

**STATE OF NEVADA BOARD TO REVIEW CLAIMS  
BOARD MEETING MINUTES  
DECEMBER 14, 2017**

**1. CALL TO ORDER**

Chairman Ross called the meeting to order at 10:00 a.m. from Carson City at the Legislative Building, 401 North Carson Street, 2<sup>nd</sup> Floor Chambers. The meeting was also conducted via videoconference with Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Governor's Conference Room 4401.

**A. BOARD MEMBERS PRESENT**

Chairman George Ross - Representative of Petroleum Refiners  
Vice-Chairman Maureen Tappan - Representative of the General Public  
Dawn Lietz - Department of Motor Vehicles  
Michael Cox - Representative of the Independent Retailers of Petroleum  
Greg Lovato - Nevada Division of Environmental Protection  
Bart Chambers - State Fire Marshal

**BOARD MEMBERS NOT PRESENT**

John Saxon - Representative of Independent Petroleum Dealers

**OTHERS PRESENT**

Peter Keegan - State Attorney General's Office, Carson City  
Jeff Kinder, Valerie King, Mike Cabble, Kim Valdez, Kristi Callahan, Don Warner, Megan Slayden, Jonathan McRae, Todd Croft, Chuck Enberg, Diondrae White, Ben Moan, and Karen Kovacs - Nevada Division of Environmental Protection (NDEP)  
Jim Lawrence – Deputy Director of the Department of Conservation and Natural Resources (DCNR)  
Jon Bell - Broadbent Inc.  
Bryan Vetrano - Broadbent Inc.  
Mark Korinek - Carson City School District  
Rodney Arbogast - Reno Drain Oil Service  
Richard Channel - Reno Drain Oil Service  
Steve Aguilar - Reno Drain Oil Service  
Peter Krueger - NV Petroleum Marketers & Convenience Store Association (NPM&CSA)  
John Edmond - Member of the public  
Kathleen Johnson - The Westmark Group  
Kim Stewart – Stewart Environmental  
Keith Stewart - Stewart Environmental  
Rex Heppe – Terracon  
Luke Puschnig – Las Vegas Convention & Visitors Authority  
Terry Miller – Las Vegas Convention & Visitors Authority  
Rob Thompson – OGI Environmental

**2. PUBLIC COMMENT**

There were no requests to address the Board, however Ms. Valerie King requested that agenda item number five be moved to follow the Public Comment period with no objection.

### **RECOGNITION OF SERVICE: MR. GEORGE ROSS**

Mr. Jim Lawrence, Deputy Director of the Department of Conservation and Natural Resources expressed his appreciation for Chairman Ross. He noted Chairman Ross had been involved with the Petroleum Fund since 1989 and oversaw approximately \$217 million in projects that greatly benefited the State. Mr. Lawrence noted that SB 251 is a very important piece of Legislation and Chairman Ross played an instrumental role in its passage. Mr. Lawrence expressed his gratitude for the accomplishments of Chairman Ross and presented him with a Certificate of Recognition from Governor Sandoval.

Mr. Peter Krueger noted a long history with Chairman Ross and that they never had a disagreement over SB 251. Mr. Krueger thanked Chairman Ross for his efforts.

Chairman Ross thanked Mr. Krueger and noted how well the Board has worked together to solve problems. He reflected on what the Board had accomplished in the 1990s and how they have continued to build upon those accomplishments.

Ms. Maureen Tappan noted that she will miss Chairman Ross and thanked him for his knowledge, patience, explanations, hard work and kindness.

Mr. Michael Cox noted that Chairman Ross will be missed and wished him continued success.

Mr. Don Warner thanked Chairman Ross for his service on behalf of the Bureau of Corrective Actions and the Petroleum Fund.

Ms. Valerie King thanked Chairman Ross for the integrity and professionalism he has brought to the Board. Ms. King expressed her admiration for Chairman Ross taking the fund seriously while assisting UST owner-operators in a fair manner.

### **3. APPROVAL OF THE SEPTEMBER 14, 2017 MINUTES**

**Ms. Dawn Lietz moved to approve the September 14, 2017 minutes. Ms. Maureen Tappan seconded the motion. Minutes unanimously approved.**

### **4. STATUS OF THE FUND**

Ms. Valerie King introduced Mr. Mike Cabble as the new Executive Secretary to the Board. Ms. King informed the board that Mr. Cabble started with NDEP in 2004 and worked with the Petroleum Fund Program for two years after which he moved on to the UST Program for ten years. Ms. King stated the experience Mr. Cabble has with UST compliance is an incredible asset to the Executive Secretary position of the Petroleum Fund.

Mr. Mike Cabble thanked Ms. King and continued to report on the status of the Fund. Mr. Cabble stated the balance forward from Fiscal Year 2017 was \$7.5 million with approximately \$396,800 collected for storage tank enrollment. Approximately \$3,698,000 was collected from the \$0.0075 per gallon fee and interest accrued was just over \$25,200. The balance forward to fiscal year 2018 was zero with a cumulative revenue of \$11,620,151.63.

Mr. Cabble reported transfer to the NDEP was just over \$43,600, which facilitates program administration as well as interactive database development. Transfer to the Highway Fund was a zero balance with an additional transfer to the DMV at a zero balance for administration of the Petroleum Fee. Pending approval of all claims heard at today's Board meeting, the reimbursement total will be approximately \$1.98 million. Total cumulative expenditures are currently \$1,983,783.27.

Mr. Cabble stated the anticipated transfer to the highway fund on average is approximately \$4 million dollars. The Petroleum Board Cost for fiscal year 2018 is projected to be \$12,400. Pending obligated claims are currently just over \$8,700 and the total remaining obligation are just over \$4 million. Current funding available is \$9,636,368.36.

5. **RECOGNITION OF SERVICE: MR. GEORGE ROSS**

Agenda item number five was moved to follow agenda item number two, Public Comment.

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

Ms. Megan Slayden presented proposed Site Specific Board Determination (SSBD) No. C2017-05 to Provide Third Party Liability Coverage and Associated Claim Reimbursement to The Riviera, 2901 Las Vegas Boulevard South, Las Vegas, Nevada. Petroleum Fund Case ID No. 2016000028, Facility ID No. 8-001540

Previously The Board approved coverage for the subject site owned by Las Vegas Convention and Visitors Authority for \$630,000, which represents \$1,000,000 in fund coverage for a single UST system, with a 30% reduction and a 10% copayment. As of this Board Meeting, the subject site is being reimbursed \$630,000, and NDEP staff have recommended reimbursement of an additional \$504,470.56, pending approval of third-party liability coverage.

Ms. Slayden stated the site experienced an extensive excavation in 2016 which removed the majority of source material. The excavation expedited cleanup efforts at the site and currently an A through K closure is being requested.

In accordance with Board Policy Resolution 2007-10, the Owner/Operator acknowledged that using third-party liability funds for corrective actions will reduce the remaining funds in the event of a third-party lawsuit. Fund staff therefore recommend that the subject facility receive the third-party liability funds, which amounts to an additional \$1,000,000 in coverage minus the 30% reduction and 10% copay. This would increase the reimbursement cap for the facility to approximately to \$1.26 million. Additionally, fund staff would recommend the reimbursement of the claim exceedance, which would fall within third-party liability funds of \$504,470.56.

In conclusion it is NDEP's recommendation that the Board adopt Site Specific Board Determination No. C2017-05 as proposed, granting third party liability Fund coverage to the subject site for one underground storage tank system with a 30% reduction and a 10% copayment. Additionally, the approval of payment of the claim exceedance in the amount of \$504,470.56.

**Ms. Tappan moved to adopt SSBD No. C2017-05, as proposed. Mr. Cox seconded the motion. The motion was unanimously approved.**

7. **SITE SPECIFIC BOARD DETERMINATION FOR PETROLEUM FUND COVERAGE WITH REDUCTION**

Mr. Don Warner presented proposed Site Specific Board Determination (SSBD) No. C2017-06 to provide reduced Petroleum Fund Coverage for MLK Gas Mart, Las Vegas, Nevada. Facility ID No. 8-001654, Petroleum Fund Case ID No. 2017000027

Mr. Warner stated the property is owned by Mr. John Edmond of Nucleus Investments Incorporated located at 1600 North Martin Luther King Boulevard, Las Vegas, Nevada. The facility had three underground storage tank systems containing gasoline and diesel that were recently removed. Mr. Edmond purchased the property in March of 2017 and at the time of purchase the tanks were not enrolled in the state of Nevada Petroleum Fund. The tanks were last enrolled in fiscal year 2011 resulting in a lapse of Fund coverage for a period of five-plus years. The property was abandoned prior to Mr. Edmond's purchase; therefore there were no recent release detection records available prior to purchase.

In May of 2017, Mr. Edmond contracted with Earth Resource Group to perform tank and line tightness testing and at that time the three UST systems (tanks and piping) tested tight.

On June 5, 2017, the three UST systems were enrolled in the Fund and at the end of June 2017 the three UST systems were permanently removed. During the UST removal, soil contamination was observed and attributed to the turbine assembly of UST number two. Soil samples were collected and submitted to Asset Laboratories for analysis.

On July 10, 2017, laboratory results indicated concentrations exceeding NDEP reportable concentrations, confirming a release had occurred.

Mr. Warner further stated on August 4, 2017, NDEP received an application for coverage for the MLK Gas Mart from Stewart Environmental. USTs were enrolled in the fund at the time the release was confirmed. However because the USTs were not enrolled for the entire FY2017 coverage period, and there was a lapse of financial responsibility coverage for over five years, a reduction in coverage is required per Board Policy Resolution No. 94-023 and Board Policy Resolution No. 95-001.

Chairman Ross stated unless Mr. Edmond signed a document upon purchase releasing the previous owner of any liabilities, Mr. Edmond could potentially file a lawsuit against the previous owner to recover the 20% reduction based on prior knowledge that the previous owner failed to maintain coverage for the last five years.

Mr. Warner confirmed that statement, however mentioned he was unsure about legalities.

Mr. Keith Stewart with Stewart Environmental stated the prior owners, the Kwon family, purchased the site in 2006 and became non-responsive in 2011 or 2012 by failing to respond to the NDEP regarding compliance. Mr. Stewart noted the Kwon Family LLC was bankrupted; therefore, there is not a previous owner to file a lawsuit against in an effort to recoup the 20% reduction. Mr. Stewart felt it was important to note that the property is located at Martin Luther King Boulevard and Owens which is considered an area of re-development.

Mr. Stewart stated this property was auctioned and Mr. Edmond purchased it with the intent to upgrade the location. Upon purchase, there was a consultation with NDEP Las Vegas staff regarding an acceptable process to follow in order to ensure coverage. Mr. Edmond followed

these recommended procedures, including the testing, paying for enrollment into the Fund, and tank removal to move forward with this project.

Mr. Stewart stated it was his opinion that Mr. Edmond should not be penalized for actions of the prior owner, rather he should be applauded for redeveloping the location. He further noted that while there is currently minimal soil contamination, monitoring wells will be installed during the following week and he is not expecting the cleanup to be extensive.

Chairman Ross asked if there was an opportunity for any potential buyers to have inspected the conditions of the property prior to auction.

Mr. John Edmond responded that this was an as-is purchase and he had been looking at the abandoned property in this historic area with hopes of turning it around.

Mr. Greg Lovato inquired whether any of the potential environmental conditions were disclosed at the time of auction.

Mr. Edmond responded that conditions were not disclosed.

Mr. Lovato inquired about an alternative policy resolution that allows for reductions to be changed or modified based on a schedule, and if it would be possible to explore that option at this site. Mr. Lovato stated he feels it is critical for the Fund to see adequate progress on a schedule.

Chairman Ross stated if they make progress and get the work done quickly Mr. Edmond could get his full reimbursement.

Mr. Lovato stated that it would be difficult to formulate the schedule and contingency now, but that is something to consider and revisit.

Chairman Ross questioned how that would be formulated, stating that a motion would have to be passed contingently consistent with a schedule that the NDEP staff would workout with Mr. Stewart. He stated Mr. Stewart has more work to do before they know exactly what is there. Potentially laying out and completing an accelerated schedule for cleanup may result in no reduction or less reduction approval by the Board.

Mr. Lovato suggested not adopting the NDEP staff recommendation in favor of adopting a modified reduction. He would also ask the case be reported again at the next Board meeting regarding progression of a schedule, and to revisit keeping the reduction in place at that time.

Chairman Ross stated that a reduction of 10% rather than 20% could be approved. Once Mr. Stewart has more information and develops a plan for accelerated cleanup it could be forgiven completely.

Mr. Lovato agreed.

Mr. Keith Stewart noted compliance is current with the dates for the services; however, there is a delay with drilling due to the two welding firms working in Las Vegas typically scheduling four to five weeks out. The scenario of a 20% reduction could be entertained and removed later if compliance is not achieved.

Ms. Lietz inquired about previous discussions of tank removal, after which time the discovery was found. Have those tanks been replaced or are replacements contingent upon cleanup?

Mr. Stewart responded that the tanks have been removed and the area has been backfilled. There are currently different operators or potential buyer's contingent on obtaining coverage. It is probable there will be no additional cleanup, other than monitoring.

Chairman Ross inquired about the possibility of a different type of store or commercial operation at the location other than a gas station.

Mr. Edmond responded, the property is located on a busy corner and he has been approached by several interested parties regarding a restaurant as well as another gas station. He is interested in seeing something on the corner that will benefit further re-development of the area.

Mr. Cabble commented on the discussion regarding entertaining reducing the reduction and making that contingent upon compliance. He stated, there are policies in place that would allow for acceptance to reduce the reduction amount now.

Mr. Cabble Further stated at the next Board meeting, if they were able to show a schedule of compliance and could adhere to that, they could potentially ask to remove the deduction entirely. It would appear clearer to reduce the reduction now, or approve the full 20% and then let them come back at the next meeting.

Mr. Ross stated there have been cases where reductions have been made, and most recently accelerated plans have come up. This may be an option as well.

Mr. Lovato motioned a proposed resolution to adopt ideas for discussion for Site Specific Board Determination C2017-06. Mr. Lovato motioned that the Board grant coverage with a 5% reduction and 10% copayment, while requesting the site come before the Board at the next meeting to report progress regarding the schedule of investigation and cleanup.

Chairman Ross stated this was an effective summary of what was taking place, and asked for a second on the motion.

Mr. Chambers seconded the motion.

Chairman Ross summarized, the motion has been moved and seconded to have a 5% reduction with a 10% copay with reconsideration when they present a schedule at the next Board meeting.

Chairman Ross asked if there was any further discussion on this matter.

Ms. Tappan inquired, if at the next meeting they are deemed to be on schedule would there be the option of no reduction?

Mr. Lovato confirmed and further noted if they are not keeping on schedule, the 20% reduction may also be restored.

**Mr. Lovato moved to adopt SSBD No. C2017-06, as proposed. Mr. Chambers seconded the motion. The motion was unanimously approved.**

## **8. ADOPTION OF REGULATORY PETITION R032-17**

Ms. King presented Regulatory Petition R032-17 addressing a grant and technical assistance program for UST owner/operators. She began by stating that recently adopted regulations required the testing of STP sumps and spill buckets for UST systems, and those regulations will be in place October of 2018.

Ms. King stated non-compliance is anticipated, and UST owner-operators will be required to upgrade or repair their systems which may be costly.

Ms. King stated SB 251 was introduced into legislation during the previous legislative session, was guided with assistance from Chairman Ross, and sponsored by Senators Goicoechea and Settlemeyer. SB 251 creates a grant program to cover the cost of newly required UST upgrades, and creates a technical assistance program whereby the NDEP will contract with a third party to manage the technical assistance process.

In the event that a UST owner/operator becomes non-compliant or has questions, they may contact a non-regulator with technical expertise rather than contacting NDEP staff. This type of program has been found successful with NDEP's Waste Management Program who have seen overall compliance increase throughout Nevada. Upon SB 251 becoming law on June 14th, 2017 the Board was required to adopt regulations that allow NDEP to administer the grant and technical assistance programs. In July of 2017 after SB 251 became law, a regulatory petition was submitted to LCB for legal drafting, and was brought before the Board for review during the September Board meeting.

Three workshops were held in Las Vegas, Carson City, and Elko after which time comments were received and changes were made to the regulatory petition. Adjustments included increasing the required tax documentation provided by the applicant from one year to three years. A statement was also added regarding confidentiality of financial records received during the application process. Lastly, a statement noting that a company's principal office must be domiciled in Nevada was removed.

Ms. King stated funding previously transferred to the NDOT Highway Fund will now be used for the grant program and noted for the record that NDOT was part of the legislative process and present to testify in support of this bill. The eligibility requirements for grant applicants require they be the owner of the tank systems, the USTs must be registered in the Petroleum Fund, and a verifiable small business. Grant applications will be accepted annually from January 1st through March 31st and must include required grant information regarding the number of tanks and required upgrades, three previous years of tax returns, the volume of petroleum sold during the previous two years, and how many stations are within a 15 mile radius.

Ms. King stated all financial records will remain confidential and that grant funding will be awarded based on application ranking and allocation of available grant funds. Ranking applications will feature three main components including financial need, volume of petroleum dispensed over the previous two years, and the remoteness of the facility. Applications will be ranked through an unbiased interactive database with those demonstrating financial need, low amount of fuel dispensed, and remote location receiving a higher weighted application. Working from the highest ranked applications to the lowest ranked, grants will be awarded until allocated funds are exhausted. Applicants that did not receive funds during the award period may re-apply during the next grant cycle. An applicant may receive only one grant allocation per facility and includes an award for a single storage tank of no more than \$38,000, two storage tanks may not exceed \$64,000, and three storage tanks may not exceed \$90,000.

Ms. King stated when a grant is awarded, NDEP staff must verify funds allocated through the grant program have been used in accordance with an approved work plan. Invoices must be provided to NDEP staff within 30 days of completing the project. After completion of the project, a 60-day grace period is given to provide documentation of all necessary permits and confirmation of notification. All grant recipients must keep their records for three years. If any part of allocated grant funding was unused, the recipient has 60 days to return the unused portion of the grant to NDEP. If all or part of the grant was spent on unauthorized costs, that amount must

be repaid to the Division within 30 days after receiving notification from NDEP staff. All costs incurred by the NDEP in an attempt to recover grant funds allocated may be charged to the recipient. If a grant recipient fails to return unused or unauthorized funds to the NDEP upon notification, their tanks may be red tagged until the funds are returned.

Ms. King stated when these regulations were purposed in September of 2017 the definition of upgrade, the purchase and installation of release prevention equipment, was deemed broad. The new purposed definition states, an upgrade means the purchase and installation of spill buckets, containment sumps, and any other equipment approved by the Division that is subject to periodic testing and may require replacement to prevent a release to the environment. The LCB concurred with this change and adopted the regulatory petition with the modification.

Ms. King further stated this definition was not a substantive change and will not require a workshop. Ms. King asked that the Board adopt the regulatory petition R032-17 as proposed with the modification to Section 10, which redefines the term "upgrade".

Chairman Ross noted this was a very thorough explanation of SB 251 and after being approved by the Legislative Commission, there is one more step to go with the Nevada Administrative Code. Chairman Ross thanked Mr. Lovato, Ms. King, and NDEP staff for their efforts. Chairman Ross further noted his gratitude for Senator Goicoechea, Senator Settlemeyer, Ivana Cansella, Assemblywoman Heidi Swank, and Peter Krueger for their many contributions.

Mr. Lovato stated a preference expressed by the Assembly; in SB 251 priority should be placed on ranking factors in the order listed. First financial needs, second volume, and third distance. During a review of the regulations it was not apparent that information is reflected. NDEP staff should be prepared to articulate and handle those questions.

Chairman Ross replied that legislative record, hearing statements, and statements of intent may serve as back up.

Mr. Cabble responded there is a plan to rank financial need at a greater weight than the volume dispensed, and the volume dispensed at a greater weight than proximity to other stations. While not complete, this is considered in the grant application and staff is currently working on this through the database.

Chairman Ross stated that factor will aid in alleviating concerns, especially regarding rural stations. Chairman Ross entertained a motion with the modification.

**Ms. Lietz moved to adopt SSBD No. C2017-06, as proposed, dated December 12th, 2017. Mr. Cox seconded the motion. The motion was unanimously approved.**

9. **ADOPTION OF POLICY RESOLUTION 2017-02 PROVIDING BOARD AUTHORIZATION TO NDEP FOR DIRECT PAYMENT OF UNCONTESTED CLAIMS**

Ms. King stated Policy Resolution No. 2017-02 for adoption provides authorization for the NDEP to make direct payments on behalf of the Board, prior to a Board meeting for claims that have an uncontested payment recommendation. During the September 2017 Board meeting, Draft Policy Resolution 2017-02 was introduced and the Board was in strong favor of this approach. The Board further encouraged NDEP staff to move on with the policy resolution process.



Ms. King informed the Board that by approving reimbursements on a quarterly basis, money is only dispersed quarterly, which in turn results in a delay of cleanup work. By approving a direct payment option, continuous flow of funds will be allocated for uninterrupted environmental cleanup work. It is believed that uninterrupted work leads to prompt closure thereby benefiting the environment and Fund by shortening the overall amount of time invested in a cleanup. Direct payment also benefits owner-operators and CEMs as witnessed during testimony given at the September 2017 Board meeting.

After the September 2017 Board meeting, the policy resolution was sent to the CEM community and all UST owner-operators for public comment. Negative feedback was not received. Ms. King stated if the Board adopts this policy resolution, it will provide NDEP staff authority to move forward with the database developer in working on the direct payment component of the database. Depending upon competing priorities and the complexity encountered, the development process is expected to take from three to twelve months.

Ms. King provided a brief overview of the policy resolution stating number one of the policy resolution states, the Board to Review Claims hereby 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 3rd, 2017. A list of direct payment claims paid will be provided at each Board Meeting. A contested claim will not go through the automated process and may not receive direct payment; rather, it will be presented to the Board as an SSBD.

Ms. King stated upon receipt, one claim per claimant will be accepted and processed at any given time. Each claim will be processed and a recommendation will be made. Upon recommendation, the claimant will declare they are not contesting the claim. The claim approval starts the 30-day clock in which time they are required to submit their proof of payment verification. Upon NDEP receipt of a valid proof of payment, the claim will be considered closed and the claimant will be able to start a new claim process if applicable. Should proof of payment verification not be received within 30 days, the system will stop any additional claims from being submitted until the payment verification requirement has been met.

**Mr. Cox moved to adopt Policy Resolution No. 2017-02, as proposed. Ms. Lietz seconded the motion. The motion was unanimously approved.**

#### **10. INTERNAL REVENUE SERVICE FORM 1099**

Mr. Peter Keegan, Deputy Attorney General for the Board to Review Claims updated the Board regarding the requirement for issuing 1099 IRS Forms, and progress in seeking a Determination to have the Secretary of Agriculture allow private residents receiving reimbursement funds to exclude those funds from their gross income calculations. The issue at hand is resolution of taxation on payments received, and the records thereof for reimbursement funds issued to private individuals. Mr. Keegan is also now looking at the expansion of the grant program under Senate Bill 251, providing reimbursement for facility upgrades required under federal law.

An application is currently in the submittal process for the United States Secretary of Agriculture, which administers an exemption criteria review under the Code of Federal Regulations for non-federal programs of this nature. The determination would be published in the Federal Register, at which time the Board would utilize the determination when reimbursing individuals and or businesses, thus allowing them to exempt reimbursement from a gross income calculation on taxes.

Mr. Keegan stated currently the Controller's Office issues 1099s to individuals, which may create problems when filing taxes. A determination, hopefully to be made by the United States Department of Agriculture's Office and published in the Federal Register, would be available for attachment to 1099Gs from the Controller's Office. With that determination in hand, a taxpayer would then be able to submit their returns to the IRS and exempt that portion of the income.

There is a differentiation that will need to be made between individuals and business owners that may benefit from upgrades their facilities. There is also a secondary component that has to be reviewed by the IRS even if the United States Department of Agriculture approves the program for its primary purpose as an exempt program. The IRS will make a determination as to whether or not a business that receives reimbursement funds of this nature may increase their profitability as a result of the reimbursement funds. Again that is an individualized determination made by the IRS when the taxpayer files.

Mr. Keegan stated the cover letter for the application has been signed and will be submitted to identified individuals at the United States Department of Agriculture requiring receipt.

Chairman Ross thanked Mr. Keegan for his continued diligent work.

DRAFT

**11. ADOPTION OF CONSENT ITEMS**

The Board will review all items as a consent calendar item, unless the item is marked by an asterisk (\*), or a member of the public wishes to speak in regards to the item.

A dagger (†) indicates previously disallowed monies have been appealed where the requested amount is less than the recommended amount.

An omega (Ω) indicates Board approved reimbursement monies have been subtracted from the amount requested due to new information.

**STATE BOARD TO REVIEW CLAIMS  
REQUESTED/RECOMMENDED AMOUNTS –DECEMBER 14, 2017**

**HEATING OIL**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1	1993000020	University Of Nevada Reno: Albert Fragione Property	\$2,175.00	\$2,175.00
FOR POSSIBLE ACTION	2	2007000013	Churchill County School District: Churc. Co. S.d. Bus Barn	\$6,848.75	\$6,848.75
FOR POSSIBLE ACTION	3	2012000017	Churchill County School District: Old High School	\$7,144.27	\$7,144.27
FOR POSSIBLE ACTION	4	2017000029	Carson City School District: Carson City School District	\$18,673.72	\$16,806.35
FOR POSSIBLE ACTION	5	2017000030	Thayer Morrow: Thayer K. Morrow Property	\$12,014.93	\$11,764.93
FOR POSSIBLE ACTION	6	2017000031	S3 Development Company: 4395 W 4th	\$18,772.90	\$18,522.90
FOR POSSIBLE ACTION	7	2017000034	Johnnie Stolz: Johnnie D. Stolz Residence	\$13,082.22	\$12,832.22
FOR POSSIBLE ACTION	8	2017000036	William Jackson: William S. Jackson Property	\$15,187.58	\$14,937.58
FOR POSSIBLE ACTION	9	2017000037	Noreen Leary: Veterans Guest House, Inc.	\$11,322.10	\$11,072.10
FOR POSSIBLE ACTION	10	2017000038	Mark Creighton: Mark Creighton Property	\$16,830.34	\$16,580.34
FOR POSSIBLE ACTION	11	2017000040	Joseph Miller: Miller Residence, Glenbrook	\$9,809.89	\$9,559.89
			<b>SUB TOTAL:</b>	\$131,861.70	\$128,244.33

**NEW CASES**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1	2016000011	Frederick Enterprises LLC: Arco Am/pm	\$261,695.50	\$214,466.03
FOR POSSIBLE ACTION	2.*	2016000028	Las Vegas Convention Center And Visitors Authority: The Riviera	\$1,800,746.92	\$1,134,470.56
FOR POSSIBLE ACTION	3	2017000015	Gmr National A Nevada General Partnership: 24x7 Mini Mart	\$75,898.81	\$54,647.15
			<b>SUB TOTAL:</b>	\$2,138,341.23	\$1,403,583.74

**ONGOING CASES**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1	1992000126	Clark County School Dist.: RC White (Arville) Trans. Satellite	\$8,476.00	\$8,218.90
FOR POSSIBLE ACTION	2	1993000102	Rebel Oil Company: Rebel Store #2008	\$12,486.86	\$12,486.86
FOR POSSIBLE ACTION	3	1993000103	Charlie Brown Construction: Charlie Brown Const.	\$6,422.01	\$6,293.57
FOR POSSIBLE ACTION	4	1994000015	Pilger Family Holdings: Former D & G Oil Company	\$32,920.97	\$32,920.97
FOR POSSIBLE ACTION	5	1994000037	Param Investments LLC: Go-Fer Supermarket	\$76,318.97	\$76,318.97
FOR POSSIBLE ACTION	6	1994000067	Peppermill Casinos Inc: Frmr Peppermill Truckstop	\$6,814.90	\$6,814.90
FOR POSSIBLE ACTION	7	1994000113	Pilot Travel Centers LLC: Former Unocal Truck Stop #6328	\$37,253.26	\$26,259.03
FOR POSSIBLE ACTION	8	1994000122	Michelsen's Gas A Mart, Inc: Mike's Chevron	\$16,656.00	\$16,656.00
FOR POSSIBLE ACTION	9	1995000039	Al Park Petroleum Inc: Crescent Valley Market	\$129,654.40	\$116,614.03
FOR POSSIBLE ACTION	10	1996000063	Joan Pennachio: V & V Automotive	\$9,434.69	\$9,434.69
FOR POSSIBLE ACTION	11	1996000101	Phillips 66 Company: Circle K #695	\$5,011.25	\$4,510.13
FOR POSSIBLE ACTION	12	1997000008	Ewing Bros Inc: Ewing Bros INC	\$2,710.00	\$2,439.00
FOR POSSIBLE ACTION	13	1998000034	Chevron USA Products CO.: Chevron #9-4116	\$340,174.65	\$297,376.57
FOR POSSIBLE ACTION	14	1998000046	Willdens Automotive Holdings: Frmr Allstate Rent A Car	\$11,655.54	\$10,489.99
FOR POSSIBLE ACTION	15	1998000075	Jeff Bumb : McDermitt Motel & Convenience Store	\$7,677.14	\$6,909.43
FOR POSSIBLE ACTION	16	1999000014	Al Park Petroleum Inc: Pit Stop #7 Conoco	\$16,423.81	\$14,703.80
FOR POSSIBLE ACTION	17	1999000022	Terrible Herbst, INC.: Terrible Herbst #129 (Chevron)	\$15,503.65	\$13,953.29
FOR POSSIBLE ACTION	18	1999000023	Nevada Ready Mix Corp: Nevada Ready Mix	\$69,472.50	\$62,525.25
FOR POSSIBLE ACTION	19	1999000029	Terrible Herbst, INC.: Terrible Herbst #136 (Arco)	\$13,974.92	\$12,577.43
FOR POSSIBLE ACTION	20	1999000052	Estate Of Martin T. Wessel: Ted's Chevron	\$10,033.37	\$9,030.03
FOR POSSIBLE ACTION	21	1999000064	Al Park Petroleum Inc: Pit Stop #4 (Conoco)	\$14,252.75	\$12,744.93
FOR POSSIBLE ACTION	22	1999000066	HP Management, LLC: Former Haycock Petroleum	\$3,320.00	\$2,988.00
FOR POSSIBLE ACTION	23	1999000086	Terrible Herbst, INC.: Terrible Herbst #126 (Arco)	\$9,311.25	\$8,380.13
FOR POSSIBLE ACTION	24	1999000090	HP Management, LLC: Former Haycock Petroleum	\$207,408.54	\$186,649.69
FOR POSSIBLE ACTION	25	1999000104	Terrible Herbst, INC.: Terrible Herbst #118 (Arco)	\$6,931.25	\$6,238.13
FOR POSSIBLE ACTION	26	1999000114	City Of Fallon: Fallon Maint. Yard	\$6,373.73	\$5,736.36
FOR POSSIBLE ACTION	27	1999000135	Terrible Herbst, INC.: Terrible Herbst #106 (Gas) & #108 (Lube)	\$14,591.03	\$13,131.93
FOR POSSIBLE ACTION	28	1999000137	Terrible Herbst, INC.: Terrible Herbst #152 (Gas) & #155 (Lube)	\$7,649.89	\$6,879.29
FOR POSSIBLE ACTION	29	1999000199	Village Springs, LLC: Lakeshore Orbit Station	\$34,244.45	\$34,244.45
FOR POSSIBLE ACTION	30	1999000243	7-Eleven Inc: 7-Eleven #27607	\$3,161.43	\$2,845.29
FOR POSSIBLE ACTION	31	1999000273	Mr. V. K. Leavitt: The Waterhole	\$78,508.75	\$70,657.87
FOR POSSIBLE ACTION	32	2004000011	Travel Centers Of America: Wells Petro Truck Service	\$44,749.19	\$40,274.27
FOR POSSIBLE ACTION	33	2005000002	Carson Valley Oil Co Inc: Carson Valley Oil CO	\$2,799.50	\$2,519.55
FOR POSSIBLE ACTION	34	2005000025	Bordertown Inc: Bordertown Winners Corner	\$2,582.32	\$2,324.09
FOR POSSIBLE ACTION	35	2005000044	Ewing Bros Inc: Ewing Bros INC	\$15,339.53	\$13,333.98

**ONGOING CASES: CONTINUED**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	36	2007000014	Ace Cab Company: Ace Cab Company	\$14,690.72	\$10,900.92
FOR POSSIBLE ACTION	37	2008000005	Avis Rent A Car System LLC: Avis Rent A Car	\$21,449.21	\$19,304.29
FOR POSSIBLE ACTION	38	2008000009	Pilot Travel Centers LLC: Flying J Travel Plaza #770	\$75,892.69	\$54,433.92
FOR POSSIBLE ACTION	39	2008000017	Big Daddy's Oil LLC: Arco Am/pm Mini Market	\$61,534.10	\$55,380.69
FOR POSSIBLE ACTION	40	2008000018	Jacksons Food Stores Inc: Jacksons Food Stores #0145	\$11,187.31	\$10,068.58
FOR POSSIBLE ACTION	41	2008000019	One Panou LLC: Golden Market #3	\$15,706.83	\$14,136.15
FOR POSSIBLE ACTION	42	2009000017	D & J Holdings, LLC: Convenience Corner Shell	\$8,074.75	\$7,267.27
FOR POSSIBLE ACTION	43	2009000024	Parampreet Investment LLC: Chucks Circle C Market	\$40,437.72	\$35,173.55
FOR POSSIBLE ACTION	44	2009000028	Vegas Rainbows, Inc: Mick & Mac's Food Mart	\$36,690.64	\$30,898.39
FOR POSSIBLE ACTION	45	2010000001	Smitten Oil And Tire Co Inc: The Gas Store	\$8,002.75	\$7,202.47
FOR POSSIBLE ACTION	46	2010000007	Pecos Express: Pecos Station	\$9,944.94	\$8,950.45
FOR POSSIBLE ACTION	47	2010000009	Travel Centers Of America: Mill City Travel Center	\$220,688.74	\$144,444.82
FOR POSSIBLE ACTION	48	2011000006	7-Eleven Inc: 7-Eleven #29384	\$14,884.96	\$13,396.46
FOR POSSIBLE ACTION	49	2011000009	Cimarron West: Cimarron West	\$106,565.96	\$95,909.36
FOR POSSIBLE ACTION	50	2012000005	Aramark Corporation: Zephyr Cove Resort	\$32,187.94	\$28,969.15
FOR POSSIBLE ACTION	51	2012000012	Dewey Has Gas, Inc: Smart Mart	\$36,617.74	\$32,955.97
FOR POSSIBLE ACTION	52	2013000005	R B Properties Inc: South Pointe Market	\$6,839.94	\$6,155.95
FOR POSSIBLE ACTION	53	2013000009	Western Petroleum: Western Petroleum	\$32,899.23	\$29,609.31
FOR POSSIBLE ACTION	54	2013000011	Har Moor Investments, LLC: Village Shop #4	\$9,798.50	\$8,818.65
FOR POSSIBLE ACTION	55	2013000019	Hardy Enterprises Inc: Elko Sinclair #53	\$26,627.99	\$23,965.19
FOR POSSIBLE ACTION	56	2013000021	7-Eleven Inc: 7-Eleven #27700	\$11,083.66	\$9,975.29
FOR POSSIBLE ACTION	57	2014000004	Alsaker Corp: Broadway Colt Service Center	\$40,112.54	\$36,101.29
FOR POSSIBLE ACTION	58	2014000016	Smitten Oil And Tire Co Inc: Former Smitten Oil	\$6,643.46	\$5,979.11
			Superior Campgrounds Of America LLC: Silver City RV		
FOR POSSIBLE ACTION	59	2014000025	Resort	\$11,316.78	\$10,185.10
FOR POSSIBLE ACTION	60	2014000033	Speedee Mart Inc: Speedee Mart #108	\$23,936.21	\$21,542.59
FOR POSSIBLE ACTION	61	2014000041	Forever Resorts: Callville Bay Resort Marina	\$15,042.50	\$13,538.25
FOR POSSIBLE ACTION	62	2015000005	Elko Acquisitions LLC dba Red Lion Chevron: Red Lion Chevron	\$14,240.52	\$12,816.47
FOR POSSIBLE ACTION	63	2015000009	Travel Centers Of America: Las Vegas Travel Center	\$8,988.75	\$8,089.87
FOR POSSIBLE ACTION	64	2015000014	Abe Kaabipour: City Express	\$9,058.88	\$8,152.99
FOR POSSIBLE ACTION	65	2015000025	Blue Horizon Investments, INC.: Horizon Market #5	\$3,442.50	\$3,098.25
FOR POSSIBLE ACTION	66	2016000005	Golden Gate S.e.t. Retail Of NV LLC: Golden Gate Fac. #65 - Fallon	\$1,186.25	\$1,067.63
FOR POSSIBLE ACTION	67	2016000006	Wendover Fuels LLC: Chevron	\$2,262.87	\$1,629.27
FOR POSSIBLE ACTION	68	2016000023	Al Park Petroleum Inc: Pit Stop #1	\$26,237.98	\$18,891.34

SUB TOTAL: \$2,244,574.06 \$1,944,489.79

CLAIMS TOTAL: \$4,514,776.99 \$3,476,317.86

**Ms. Tappan moved for approval of the State Board of Review Claims requested recommended amounts dated December 14th, 2017.**  
**Mr. Lovato seconded the motion. Motion carried unanimously.**

## 12. EXECUTIVE SUMMARY

Mr. Cabble stated that since inception of the Fund in 1989, roughly 1,572 applications have been received, 172 cases have been denied coverage, and 1,229 cases have received closure. Nine applications are currently pending NDEP review or require additional information. There are currently 162 active remediation sites with 44 new applications received since January 1, 2017. Prior to this meeting the Board approved reimbursements totaling \$217,234,085.04 for owner operators throughout the State of Nevada. Upon approval of \$3,476,317.86 at today's Board meeting, the cumulative Fund expenditure will be \$220,710,402.90. Tank enrollment invoices were generated in August of 2017 for 1,281 facilities at \$100 per tank. To date approximately 98%, or 1,261 of the 1,281 facilities invoiced, have enrolled in the Fund.

Mr. Jonathan McRae, NDEP UST-LUST Program Supervisor, informed the Board of progress regarding the Eagle Gas North site. The project CEM recently recommended an addendum to the 2014 conceptual site model to include updated fate-transport modeling (Bio-Screen), a sensitive receptor survey, and pursue an exemption-based closure per NAC 445A.22725. The addendum is expected to be completed by the end of December 2017 and following approval, the contractor will prepare a closure report and presentation for closure with contaminants exceeding the action levels.

Mr. McRae stated benzene concentration is still above the maximum contaminant level in the middle of North Carson Street. The maximum contaminant level for that is five, and the current concentration is at 340. In the last year-and-a-half, the concentration has been at a high of 590 and a low of 140. Contamination is located in the middle of the street and surrounded by utilities. He stated further cleanup in this area would be difficult and closure will be sought leaving it behind.

Mr. McRae stated MTBE is still present in several wells in the middle of the street, as well as in three monitoring wells in the Cal Ranch Shopping Center. Concentrations in these wells has been consistent during the time work has occurred. Following approval of a closure report, the contractor will abandon up to 45 site wells that have been created for monitoring and the air sparge - soil vapor remediation system. To date, \$1.18 million has been spent on this project.

Chairman Ross thanked Mr. McRae for the pertinent explanation and hard work.

## 13. PUBLIC COMMENTS

Mr. Peter Krueger noted the newest Board Member, Mr. Rod Smith, will be a nice addition to an already qualified and hardworking Board. The Petroleum Marketers stand ready and willing to help promote this new grant program, and are pleased to see the regulations finally adopted. As they are in the regulated community, CEMs are critical to this process as well as fuel suppliers which provide fuel to the stations.

Mr. Krueger stated suppliers may not understand specifically about spill buckets and sumps; however, they may know of stations that have financial difficulties and spread the word about the grant program. This may especially be the case in northeast and north central Nevada where we see Utah-based fuel suppliers. The main office does not have to be domiciled within the State of Nevada for that very reason.

Mr. Krueger stated that the Department of Agriculture also has staff with Weights and Measures frequently in the field. He believes Weights and Measures has a board member on the State Board of Agriculture and he will work with that person. Mr. Krueger would recommend to include Weights and Measures staff. Mr. Krueger stated he feels this was an accurate bill and that NDEP quickly drafted a comprehensive set of regulations.

Mr. Krueger also commented on operator training noting that Nevada does not require refresher training referred to as A, B, and C training. A-training is for the operator, B-training is for management, and C-training is for an employee that may be trained in-house. A recommendation will be made to require refresher training to help reduce initial discharges and the subsequent clean-up cost. Whether enabled through regulation or legislation remains unclear; however, a proposal will be made requesting the Fund assist in underwriting some of the training cost which currently for A and B operators runs around \$300 for an eight-hour session. Mr. Krueger noted he would like to see less internet training, as he feels a verifiable guarantee of the person re-certifying online would be difficult to confirm.

Chairman Ross thanked Mr. Krueger for his comments and suggestions. He stated in a fair number of cases employees were not sufficiently trained or made aware this may be a serious situation. This occurrence is a reason for the rules and they need to be taken seriously.

Mr. Cabble again introduced Mr. Rod Smith as the newest Board Member. Mr. Smith is retired from Chevron and has roughly 34 years of experience throughout the country and in Russia. While with Chevron, Mr. Smith held various refinery management positions, chief engineer positions, and division management positions.

Chairman Ross welcomed Mr. Smith to the Board and expressed appreciation for having been a part of it.

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

The next confirmed Board meeting is Thursday, March 8, 2018 at 11:00 am.

**15. ADJOURNMENT**

The meeting adjourned at 11:53 am.