, the UST/LUST supervisor.

Ms. King stated that she would like to provide some general information prior to their presentation. She stated that the attached memo dated September 12, 2013, behind the Executive

Summary (also attached to the Minutes) explains that NDEP has been forced to implement cleanup of contamination at a site where the responsible party has failed to properly implement corrective action activities. Pursuant to NRS 590.870(1) and NRS 590.830(2), NDEP is responsible for the cleanup, using Petroleum Fund resources, if the responsible party is remiss. Any reimbursement from the responsible party is required to be deposited back into the Petroleum Fund. This is the second case where NDEP has been forced to conduct corrective action activities using Petroleum Fund resources, the first case being at Cave Rock. She stated the memo respectfully notifies the Board of NDEP's intention to withdraw \$2 million of Petroleum Fund revenue for a site cleanup. The site is Eagle Gas North located in Carson City. The facility ID number is #1-000030. A memo was provided to the Board 14 years ago, on September 22, 1999, from Mr. Doug Zimmerman, who was the Chief of Bureau of Corrective Actions (Attached to the Minutes). The memo informed the Board of NDEP's statutory authority and responsibility to implement cleanup activities in situations where the responsible party failed to properly conduct cleanup actions. Cave Rock Country Store, located in Lake Tahoe, was the first site to require the Funds for this purpose.

Ms. King stated the Special Legislative Session in 2010 required any Petroleum Funds in excess of \$7.5 million be transferred to NDOT. She stated in 2011, \$4.6 million was transferred. In 2012, \$5.4 million was transferred and in 2013, \$4.2 million was transferred. She stated it appears to be evident that there should be no impact to future reimbursements with the withdrawal.

Ms. King stated that the Board has now received information regarding what site is being addressed in regards to NDEP's statutory authority, responsibility and information regarding the soundness of the Fund.

Ms. King stated what NDEP really wants to communicate to the Board is how very seriously NDEP takes this action. She stated that it is clear this Board takes the Fund seriously and the protection of the Fund seriously, which is evident from Board meeting to Board meeting, year in and year out. The Boards' presence, the questions the Board has and the detailed consideration the Board gives each issue that comes before them.

Ms. King stated it is NDEP's intent to communicate to the Board the extensive level of effort made, to date, by both NDEP and the Attorney General's Office, to achieve compliance at this site outside of using the Petroleum Fund as a revenue source. She stated NDEP and the AG's office have struggled with the owner of the facility for many years, and it is NDEP's hope to demonstrate that to the Board with today's presentation. Ms. King stated that Ms. Armstrong is here to share with the Board both the extensive administrative efforts and legal efforts put thus far into this case and also provide information regarding future efforts to recover costs from the owner which will be used to reimburse the Fund.

Ms. King stated that Mr. Croft, who will be personally overseeing the cleanup project, will present to the Board site specific information, both as it relates to the Fund as well as to the specific remediation issues at the site. She stated the goal is to clean up the site in a cost efficient manner as effectively and efficiently as possible, also to pursue the owner, to the extent of the law, for Fund recovery. She stated it is also NDEP's intent to provide the Board with updates at future Board meetings as the project progresses. She then turned the presentation to Ms. Armstrong and Mr. Croft.

Mr. Croft brought the Board's attention to a handout with pictures (Attached to Minutes). He stated the facility is in Carson City near the intersection of Warm Springs Road and Carson Street, 2152 North Carson. He stated the owner is V-R Properties Management, Inc. He stated that today's presentation will demonstrate why NDEP must follow the provisions in NRS

590.835 and use the Fund to continue the cleanup which NDEP has already started. He stated the court proceeding in June 2013 provided an end to a very long process. It provided authority to 1. Permanently close all on-site underground storage tanks (UST), 2. Test the tanks for tightness prior to closure and 3. Allow access to NDEP and its contractors to enter the property to assess, monitor, and remediate soil and groundwater contaminated by releases from the UST systems.

Ms. Armstrong introduced herself and stated she has been working with NDEP and she would like to update the Board on the administrative efforts taken by NDEP and the legal actions taken by the AGs office against Mr. Mohammed Ahmad, who is the legal owner of the site and president of V-R Properties Management Inc. She stated NDEP has correspondence with Mr. Ahmad as far back as 2007 regarding a release or a spill of petroleum on his property and MTBE found in the soil and groundwater on his property at Eagle Gas North. In 2009, after approximately two years of unsuccessful attempts to work with Mr. Ahmad cooperatively, NDEP issued Mr. Ahmad a formal Enforcement Action for failure to conduct the appropriate remediation activities. She stated NDEP's prior attempts were in the form of several meetings with Mr. Ahmad and his consultant, multiple notices and letters to him and his consultant regarding his legal requirements to address the contamination. Mr. Ahmad ignored the Enforcement Action and failed to complete any of the actions required by the Order. She stated in May 2009, NDEP sent a letter to Mr. Ahmad stating that, as a result of him failing to meet any of the Order deadlines, NDEP intended to initiate assessment activities and use the account for the management of storage tanks for the assessment and subsequent activities involving cost recovery. She stated in June 2009 NDEP began the assessment activities using the Federal LUST/TRUST Funds. Ms. Armstrong stated NDEP sought cost recovery pursuant to that statute from Mr. Ahmad on several occasions via certified mail. At a certain point Mr. Ahmad began refusing the certified letters which resulted in NDEP hand delivering him letters, notices and invoices. She stated that, to date, Mr. Ahmad has not reimbursed NDEP a dime for remediation activities.

Ms. Armstrong stated at that point the case was referred to the AGs office for legal action. In September 2009, the District Court entered into a Mandatory Injunction against Mr. Ahmad requiring reimbursement to NDEP for assessment and remediation and also required him to comply with environmental law. Due to his lack of action, in 2010, the District Court entered into a Default Judgment against Mr. Ahmad requiring him to reimburse NDEP for remediation costs and to pay for estimated future remediation costs for a total of \$1.6 million. She stated that, once again, Mr. Ahmad has not reimbursed any costs and the contamination persists. After 6 years of NDEP tirelessly seeking voluntary compliance with numerous meetings, numerous letters, numerous notices hand delivered to him, the AGs office moved to have him held in contempt of court for violating the Orders and for a Permanent Injunction. In June 2013, the District Court entered into a Permanent Injunction against Mr. Ahmad ordering permanent closure of all onsite USTs and allowing access to NDEP and its agents to conduct remediation. The Court also found him in Contempt of Court and ordered him to pay a \$500.00 fine. The injunction was ordered as a result of his violations of past court orders and continued violations of Nevada's environmental laws.

Ms. Armstrong stated the AGs office has placed a lien on his property. Pursuant to Nevada law, the \$1.6 million debt has been turned over to the Controller's office for collections. To date, the Controller's Office's subcontracted collection agency has not collected anything from Mr. Ahmad. She stated most of the court resources have been exhausted and so the AGs office is now going to pursue a new approach with the Controller's Office for the collection of the debt.

Ms. Tappan asked if Eagle Gas North is still an operating facility.

Mr. Croft stated that it is no longer a retail fuel facility.

Mr. Croft stated that in mid-July NDEP and its contractors went onsite. Over 2 days a sensitive tracer test was conducted. Typically a different inoculate (chemical) is put in each tank and run through the system for a period of time. There are probes in the ground to detect if the chemicals escape the tank system for 3 to 5 weeks. Due to a shortage of time, this only occurred overnight.

Mr. Croft stated that Mr. Ahmad had not complied with the Mandatory Injunction requiring him to maintain fuel in the tanks for the testing. NDEP therefore had to purchase fuel. 1,000 gallons were purchase to bring the tanks to a 10% volume, required for the testing. He stated there were 16 vapor release points identified through this procedure. Those release points had to be fixed before the test could proceed. After the vapor release points were resolved, the inoculate was entered into the system. It ran overnight and then the probes were evaluated for detection. Due to the short timeframe, there were no detections, but there were ultimately 16 vapor releases identified.

Mr. Croft stated that 2 weeks later the tanks were removed. From July 29 through August 12, NDEP's contractor removed the residual fuel and disposed of it. They removed the antiquated dispensers and disposed of them. They removed the necessary amount of asphalt and concrete for the removal of the tanks, which was also sent offsite for disposal, which left the 4 USTs exposed (shown in attachment picture).

Mr. Croft stated that NDEP ensured all observations were carefully documented, such as where the vapor releases were and what the condition of each tank and piping was in. There are currently over 300 photographs of the effort. He stated the fuel lines were rinsed, excavated and removed offsite with the exception of one section of line which ran under the store. The line was rinsed and filled with cement slurry (cut and cap). The identified releases were confirmed visibly, through analytical testing and photo documentation. There was approximately 400 tons of contaminated soil excavated to remove the tanks. However, due to budget constraints, only 150 tons, which was determined to be the most heavily petroleum hydrocarbon contaminated soils, were exported offsite for disposal. He stated the visibly less contaminated soil along with new soil brought onsite was used for backfill.

Mr. Croft stated the backfill was layered in with geotextile fabric so in the fall, when the budget is in place and remediation can be restored, the soil will be taken out in layers so that the contaminated soil can be addressed without cross contamination.

Mr. Croft referenced a picture in the attachment showing a tank being pulled out. He stated the tanks were over 40 years old single walled steel tanks. He stated over 10 years ago they had been lined on the inside of the tanks to extend their life. They were also cathodically protected but this was part of the ongoing compliance issues due to the owner not maintaining the cathodic protection. He stated when a NDEP inspector was present, the system was in alarm or was simply turned off. At that point NDEP would go through an extensive process to get the cathodic protection in place to protect the tanks from eroding.

Mr. Croft stated Mr. Ahmad was one of the first facilities to receive a "Red Tag" when the program was implemented a few years ago for failure to maintain the cathodic tank protection system.

A cold patch has been placed over the excavated/backfilled areas. This is a safe but less expensive way to return to the site when the budget is in place for further remediation.

Mr. Croft stated the costs for the first phase were approximately \$20,000.00 which was paid with federal EPA funds.

The removal costs have added up to approximately \$110,000.00, split between federal EPA funds and non-Petroleum Fund State resources. There is approximately \$10,000.00 left before non-Petroleum Fund resources are exhausted. He stated that is why we are compelled by statute to complete the necessary work with the Petroleum Fund resources.

Mr. Croft stated that, to date, over the past 6 years NDEP has spent approximately \$220,000.00 of LUST/TRUST Funds to assess what is out there. There are wells installed and there is an idea of where the horizontal plume is, but the vertical extent of the plume is unknown. Also unknown is where the most heavily contaminated soil (source material) is, which continues to bleed and contribute to the groundwater plume. He stated the most effective way to remediate is to first remove the source. Once the source is removed the plume should begin to collapse and a "risk based closure" can be contemplated. Mr. Croft stated there are problems associated with removing the source soils because of their location. Some of the source soil is located immediately next to the store, some is located near the canopy, which will have to be taken down, and very notably, some of the heavily contaminated soil lies under a NDOT traffic light. NDEP is taking a "pronged" approach. When the funding is in place, drilling will begin. The information will give us an idea of where the horizontal and vertical contamination exists. In addition, the character of the soils will be obtained, which will help with remediation planning decisions. This will help determine the Corrective Action Plan with respect to a "Risk Based Closure," active remediation, or a hybrid of the two. He stated a hybrid is most likely. A Permit has been submitted for potential dewatering that may need to take place.

Ms. Tappan asked for clarification of a plume map that was included in the attachment.

Mr. Croft explained the Benzene and MTBE portions and the overlap of the two. He stated the map is not current. The data is from 2010 and 2011.

Ms. Tappan asked if a map was drawn today would it show the concentrations expanding outward.

Mr. Croft explained that the information we are hoping to gather will help us answer that question better but we may be looking at 30 feet per year for benzene mobility.

Ms. Tappan asked if the parking lot across the street would have to be removed because the plume extends underneath it.

Mr. Croft responded it would not. He stated there are 31 known releases with the vapor testing and the observed leaks when the tanks were pulled. The releases by the tank and the dispenser areas appear to be the most significant releases. Therefore these two areas will be focused on to remove as much contaminated source soil as possible. He stated that the site is physically restrictive with the building and the traffic light, so a different technique than simply digging a large hole will be used. If NDEP is successful in getting much of the source soil removed, the groundwater plume will no longer be fed by the source and the plume will begin to attenuate. The better the source is removed, the quicker the plume attenuates.

Mr. Seidel asked if there are any municipal or domestic wells that are receptors to the plume.

Mr. Croft responded the closest municipal well is approximately 4,000 feet away cross-gradient. He stated the plume is not expected to reach the municipal well.

Mr. Haycock asked if there were any additional questions and there were none.

Ms. King stated the Executive Summary was concluded.

9. PUBLIC FORM

There were no requests to speak.

10. CONFIRMATION OF NEXT BOARD MEETING DATE

It was confirmed the next meeting date would be Wednesday, December 11, 2013 at 10:00 am.

11. ADJOURNMENT

There being no further business, the meeting adjourned at 11:31 am.