

STATE BOARD TO REVIEW CLAIMS

MEETING OF FEBRUARY 29, 1996
Reno, Nevada

ITEM: IV.D.

SUBJECT: Resolution to adopt guidelines regarding the eligibility for Petroleum Fund reimbursement for certain items

DISCUSSION: The Nevada Division of Environmental Protection (NDEP) has formulated guidelines designed to facilitate consistency in the claim review process.

To extend Petroleum Fund benefits in an equitable and fair manner, determinations are made as to what costs submitted for reimbursement, if any, are eligible for reimbursement. The proposed list of reimbursable and non-reimbursable items will assist NDEP to make consistent and unbiased recommendations to the Board. Such a guideline may be adjusted by the Board at its discretion based upon the facts of each case, pursuant to NRS 590.830.

Comments from the consulting community were solicited on November 6, 1995. No comments have been received.

RECOMMENDATION: Adoption of Resolution No. 96-004 as proposed.

STATE BOARD TO REVIEW CLAIMS

RESOLUTION NO. 96-004

Resolution to Adopt Guidelines Regarding
the Eligibility for Petroleum Fund
Reimbursement for Certain Items

Whereas, the State Board to Review Claims (hereinafter referred to as the Board) Finds:

1. Claims submitted to the Nevada Division of Environmental Protection (NDEP) contain requests for reimbursement for costs which may not be directly attributable to the cleanup of groundwater or soil, or are otherwise extraneous costs.
2. NDEP has, in the past, made recommendations to the Board as to which costs are and are not directly attributable to the remediation (or are extraneous) and therefore are or are not reimbursable. Such recommendations have been made on a case-by-case basis without using an established policy. NDEP has never formally presented guidelines of eligible and ineligible costs to the Board that can be used by the NDEP to formulate its recommendations.
3. NDEP has formalized the interpretation of various corrective action costs in the form of a Reimbursement Recommendation Guideline.
4. Attachment "A", which is made a part of this Resolution, contains a Reimbursement Recommendation Guideline for the Nevada State Petroleum Fund.
5. NRS 590.830(1) requires the Board to, "...review each claim presented and authorize payment to the extent warranted by the facts of the case." Adoption of the guidelines contained in Attachment "A" would allow for a consistent approach by NDEP in its recommendations to the Board, and would still allow the Board to individually consider each reimbursement request.

THEREFORE BE IT RESOLVED:

That the State Board to Review Claims directs the NDEP to administer reimbursement requests in the following manner:

Resolution No. 96-004

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1. That a determination be made of claimants applying for reimbursement from the State of Nevada Petroleum Fund as to the eligibility of the costs claimed.

2. That the staff of the NDEP apply the guidelines contained in attachment "A" on all outstanding unreviewed reimbursement requests.
3. That the Board reserves the right to adjust each staff recommendation based upon the facts of each case, pursuant to NRS 590.830(1).

I, John Haycock, Chairman, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the Nevada State Board to Review Claims on February 29, 1996.

John Haycock, Chairman
State Board to Review Claims

ATTACHMENT "A"

NEVADA STATE PETROLEUM FUND
REIMBURSEMENT RECOMMENDATION GUIDELINES

NDEP **WILL RECOMMEND** REIMBURSEMENT FOR:

- * Eligible expenditures (Claimants awarded reimbursement have 30 days from the receipt of reimbursement to submit proof to the Petroleum Fund that the vendors have been paid the amount claimed in the request for reimbursement.)
- * Maximum allowed markup of 15% of the cost of subcontracted goods and services totaling less than \$3000 in the aggregate for like-in-kind.
- * Only the Cost, plus eligible markup, where the amount claimed exceeds the actual cost or receipt total.
- * Owner-provided goods and services at cost.

NDEP **WILL RECOMMEND** REIMBURSEMENT NO MORE THAN:

- * Customary and usual charge(s) for any service or item.
(Ex: Customary and usual for a bailer is \$7.50)
- * The allowed rental amount calculated according to the method specified in the Minor Equipment Policy for equipment rentals.
- * Lowest bid amount, where bidding is required, pursuant to NAC 590.760 (4)(e).

NDEP **WILL RECOMMEND** DENIAL OF CORRECTIVE ACTION COSTS FOR THE FOLLOWING ITEMS:

- * A discount (eg: less 2% for payment made in 10 days) was not credited to the claim.
- * A time sheet or log audit does not substantiate the amount claimed.
- * Absence of 3 bids in a situation where bidding was required pursuant to NAC 590.760 (4)(e).
- * Documentation does not substantiate expenditure of the amount claimed.
- * Missing invoice details, documentation, explanation, justification, or support data (usage log, receipt) in the claim submittal.
- * The charge claimed is a duplicate of a previously submitted charge or is within the same claim.
- * Unclear or unreadable invoice.
- * Unsupported surcharge.

INDIRECT EXPENSES

GOODS OR SERVICES USED DURING THE NORMAL COURSE OF CONDUCTING BUSINESS ACTIVITIES INCLUDING SUCH ITEMS AS COPIERS, COMPUTERS, TELEPHONES, WORD PROCESSING, ETC.

NDEP **WILL NOT RECOMMEND** REIMBURSEMENT FOR THE FOLLOWING **INDIRECT CHARGES**:

- * Administrative equipment, supplies, or support related to the normal operation of business.
- * Attendance at seminars, workshops, task forces, OSHA, or other training.
- * Clothes or tools of the trade. (Level "D")
- * Document or report delivery to the Regulator, Owner, etc.
- * **Office** fax, phone, computer usage, or copies. (However, these items, if required in the field, are reimbursable)
- * Software upgrades.

SITE RELATED

NDEP **WILL NOT RECOMMEND** REIMBURSEMENT FOR ANY **SITE RELATED** COSTS ASSOCIATED WITH:

- * A neighboring or adjacent non-leaking tank.
- * A non-justified emergency action. The Regulator must concur on an emergency action.
- * A previous condition of non-covered contamination.
- * Another remediation site. Combining of contaminants for corrective action must be approved by the Regulator.
- * Any non-petroleum product.
- * Any tank removal costs.
- * Contamination due to overspill or overfill.
- * Costs incurred which pre-date the leak discovery date.
- * Damage or loss caused by weather.
- * Demolition of site structures or appurtenances.
- * Initial sample analysis which confirms contamination.
- * Leak-source detection.
- * Real estate transactions.
- * Relocation of inhabitants. (May be reimbursable if third party claimant)
- * Site restoration or tank liquid removal.
- * Tank closure, disposal, or inerting.

Attachment "A"
Reimbursement Guidelines
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- * Tank or site repairs or upgrading.
- * Tank tightness determinations.
- * Vandalism of equipment or site.

TRAVEL

NDEP **WILL RECOMMEND** REIMBURSEMENT FOR **TRAVEL RELATED CHARGES** NO MORE THAN THE STATE RATE WHICH IS,

AS OF JANUARY, 1996

- * \$5.50 per breakfast.
\$6.50 per lunch.
\$14.00 per dinner.
\$26 total for meals per day.
\$38 per night for lodging.
\$64 per day per person per diem.
- * \$0.30 per mile, including local mileage.
- * The state allowances for vehicle rental.

NDEP **WILL RECOMMEND DENIAL** OF REIMBURSEMENT FOR **TRAVEL**, EITHER IN WHOLE OR IN PART, FOR THE FOLLOWING REASONS:

- * Alcoholic beverage purchases or gratuities.
- * Charge was included in mileage charge (e.g.: fuel).
- * Costs associated with Petroleum Fund Board meeting attendance, unless directed by the Board.
- * Indirect travel cost(s).
- * Missing travel receipts, expense details, mileage log, or airfare ticket.
- * No explanation/justification for trip and/or charges.
- * Per-diem expenses for staff not on per-diem status.
(ex: meals/lodging for local-less than 25 miles-travel.)
- * Rental vehicle not justified.

* Travel costs associated with goods or services provided by out-of-state suppliers when similar goods or services are available locally, including non-local Certified Environmental Manager's costs. This is considered to be for the Owner's convenience.

TRAVEL, CONTINUED

- * Use of personal vehicle; considered an indirect charge.
Company or personal vehicle use is reimbursed by
mileage; **not by hour or day.**

* MARKUP ON ANY **TRAVEL** RELATED ITEMS (e.g., Air fare, car
rental, fuel, parking, out-of-state travel
expenses, per-diem meals, lodging, or other costs
associated with travel.

MISCELLANEOUS EXPENSES

NDEP **WILL RECOMMEND DENIAL** FOR THE FOLLOWING **MISCELLANEOUS COSTS**:

- * Accidental damage or work-related accident.
- * Activities conducted for the site Owner's convenience.
- * Costs attributable to a non-approved delay in clean-up.
- * Activity that is part of monthly operation & maintenance contract.
- * Cost that was approved under another corrective action phase.
- * Costs associated with changing the Certified Environmental Manager.
- * Costs associated with Petroleum Fund Board meeting attendance, unless directed by the BOARD.
- * Costs for which the claimant was not actually charged.
- * Costs incurred as a result of repeating a previously contracted service where the original service performed did not fully correct the problem contracted for.
- * Costs which exceed 5% or \$3000, whichever is less, of the Not To Exceed Proposal.
- * Design in excess of Regulatory requirements.
- * Duplication or overlap of staff efforts.
- * Elected to go with non-low bid; justification not acceptable.
- * Equipment lease exceeds purchase price.

* Excavation/transportation of material not part of remediation.

* Film purchases or developing; photographs; and videos, (unless used to document the release and required by the Regulator.)

* Insurance or bond purchases. (i.e.: equipment insurance).

* Interest or late charges of any kind.

* Items which have **not** been delivered (e.g., equipment).

MISCELLANEOUS, CONTINUED

* Laboratory analysis which is not required.
ex: BTXE analysis for non-gasoline remediations.

* Legal expenses.

* Missing receipts.

* Mobilization/de-mobilization not chargeable.

* Monies advanced as a deposit.

* Multiple markup such as markup of items already priced above their actual cost.

* No description of the deliverable for costs incurred.

* Petroleum Board action.

* Regulator did not concur with activity for which costs were incurred.

* Rental agreement not attached for equipment lease costs.

* Rental of land or storage space.

* Reoccurring charges. (e.g., equipment downtime repeatedly serviced - more than 3 times for the same problem -

OVERHEAD

NDEP **WILL NOT RECOMMEND** REIMBURSEMENT FOR **MARKUP** ON

- * All utility bills
- * Any bid item or subcontractor charges over \$3,000.
- * Any disallowed charge.
- * Certified Environmental Manager supplied personnel, equipment, items, supplies, or rentals.
- * Charges for laboratory, soil treatment, well drilling, etc., which **cumulatively** exceed \$3000 for the entire project.
- * Permit fees.
- * Remediation equipment rental charges