

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
MARCH 13, 2014**

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 4401 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
Colleen Cripps, Ph.D., Nevada Division of Environmental Protection
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

None

OTHERS PRESENT

Sophia Long, State Attorney General's Office – Las Vegas
Chad Schoop, Greg Lovato, Laurie McElhannon, Steve Fischenich, Matt McAuliffe, Rex Hepe, Todd Croft, Valerie King, Victoria Joncas – Nevada Division of Environmental Protection (NDEP)
Tony Mikacich – The Westmark Group
Candace H. Stavell - Town of Gardnerville
Jeremey Westmark – The Westmark Group
Kathleen Johnson – The Westmark Group
Keith Stewart – Stewart Environmental Inc.
Ryan Jones – Broadbent & Associates, Inc.
Bob Swadkins - Affinity Gaming
Elizabeth Guth – Affinity Gaming
Matt Grandjean – Stantec Consulting Corporation
Brett Bottenberg – McGinley & Associates

2. PUBLIC FORUM

There were no requests to speak.

3. APPROVAL OF THE AGENDA

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

4. **APPROVAL OF THE DECEMBER 11, 2013 MINUTES**

Ms. Tappan moved to approve the minutes. Ms. Cripps 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) for the balance forward regarding fiscal year 2013 was approximately \$7.5 million. Approximately \$409,700 had been collected for storage tank enrollment. Approximately \$5.5 million was collected from the ¾ cent per gallon fee, the interest earned was approximately \$1,800 and the cumulative revenue was \$13,487,551.80.

Ms. King reported the expenditures were nominal for the Board's salary, In-State travel and operating. The transfer to NDEP was approximately \$584,000 for administration of the Petroleum Fund program. She stated approximately \$1,900 had been transferred to the Environmental Commission and the reimbursement for claims so far this year was \$4,418,208.40. She stated the cumulative expenditures were \$5,006,573.19.

Ms. King reported the "Remaining Obligations" are the projected expenditures for the rest of the 2014 year. The Petroleum Board costs are expected to be just over \$11,500. The anticipated transfer to the highway fund is \$6 million. The transfer to NDEP to continue administration of the program is over \$1.1 million and the transfer to DMV to administer the Petroleum fee is approximately \$12,700. The pending obligated claims are approximately \$8,700. The total Remaining Obligations are just over \$7.1 million. The actual funding available is the cumulative revenue minus the cumulative expenditures, resulting in \$8,480,978.61.

Vice Chairman Ross asked Ms. King if there was a fairly large obligation for cleanup in the next few months, would the \$6 million transfer to the Highway Fund be reduced.

Ms. King said it would be.

6. **SITE SPECIFIC BOARD DETERMINATION**

**A. Site Specific Board Determination No. C2014-01
Proposed Site Specific Board Determination Appeal of fund Staff's recommendation to Provide full Coverage for only two of the three requested UST systems, Whiskey Pete's Hotel & Casino (Whiskey Pete's), 115 W. Primm Blvd., Primm, NV., Facility ID No. 8-000772, Petroleum Fund Case ID No. 2014000001**

Mr. Steve Fischenich stated he would be presenting two Site Specific Board Determinations (SSBD) to the Board regarding Whiskey Pete's Hotel & Casino. The first SSBD Mr. Fischenich presented was Item number 6.A. Whiskey Pete's appealed Fund staff's recommendation for coverage of only two UST systems. Whiskey Pete's requested coverage for three.

Mr. Fischenich said the facility, owned by The Primadonna Company, LLC and identified as Whiskey Pete's, located at 115 W. Primm Blvd., in Primm, Nevada. At the time of release discovery, the facility possessed six underground storage tanks: one 87-octane, one 91-octane, two diesel, and two 10,000 gallon tanks containing 89-octane gasoline.

In July of 2013, Whiskey Pete's submitted an application for coverage to NDEP. The application was associated with product piping releases in the 89-octane and the 91-octane UST systems. Coverage for a total of three UST systems was requested: one 91-octane UST system and two 89-octane UST systems. In a letter dated January 15, 2014, Fund staff responded by recommending coverage for two of the three UST systems: \$1 million for one of the 89-octane systems and \$1 million for the 91-octane UST system. Whiskey Pete's responded by appealing staff's recommendation for coverage for two rather than three UST systems.

The recommendation for coverage for only one 89-octane system was based upon the fact that the two 89-octane tanks were connected to a single pipeline which led to the dispensers. The single release point was discovered after that connection.

Mr. Fischenich asked the Board members to take a look at attachment D, which shows a diagram. The diagram on the left depicts a manifold system (Whiskey Pete's 89-octane). For this case the release location is identified as "A" in the diagram. There is a single release point in the pipeline joining the two tanks.

Mr. Fischenich stated that if multiple tanks are connected to a single pipeline and a release occurs along or beyond that pipeline, NDEP will only recommend coverage for one UST system (\$1 million). Furthermore, similar to multiple releases discovered in a single tank, multiple releases discovered in a single pipeline will only be given a recommendation for a single UST system (\$1 million).

Mr. Fischenich specifically addressed Whiskey Pete's 89-octane release, stating the release point was discovered beyond the point where the two tanks are connected to a single pipeline, therefore representing a single release. In conclusion, Fund staff is recommending coverage for only one of the 89-octane UST systems, as opposed to the two requested.

Mr. Fischenich concluded by stating the formal recommendation to the Board is the adoption of SSBD #C2014-01, granting Fund coverage to the subject site for only one of the two 89-octane UST systems, in addition to the 91-octane system for a total of \$2 million in coverage as opposed to the \$3 million requested. He informed the Board that there is not a claim associated with this case and stated he and Mr. Todd Croft, UST/LUST supervisor, are available for questions. He informed the Board that a representative from Whiskey Pete's was present in the Las Vegas venue to speak on behalf of Whiskey Pete's.

Mr. Jeremy Westmark and Ms. Kathleen Johnson, Certified Environmental Managers with The Westmark Group were representing Whiskey Pete's. Ms. Johnson indicated when the application for coverage for the Petroleum Fund was submitted it was for three tank systems. The two tanks, per the contractor that exposed the tanks, were connected by piping at the turbine sumps and also had a syphon bar. Whiskey Pete's has six tanks that are currently enrolled. The two 89-octane tanks that are connected are two of the six enrolled tanks. Essentially they have been paying for coverage for both of those tanks even though they are connected. The release in the product piping was the fuel originating from those two tanks, because they were connected. Therefore, because they were two separate tanks, they should get coverage as two systems.

Chairman Haycock asked if they agree with the schematic that was just reviewed indicating the release was beyond the manifold.

Ms. Johnson indicated she does, that the release location was closer to the dispensers and was beyond where the tanks were connected. According to the tank contractor, they were connected in a hybrid of the two schematics. The one that is on the left of the diagram with the one that is in the middle of the diagram. Ms. Johnson stated she did not know why the tanks were modified this way, and that Whiskey Pete's is a historical site and has been in operation for several years. She stated that she did agree with the schematic indicating the release location relative to the tanks.

Mr. Westmark stated he had contacted EPA Region 9 to get its determination on whether the Whiskey Pete's tank configuration was considered one or two UST systems. He stated EPA confirmed that by definition of a UST there were two tank systems associated with the 89-octane tanks. He said he was aware that Ms. Johnson had talked to Mr. Fischenich about possibly getting further clarification on this particular issue.

Chairman Haycock asked if Mr. Fischenich had asserted that relative to the 89-octane product there were two tank systems but only one release.

Mr. Fischenich stated yes, there are two UST systems.

Chairman Haycock asked for clarification that there was only one release.

Mr. Fischenich stated yes.

Chairman Haycock asked if the release could be assigned specifically to only one of the tank systems.

Mr. Fischenich said no.

Chairman Haycock asked if it was true that one cannot say whether the leak came from the left system or the right system. This is just a leak from a point where the two tanks are joined together and you say it is one leak from one system.

Mr. Fischenich stated that another way to look at it is, if they did find a release in the left tank and a release in the right tank, the recommended coverage would be \$2 million. He went on to give an example with respect to a single pipeline with multiple tanks connected to it. He said if six tanks were attached to one leaking pipeline, NDEP would not recommend \$6 million in coverage.

Chairman Haycock asked if there were other questions from the Board.

Ms. Tappan asked Mr. Fischenich if the cost of covering this would be less because it is one pipe that is coming out versus two.

Mr. Fischenich stated yes.

Ms. Tappan stated that Ms. Johnson had previously stated Whiskey Pete's paid for tank coverage for six tanks when there are actually just five pipes coming out. The cost of coverage for each one is how much a year.

Mr. Fischenich stated \$100.00 per tank system.

Ms. Tappan stated she views that issue as somewhat moot but it does have a certain level of validity.

Chairman Haycock asked Mr. Westmark and Ms. Johnson if they understood precisely what they were arguing for. He stated they are arguing for total coverage. If two releases were granted, the total coverage would be twice as much. It appears this does not have anything to do with how expensive the cleanup will be.

Mr. Westmark said yes.

Chairman Haycock asked for clarification that what is being argued is \$2 million in coverage versus \$1 million.

Mr. Westmark stated that they have \$2 million. The staff has recommended \$2 million for two releases. He stated his client is asking for three releases since they paid enrollment for each of the three tanks.

Chairman Haycock said he was talking specifically about the 89-octane release.

Mr. Westmark said "correct."

Chairman Haycock asked if he was granted two releases he would have twice as much coverage for the 89-octane.

Mr. Westmark stated he understood now and said the Chairman was correct.

Chairman Haycock asked how it relates to the deductible. Would there be twice as much deductible?

Mr. Fischenich said the copayment would be the same, 10%. If they spent \$3 million they would be spending \$300,000.00 for the copayment.

Vice-Chairman Ross asked if the deductible must be paid first out of pocket before the Fund insurance can be used.

Mr. Westmark said "no."

Mr. Fischenich agreed with Mr. Westmark.

Chairman Haycock said if it is \$900,000.00 this argument is moot. This argument only becomes germane if it is over \$1 million to clean up the 89-octane release.

Mr. Westmark stated that was true. He said he recognizes that and so does his client, Affinity Gaming, which is the parent company and is a publicly traded company. He said they have a fiduciary responsibility to their shareholders to attempt to get the coverage, even if it is never used.

Mr. Fischenich wanted to clarify that at this point staff had recommended that they receive \$2 million in coverage that would be available. They could also request an additional \$2 million for third party liability monies. He stated they ultimately have \$4 million at their disposal minus the 10% copayment.

Chairman Haycock said he was not sure if it would make any difference to the decision at hand. He asked if there is an assessment of what the 89-octane cleanup cost will be.

Mr. Westmark stated that the cleanup is actually complete and he believes there is a closure letter. He believes they spent approximately \$140,000.00. He again made the point that Affinity Gaming needs to go through this. Mr. Westmark stated he recognizes this is a unique situation. Mr. Westmark said he had a discussion with Mr. Fischenich and neither could recall if something of this nature had been previously considered by the Board. Mr. Westmark said he believes that this process will set a precedent for future cases.

Chairman Haycock stated he completely agreed with Mr. Westmark and believes that issue is what is important in this situation and is what the Board must decide. He said it is not the money that is going to make the difference as because the case has already been closed for less than \$1 million. If twice the coverage is granted, it will never be used.

Mr. Westmark said it may appear to be a moot point. However, in discussions with his client the topic was raised that down the road the case may be re-opened. They want to make sure they are representing the shareholders of their company properly.

Mr. Fischenich mentioned that there is groundwater contamination at the site due to another ineligible release and it is possible that there is some groundwater contamination that may be due to this current release. If that is the case, we will have to reopen the LUST case for this current eligible release.

Vice-Chairman Ross asked Mr. Fischenich if the owner knew, when enrolling his tanks, that he would get coverage for only one tank instead of two if a release occurred.

Ms. Johnson stated that, to their knowledge, they were not informed how the tanks were connected at the time they were enrolled.

Vice-Chairman Ross said again it's a matter of principle. Theoretically you could configure the entire system with one or two pipes instead of five or six. The chance of leaks will be reduced with fewer pipes. What we really want to do is encourage fewer pipelines, not more. If we go in the direction of the recommendation, we may be encouraging the use of more pipes, not less.

Mr. Westmark said Mr. Fischenich had explained in his opening remarks that the reason the two tanks were piped together was because they contain the same octane rating of fuel. You would not pipe together an 87 or 91. In this case they minimized the amount of pipe exposure to the ground by bringing them together. Ultimately it comes back to a release that occurred from what seems to be a little bit of an ambiguous situation but they are asking for approval of two releases from the 89-octane release.

Chairman Haycock emphasized the fact remained that there was only one hole and stated the decision made today will set a precedent. He respectfully disagreed with Vice-Chairman Ross that we are encouraging the use of more piping. He stated he did not believe any owner would want more piping because it provides the opportunity for more chances of a release.

Mr. Westmark reminded the Board that Mr. Fischenich earlier stated if each of the two 89 tanks had a separate release, the recommendation would be for \$2 million. He asked the Board to consider that point. He also requested that if a precedent is set, that clarification is provided to the CEM community with respect to coverage conditions.

Chairman Haycock stated that point was easily reconciled in his mind because in that scenario, there would be two actual releases. He stated there should be something put in writing to ensure future clarification.

Mr. Fischenich stated a policy resolution could be developed and he would also like to incorporate the issue of multiple releases in a single UST system. In that scenario, coverage is provided for a single release only.

Ms. King agreed that NDEP would be happy to work with industry and the CEM community to develop a policy resolution.

Vice-Chairman Ross asked if the pressure on a pipeline that has two tanks on it would be twice as great and cause more contamination to be released.

Mr. Fischenich stated that would not always be the case. It would depend on the throughput. He provided an example of a larger sized tank with only one pipeline, which would have the same amount of pressure. He stated it was much like comparing a truck stop operation to a small "mom and pop" operation.

Chairman Haycock asked if there was a single tank with two pipelines coming out from it, would that still be considered only one release?

Mr. Fischenich agreed.

Mr. Haycock stated that position appeared to be inconsistent with NDEP's argument. He emphasized the fact that one release from two systems is one release and two releases from a single tank was still one release.

Ms. King stated that it all goes back to the definition of a UST system. If there is one hole in a tank, that is one release. If that same tank has two pipes protruding from different ends and each has a release, those two pipes are associated with one UST system and is again a single release.

Ms. Cripps asked if a release was discovered at a later date from one of the tanks, could they come back at that time and get coverage for the third tank system.

Mr. Fischenich stated they could.

Ms. Cripps asked if one of the tanks that was connected to the other developed a leak, would that be one release. Mr. Fischenich stated it would be a single allotment, or just \$1 Million in coverage.

Mr. Westmark stated that he agreed with Ms. King in that it comes down to the definition of a UST system. He stated that, consistent with EPA, he and his client believe they have two UST systems although the fuel from each tank combine into a single pipe, which complicates the issue. His client has been paying \$100.00 each year for each of the two tanks' enrollment and would appreciate the Board's consideration of the release being accounted for as two releases.

Ms. King stated that NDEP agrees with EPA that the two 89-octane tanks are two separate UST systems. If each of the two tanks developed a release, because each is enrolled, both releases would be recommended to receive coverage of \$1 million. She stated that it is a business decision how tank systems are configured. She said that if a

person wants to consolidate six tanks into a single pipeline leading to the dispenser and that pipeline develops a leak, she asked, would it be fair to ask for \$6 million in coverage? She concluded by stating that a pipeline can only be associated with one tank system at any given time.

Chairman Haycock asked for a motion.

Ms. Tappan moved to adopt Site Specific Board Determination C2014-01, as proposed granting full coverage for two of the three requested UST systems, one 89-octane UST and one 91- octane UST. Mr. Cox seconded the motion. Motion carried unanimously.

**B. Site Specific Board Determination No. C2014-02
Proposed Site Specific Board Determination - Appeal of Denied Coverage associated with a Chase Line Release. Whiskey Pete's Hotel & Casino (Whiskey Pete's), 115 W. Primm Blvd., Primm, NV., Facility ID No. 8-000772, Petroleum Fund Case ID No. 2014000001**

Mr. Steve Fischenich stated this was the second Site Specific Board Determinations (SSBD) presentation to the Board regarding Whiskey Pete's Hotel & Casino. Mr. Fischenich stated his presentation of Item number 6.B. is, in a sense, a subset of the previous SSBD. Whiskey Pete's is appealing Fund staff's recommendation to deny coverage specific to a chase line release associated with the 89-octane piping release.

While digging a trench to replace and reconfigure product lines at the site, a contractor encountered chase lines associated with the UST systems. Chase lines are often used to house product lines. Mr. Fischenich held up a sample of actual chase line for the Board to observe. Prior to the chase lines being cut, gasoline within the product piping was reportedly blown back to the tanks. To allow access for new product line installation, the chase lines and product lines were cut. While cutting the chase line housing the 89-octane product line, gasoline leaked out into the underlying soil. A hole in the 89-octane product piping was later discovered about 50 feet from the dispensers.

On July 10, 2013, Whiskey Pete's submitted two applications for coverage. One for the piping release associated with the 89 and 91-octane UST systems and the other for the cut chase line. In a letter dated January 15, 2014, fund staff recommended coverage for piping releases for the 91-octane UST system and one of the 89-octane underground storage tank (UST) systems. However, coverage was denied for the release that occurred due to the cut chase line.

On February 12, 2014, Whiskey Pete's provided an appeal to Fund staff's recommended denial of coverage specific to the chase pipe release.

Mr. Fischenich said according to the Petroleum fund Cost Guidelines, (Resolution 2001-005-amended in September of 2012), non-fund eligible petroleum tank release sources include: "Non-accidental releases caused from petroleum storage tank system, owner, operator, or vendor neglect."

NDEP believes that the release caused by the cut chase line was preventable. The contractor neglected to take necessary precautions for a potential leak from cutting the chase line and therefore NDEP recommends denial of coverage specific to the contamination caused by the cut chase line.

Therefore, in conclusion, NDEP's formal recommendation to the Board is the adoption of SSBD #2014-02, denying coverage for the release due to the cut chase line.

Mr. Fischenich informed the Board that he and Mr. Todd Croft, the UST/LUST supervisor, are available for questions. He stated that representatives from Whiskey Pete's will present their position next.

Mr. Westmark stated that the Board received a letter in its packet from High Desert Petroleum, the contractor at the time of discovery. He disclosed that Westmark was not present at the time the chase line was cut so their discussion will be based upon the information received from High Desert Petroleum. He stated that the letter states the chase line is not part of the UST system and it is Westmark's position as well. He stated he has contacted other tank system operators who agree the chase line is not part of the UST system. Mr. Westmark stated that the release occurred before it released from the chase line, and that release is what they are requesting coverage for.

Mr. Westmark stated the author of the letter, Mr. Ren Bevell, reported that it would be impossible to blow back and remove all of the petroleum in the chase lines. Mr. Westmark stated that he has been on hundreds of tank pulls and capturing the product left in a chase line would be impossible. He stated he did not know why the product was not captured, but the release had already occurred. Pursuant to the regulations, coverage is provided for a release from the UST system.

Chairman Haycock asked if, based upon Mr. Westmark's rationale, if there was a breach in the outer wall of a double walled tank, you would say that would not be considered part of the UST.

Mr. Westmark said "no," the outer wall is part of a UST system.

Chairman Haycock said he believes the two are analogous.

Mr. Westmark stated the purpose of the chase line is not to capture fuel whereas the purpose of the outer wall of the tank is to capture fuel, along with the appropriate monitoring and alarm systems. He stated that once the fuel is in the chase line, it is essentially in the environment, outside of the UST system.

Ms. Johnson stated that, according to High Desert, the purpose of the chase line is to convey the piping so when the piping requires to be changed out, trenching and exposure of the pipes is not necessary. They can simply disconnect them and pull them through and then feed the new product piping in. It is not to contain the fuel.

Ms. Johnson stated the timeline for the events was such that the 89-octane release had not been discovered at the time of the chase line cutting. She stated the contractor was constructing new dispensers and had to cross the old chase lines, which is why they needed to be cut. When they cut the chase line the product was discovered and when they removed the pipeline the 89-octane release was discovered.

Chairman Haycock asked for clarification regarding the 89-octane release. He asked if the release was the same that had just been provided coverage for in the previous agenda item.

Ms. Johnson responded it was but the two releases had been reported to NDEP as two

separate spill reports. The first reported in late February and the next in mid-March when the old dispenser systems were being decommissioned.

Chairman Haycock asked if it could be cleaned up under the coverage of the other release.

Ms. Johnson stated that the releases were cleaned up as two separate releases and have two separate closure letters from NDEP.

Mr. Westmark stated that they would be considered two different releases with respect to Fund Coverage.

Chairman Haycock asked Mr. Fischenich's opinion.

Mr. Fischenich stated one way he had thought of approaching this issue was to treat the coverage as one release but deny the cleanup costs for the chase line release in a claim because the cause was due to neglect and the contractor did not capture all of the fuel.

Mr. Westmark responded that if the reason for denial was based upon the contractor not capturing all of the fuel that they could, then, based upon the contractor's position, "they caught as much as they humanly could under the field circumstances."

Mr. Mulvihill asked if the product line was single walled within the chase line.

Ms. Johnson said the 89-octane was single walled and the 91-octane was double walled.

Mr. Mulvihill asked if what is involved, in this case, is a single walled pipeline with no leak detection. In that case, would the chase line be acting in that capacity?

Ms. Johnson stated that according to the contractor, the chase line is made of material that fuel will degrade. The purpose of the chase line is not to contain fuel.

Chairman Haycock requested clarification that Westmark's position is that the chase line is not part of the UST system and the release occurred before the chase line was cut and fuel was released. He then addressed Mr. Fischenich, asking if his position is that the chase line is part of the UST system and there was no release until the chase line was cut.

Mr. Fischenich responded that "no" that is not entirely correct. He said that the specific part of the release was preventable. They should have been prepared to prevent any release into the actual environment.

Chairman Haycock asked if it was the State's position that the release had already occurred but was exasperated by the contractor not capturing all they should, although the contractor reportedly captured all that was humanly possible. He asked how much product spilled. He stated it would be helpful to know how much was released from the product piping into the chase line and how much was captured when the chase line was cut.

Ms. Johnson stated it is industry standard to blow back product in the product lines, which they did do. According to the contractor, there is not equipment available to blow back product in the chase line. She stated that when Westmark was notified of the release they arrived at the site and observed approximately 50 gallons of fuel collected in a drum from the chase line.

Mr. Haycock asked if Westmark knew how much went into the soil that was not collected.

Mr. Westmark responded that they do not know. What they do know is that the site was closed and the cleanup cost was approximately \$40,000.00. He did not know how much volume was released.

Chairman Haycock asked what the diameter of the chase line is.

Mr. Fischenich responded approximately four inches.

Mr. Haycock surmised that with the diameter of the chase pipe and the reported 50 gallons which was captured, the chase line would have to be especially long.

Mr. Westmark stated they were not there when the release occurred and did not know the volume which was released to the environment but know 50 gallons was captured.

Ms. Johnson stated the application for coverage, which pre-dates the letter from High Desert, reported one gallon having been released to the environment.

Mr. Haycock questioned that it took \$40,000.00 to clean up one gallon.

Ms. Johnson responded that they were not on site and could only communicate the information from High Desert's report.

Chairman Haycock asked if the product in the chase line was already released, do you know where the point of release was. Was it near the dispenser or closer to the tanks?

Ms. Johnson began discussing where the 89-octane release was when Chairman Haycock stated he thought they were discussing the 91-octane line.

Ms. Johnson responded that the release was from the 89-octane line. She stated the release was about 50 feet from the cut in the direction of the dispensers.

Ms. Cripps stated that, if what is being considered is whether the contractor did everything it could to prevent the release, then the question is, were they prepared and ready to collect any potential product at the time they cut the chase line or did that occur after they cut the chase line? Was product first released then later collected?

Mr. Fischenich stated that his understanding is that product was released to the soil before the contractor began collecting the reported 50 gallons.

Ms. Johnson stated that the product lines within the chase lines did not have previous compliance issues with respect to leak detection. The system was in compliance at the time of leak discovery, which was discovered by cutting the chase line.

Chairman Haycock stated that it was not in compliance because there was fuel in the chase line.

Mr. Westmark responded by stating USTs can be leaking but still be in compliance with regulations.

Mr. Fischenich agreed that a tank can leak and still be in compliance. From the information provided to NDEP, the 89-octane tank system was in compliance before and after the release.

Ms. Tappan asked if the \$40,000.00 used to clean up and close the site was taken from the Fund.

Mr. Fischenich responded that it was not taken from the Fund and no claims were submitted.

Chairman Haycock stated that what the Board is voting on is whether the release from the chase line being cut is eligible for Fund Coverage or if the erroneous act of the contractor makes it ineligible for coverage. The fact that it cost \$40,000.00 to clean up is irrelevant. He further stated that it is perplexing to him that \$40,000.00 was spent to clean up a single gallon of released fuel.

Mr. Westmark stated that the report submitted by High Desert Petroleum was submitted very early in the process and people in the field actually doing the work may not understand the gravity of the situation. They may rattle off numbers to answer their supervisor's questions, thinking they may have made a mistake and trying to minimize the damage, although Mr. Westmark stated he could not say that was the case here. He stated he did know his group did an investigation to determine the extent of the release and the cost to clean it is what it is. He reminded the Board Ms. Johnson had stated that the chase line was not part of the UST. The release occurred before the chase line was cut.

Chairman Haycock stated that the State agrees that the chase line is not part of the UST. However, Westmark is asking the State to pay for a cleanup that was exacerbated by a contractor who did not do what was required to collect released product.

Mr. Fischenich stated Chairman Haycock was correct.

Vice-Chairman Ross stated that the pertinent testimony missing was that of the contractor, High Desert Petroleum, to find out if they did their job properly and how did they interpret what they were doing. Vice-Chairman Ross stated he found it interesting that they were not present because those present are left guessing and surmising about what the High Desert Petroleum did.

Mr. Westmark stated that High Desert Petroleum was scheduled to be present but had a last minute conflict and could not attend. He stated their absence was not for lack of effort on his part.

Ms. Tappan asked who actually paid the \$40,000.00 cleanup cost.

Mr. Westmark stated that Affinity Gaming, the parent company has paid the contractor for their services and has paid Westmark for its CEM services for assessment and cleanup.

Mr. Mulvihill moved to adopt Site Specific Board Determination C2014-02, as proposed, denying Fund Coverage for the chase line release based upon inadequate actions by the contractor. Mr. Seidel seconded the motion. Motion carried unanimously.

**C. Site Specific Board Determination No. C2014-03
Proposed Site Specific Board Determination to Provide Third Party Liability Coverage to the Terrible Herbst #118, 3650 W. Sahara Ave., Las Vegas, NV, Facility ID No. 8-000655, Petroleum Fund Case ID No. 1999000104**

Mr. Matt McAuliffe stated that the Board previously approved that the subject site receive \$1,800,000, representing \$2 million in fund coverage for two UST systems with a \$200,000 Co-Pay. As of this Board meeting, the subject site has been reimbursed \$1,738,139.82. Despite progress in remediating the site, contamination remains at concentrations in excess of Nevada State Action Levels. Because additional remediation is necessary for concentrations to reach levels for regulatory closure, there also exists the potential for contaminants to migrate off property. Due to the potential for third party liability, third party liability coverage has been requested in accordance with Board Policy Resolution No. 2007-10 that clarifies the policy regarding the use of third party liability monies.

The owner/operator has acknowledged that using third party liability funds for corrective actions will reduce the remaining funds in the event of a third party lawsuit.

Mr. McAuliffe stated that NDEP recommends that the subject facility receive the third party liability funds resulting in an additional \$1 million in coverage minus the \$100,000.00 Co-Pay. This increases the cap to \$2,700,000.

Mr. McAuliffe notified the Board that there is a claim associated with this Site Specific Board Determination that is identified as a non-consent item. The recommended reimbursement amount is contingent upon the Board adopting this Board Determination.

Mr. McAuliffe stated he and other Petroleum Staff were available for questions.

Vice-Chairman Ross moved to adopt Site Specific Board Determination C2014-03, as proposed, granting Third Party Liability Fund Coverage, for one underground storage tank system, with a \$100,000 Co-Pay, consistent with the original coverage conditions. Ms. Cripps seconded the motion. Motion carried unanimously.

**D. Site Specific Board Determination No. C2014-04
Proposed Site Specific Board Determination to Provide Petroleum Fund Coverage with a 20% reduction to Bi Rite Market, 5690 Sun Valley Blvd., Sun Valley, NV Facility ID No. 4-000755, Petroleum Fund Case ID No. 2014000008**

Mr. Steve Fischenich stated he would be presenting Item #6.D. which is a Site Specific Board Determination to propose reduced coverage for the Bi Rite Market gasoline release.

The facility, owned by Mr. Jasbir Chahal, and identified as Bi Rite Market, is located at 5690 Sun Valley Blvd., in Sun Valley, NV.

Mr. Fischenich discussed the failure of Bi Rite to conduct leak detection testing as required. Petroleum fund staff is recommending a 20% reduction for failure to comply with Federal Regulations requiring this test.

During a March 20, 2013 inspection at the facility, Washoe County Health District found

that the product lines had not been tightness tested within one year, as required by the Code of Federal Regulations, [§280.41(b)(1)(ii)].

On May 24, 2013 the regular unleaded product line failed a precision tightness test. The regular unleaded UST system was taken out of service at the time. Soil and groundwater contaminated with gasoline was discovered underlying the site shortly thereafter.

Mr. Fischenich said prior to detection of this release, the piping was last tested on November 30, 2011. For a facility which has a leak detection system like Bi Rite Market, Federal Regulations require that line tightness testing be conducted annually. At the time the release was discovered, the facility was out of compliance with this requirement for about six months. If the line tightness testing was conducted on an annual basis as required, the leak may have been found earlier, potentially reducing cleanup costs.

Mr. Fischenich said Board Resolution number 94-23 requires NDEP staff to recommend reductions in coverage to the Board pursuant to noncompliance with federal regulations. For noncompliance with Federal leak detection testing requirements the Resolution requires staff to recommend a 20% reduction in coverage.

In conclusion NDEP staff's formal recommendation to the Board is the adoption of Site Specific Board Determination #2014-04 as proposed, granting Fund coverage to the subject site with a reduction of 20%, in addition to the 10% co-payment, for failure to perform leak detection in accordance with Federal regulations. Please note that the Board may provide coverage at a rate other than that recommended by Fund staff.

Also, please note that there is not a claim associated with this case for this Board meeting. He concluded his presentation by asking for questions and noted that there was no representative from Bi Rite Market to provide testimony.

Mr. Haycock asked for verification that there was no representative to testify on behalf of Bi Rite.

Mr. Fischenich verified no one from Bi Rite was present.

Mr. Mulvihill moved to adopt Site Specific Board Determination C2014-04, as proposed, granting Fund Coverage with a 20% reduction and 10% Copayment. Vice-Chairman Ross seconded the motion. 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 – MARCH 13, 2014**

HEATING OIL

			<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1.	1992000102H Lyon County School District: Yerington Elementary	\$16,078.22	\$16,078.22
FOR POSSIBLE ACTION	2.	2007000013H Churchill County School District: Bus Barn	\$7,896.32	\$7,896.32
FOR POSSIBLE ACTION	3.	2012000017H Churchill Co. School District: Old High School	\$15,820.61	\$15,029.58
FOR POSSIBLE ACTION	4.	2013000012H Roger & Gemma Mateossian: Mateossian Residence	\$4,051.86	\$4,051.86
FOR POSSIBLE ACTION	5.	2013000015H Gary Cornwall: Gary Cornwall Property	\$2,847.93	\$2,829.18
FOR POSSIBLE ACTION	6.	2014000009H Dr. Michael Jackson: Pulmonary Medicine Associates	\$4,685.00	\$4,685.00
FOR POSSIBLE ACTION	7.	2014000017H Derk Warneke: Warneke Residence	\$3,865.00	\$3,365.00
FOR POSSIBLE ACTION	8.	2014000019H JEF Enterprises: Next Generation Day Care	\$70,518.02	\$70,268.02
FOR POSSIBLE ACTION	9.	2014000021H Town of Gardnerville: Former Eagle Gas - Gardnerville	\$7,796.72	\$7,546.72
FOR POSSIBLE ACTION	10.	2004000023H Washoe County Public Work: NSP3 Affordable Housing	\$12,556.14	\$12,306.14
FOR POSSIBLE ACTION	11.	2014000024H Arthur Farley: Arthur Farley Property	\$9,115.19	\$8,580.08
HEATING OIL SUB TOTAL:			<u>\$155,231.01</u>	<u>\$152,636.12</u>

NEW CASES, OTHER PRODUCTS

			<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1.	2013000021 7-Eleven, Inc.: 7-Eleven #27700	\$28,818.24	\$25,936.42
FOR POSSIBLE ACTION	2.	2014000004 Alsaker Corporation: Broadway Colt Service Center	\$58,652.90	\$52,787.61
FOR POSSIBLE ACTION	3.	2014000014 7-Eleven, Inc., 7-Eleven #27904	\$26,899.78	\$24,209.80
NEW CASES, OTHER PRODUCTS SUB TOTAL:			<u>\$114,370.92</u>	<u>\$102,933.83</u>

ONGOING CASES/OTHER PRODUCTS

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1.	1993000103	Russell Yardley: Charlie Brown Construction	\$5,384.67	\$5,276.98
FOR POSSIBLE ACTION	2.	1993000115	City of Fallon: Former Bootlegger Texaco	\$3,911.45	\$3,911.45
FOR POSSIBLE ACTION	3.	1994000003	Allied Washoe: Allied Petroleum	\$22,690.43	\$22,436.08
FOR POSSIBLE ACTION	4.	1994000012	Wirtz Beverage NV, Inc.: Fmr DeLuca Liquor & Wine	\$22,176.62	\$22,176.62
FOR POSSIBLE ACTION	5.	1994000065	Avis Rent A Car Systems: Avis Rent A Car	\$65,033.64	\$61,541.14
FOR POSSIBLE ACTION	6.†	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop	\$46,180.28	\$46,247.28
FOR POSSIBLE ACTION	7.	1994000122	Mike's Gas-A-Mart: Mike's Gas-A-Mart	\$5,965.97	\$5,965.97
FOR POSSIBLE ACTION	8.	1995000012	N Nevada Asset Holdings LLC: Parker's Model T	\$16,655.47	\$14,989.92
FOR POSSIBLE ACTION	9.	1995000039	Al Park Petroleum, Inc.: Crescent Valley Market	\$21,291.76	\$19,150.98
FOR POSSIBLE ACTION	10.	1995000042	FBF Inc. dba Gas For Less: Gas For Less	\$3,605.97	\$3,110.51
FOR POSSIBLE ACTION	11.	1995000074	Glendale Service Facility	\$45,407.83	\$40,867.05
FOR POSSIBLE ACTION	12.	1995000105	Redman Petroleum Corp.: Redman Petroleum	\$10,316.69	\$5,108.26
FOR POSSIBLE ACTION	13.	1996000037	Kumiva Group, LLC: Former Armored Transport	\$28,438.55	\$19,677.10
FOR POSSIBLE ACTION	14.	1996000063	Joan Pennachio: V&V Automotive	\$13,410.56	\$12,069.51
FOR POSSIBLE ACTION	15.	1996000064	H&A Esslinger, LLC: Red Rock Mini Mart	\$1,787.00	\$1,733.39
FOR POSSIBLE ACTION	16.	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility	\$3,017.00	\$2,715.30
FOR POSSIBLE ACTION	17.	1998000046	Willdens Automotive Holdings: Allstate Rent A Car	\$146,546.36	\$131,891.72
FOR POSSIBLE ACTION	18.	1999000011	Terrible Herbst Oil Company: Terrible Herbst #133	\$313.50	\$282.15
FOR POSSIBLE ACTION	19.	1999000014	Al Park Petroleum: Conoco Pit Stop #7	\$25,147.73	\$22,632.96
FOR POSSIBLE ACTION	20.	1999000022	Terrible Herbst Oil Company: Terrible Herbst #129	\$15,438.74	\$13,850.62
FOR POSSIBLE ACTION	21.	1999000029	Terrible Herbst Oil Company: Terrible Herbst #136	\$5,525.15	\$4,961.65
FOR POSSIBLE ACTION	22.	1999000048	Estate of Robert Cowan: Former Lightning Lube	\$5,601.37	\$5,601.37
FOR POSSIBLE ACTION	23.	1999000052	Estate of Martin T. Wessel: Ted's Chevron	\$6,338.30	\$5,704.47
FOR POSSIBLE ACTION	24.	1999000064	Al Park Petroleum, Inc.: Conoco Pit Stop	\$37,083.19	\$33,373.97
FOR POSSIBLE ACTION	25.	1999000066	HP Management LLC: Former Haycock Petroleum	\$12,468.89	\$11,222.00
FOR POSSIBLE ACTION	26.	1999000086	Terrible Herbst Oil Company: Terrible Herbst #126	\$17,236.45	\$15,512.80
FOR POSSIBLE ACTION	27.	1999000090	HP Management LLC: Former Haycock Petroleum	\$14,142.44	\$12,728.19
FOR POSSIBLE ACTION	28.*	1999000104	Terrible Herbst Oil Co.: Terrible Herbst #118	\$152,226.18	\$115,375.16
FOR POSSIBLE ACTION	29.	1999000114	City of Fallon: Fallon Maintenance Yard	\$5,577.90	\$5,020.11
FOR POSSIBLE ACTION	30.	1999000135	Terrible Herbst Oil Company: Terrible Herbst #106	\$3,521.89	\$3,169.71
FOR POSSIBLE ACTION	31.	1999000137	Terrible Herbst Oil Company: Terrible Herbst #152	\$14,961.53	\$13,465.38
FOR POSSIBLE ACTION	32.	1999000167	City of Las Vegas: Fire Station #1	\$9,396.21	\$9,396.21
FOR POSSIBLE ACTION	33.	1999000186	Gloria Gayle Pilger: Forger D&G Oil Facility	\$33,333.41	\$30,000.07
FOR POSSIBLE ACTION	34.	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station	\$30,983.13	\$30,838.69
FOR POSSIBLE ACTION	35.	1999000243	7-Eleven, Inc.: 7-Eleven #22607	\$12,192.28	\$10,973.05

ONGOING CASES/OTHER PRODUCTS: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	36.	1999000257	University of Nevada: Newlands Agriculture	\$4,737.40	\$4,737.40
FOR POSSIBLE ACTION	37.	1999000273	V.K. Leavitt: The Waterhole	\$29,142.82	\$25,139.54
FOR POSSIBLE ACTION	38.	2004000011	TA Operating: Four Way Truck Stop	\$42,678.62	\$38,410.76
FOR POSSIBLE ACTION	39.	2004000025	New Castle Corporation: Former ARCO #1580	\$11,889.17	\$10,700.25
FOR POSSIBLE ACTION	40.	2004000039	Clark Co. Dept. of Aviation: Former National Car Rental	\$31,277.98	\$30,880.03
FOR POSSIBLE ACTION	41.	2005000002	Carson Valley Oil Co., Inc.: Carson Valley Oil	\$10,775.32	\$9,697.79
FOR POSSIBLE ACTION	42.	2005000025	Bordertown, Inc.: Winner's Corner	\$6,051.88	\$5,446.69
FOR POSSIBLE ACTION	43.	2005000044	Ewing Brothers, Inc.: Ewing Brothers Facility	\$23,537.41	\$19,065.30
FOR POSSIBLE ACTION	44.	2007000003	7-Eleven, Inc.: 7-Eleven #29648	\$23,388.67	\$12,629.88
FOR POSSIBLE ACTION	45.	2007000014	Ace Cab Company: Ace Cab Company	\$27,259.87	\$24,533.86
FOR POSSIBLE ACTION	46.	2007000016	TOC Holdings Company: Former Time Oil #6-100	\$12,228.83	\$11,005.95
FOR POSSIBLE ACTION	47.	2007000023	7-Eleven, Inc.: 7-Eleven #29643	\$13,107.25	\$9,437.22
FOR POSSIBLE ACTION	48.	2008000005	Avis Rent A Car Systems: Former Avis Rent A Car	\$3,079.29	\$2,771.36
FOR POSSIBLE ACTION	49.	2008000009	Pilot Travel Centers, LLC: Flying J Travel Plaza	\$10,847.40	\$9,889.12
FOR POSSIBLE ACTION	50.	2008000017	Francois Alvandi: Flamingo AM/PM #82153	\$20,727.51	\$11,192.86
FOR POSSIBLE ACTION	51.	2008000018	B-H Ind. dba Terrible's: Terrible Herbst #830	\$29,319.51	\$26,387.56
FOR POSSIBLE ACTION	52.	2008000019	One Panou, LLC: Stop N Shop #2	\$6,019.73	\$5,417.76
FOR POSSIBLE ACTION	53.	2009000009	Mr. Tom Schwarz: Zak's Mini Mart	\$8,439.22	\$6,076.23
FOR POSSIBLE ACTION	54.	2009000017	D&J Holdings, LLC: Convenience Corner Shell	\$33,144.37	\$29,818.34
FOR POSSIBLE ACTION	55.	2009000020	Western Energetix: Flyers Energy Bulk Plant	\$5,872.95	\$4,740.53
FOR POSSIBLE ACTION	56.	2009000023	Samir Shushani: Stop & Save Mini Mart	\$7,774.00	\$4,197.96
FOR POSSIBLE ACTION	57.	2009000028	Vegas Rainbows, Inc.: Mick & Mac's Food Mart	\$21,183.17	\$18,588.23
FOR POSSIBLE ACTION	58.	2010000001	Smitten Oil & Tire Company: The Gas Store	\$37,033.74	\$33,330.37
FOR POSSIBLE ACTION	59.	2010000007	Pecos Express, Inc.: Pecos Express	\$22,896.87	\$19,797.19
FOR POSSIBLE ACTION	60.	2010000010	Pacific Convenience and Fuels LLC: Victorian Food Mart	\$7,922.75	\$6,860.48
FOR POSSIBLE ACTION	61.	2011000007	Echo Bay Marina, LLC: Echo Bay Marina	\$24,218.78	\$21,796.91
FOR POSSIBLE ACTION	62.	2011000009	Cimarron West: Cimarron West	\$9,411.19	\$8,470.07
FOR POSSIBLE ACTION	63.	2012000005	ARAMARK Corporation: Zephyr Cove Resort	\$24,570.05	\$22,113.05
FOR POSSIBLE ACTION	64.	2012000011	Golden Gate Petroleum: Baldini's Grand Pavilion	\$4,629.07	\$4,166.16
FOR POSSIBLE ACTION	65.	2012000012	Dewey Has Gas, Inc.: Smart Mart	\$63,267.27	\$56,940.54
FOR POSSIBLE ACTION	66.	2012000018	Kamar Brothers LV, LLC: Arco AM/PM	\$1,095.00	\$788.40
FOR POSSIBLE ACTION	67.	2012000020	Francois Alvandi: Charleston AM/PM #85155	\$5,005.00	\$4,104.00
FOR POSSIBLE ACTION	68.	2013000004	7-Eleven, Inc.: 7-Eleven #29665	\$29,731.89	\$26,758.71
FOR POSSIBLE ACTION	69.	2013000009	Western Petroleum: Western Petroleum	\$4,159.00	\$3,743.10
FOR POSSIBLE ACTION	70.	2013000010	Slots Unlimited, LLC, Village Shop #2	\$4,278.00	\$3,080.16

ONGOING CASES/OTHER PRODUCTS: CONTINUED

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	71.	2013000011	Slots Unlimited, LLC, Village Shop #4	\$6,224.00	\$5,601.61
FOR POSSIBLE ACTION	72.	2013000014	7-Eleven, Inc.: 7-Eleven #22579	\$12,840.02	\$11,556.02
FOR POSSIBLE ACTION	73.	2013000019	Hardy Enterprises, Inc.: Sinclair Mini-Mart	\$3,953.41	\$3,558.07
FOR POSSIBLE ACTION	74.	2014000003	Sterling-UN Reno, LLC: Former Luce & Sons	\$6,146.20	\$5,531.58

ONGOING CASES/OTHER PRODUCTS SUB TOTAL: \$1,513,173.15 \$1,321,938.86

CLAIMS TOTAL: \$1,782,775.08 \$1,577,508.81

Chairman Haycock informed the Board that under Ongoing Cases C, item numbers 25 and 27, because he is involved and his vote will therefore not relate to those two items.

Michael Cox informed the Board that under Ongoing Cases C, item number 3, because he is the owner of the company and he will not vote on that item.

Ms. Cripps moved for approval of the consent items, Heating Oil, 1 through 11, New Cases/Other Products, 1 through 3, Ongoing Cases/Other Products, 1 through 74. Mr. Mulvihill 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 1,454 cases have been evaluated for reimbursement, 125 cases were denied coverage and a total of 1,055 cases have been closed. 14 applications are in pending status awaiting staff review or additional information. 46 cases have expired. There are currently 214 active remediation sites expected to continue with requests for reimbursement. The State Fiscal Year 2014 began on July 1, 2013, and since that time 25 new cases have been received by NDEP for evaluation of Fund coverage.

Not including today's Board authorization, approximately \$178.3 million has been reimbursed. Adding today's reimbursement, approximately \$1.58 million has been reimbursed from the Fund to date. The cumulative Fund expenditure is approximately \$179.9 million.

The invoicing for storage tank Fund enrollment for Federal fiscal year 2014, which runs from October 1, 2013 through September 30, 2014, commenced mid-August, 2013. 1,409 facilities have been invoiced at \$100 per storage tank system. As of February 25, 2014, 1,325 facilities, or approximately (~94%) have submitted the required fees.

Ms. King gave the Board a status update regarding the interactive data base that was previously discussed during the September and December 2013 Board meetings. She stated that the information management staff is working on selecting a vendor.

Ms. King notified the Board that, consistent with NDEP's commitment to update the Board on the Eagle Gas North cleanup which was presented to the Board during the September 12, 2013 Board meeting, NDEP was prepared to provide an update. She reminded the Board that there is a statute in place that holds NDEP responsible for a cleanup at a site where the Responsible Party is remiss and that the statute directs NDEP to use Petroleum Fund revenue. She stated that work is being done to collect the Petroleum Funds spent thus far from the owner. She then introduced Todd Croft, UST/LUST Supervisor, to provide the status update.

Mr. Croft informed the Board that when he presented the status at the last meeting in December 2013, NDEP had just finished a high resolution assessment of the contamination at the site. We assessed the lithology, the groundwater and soil and lateral extent of the contamination. From this information we could then determine the best remediation approach to clean up the site in the most efficient manner.

Mr. Croft stated that since the last Board meeting, the high resolution survey information has been compiled, interpreted, and added to the other information we previously had and combined into a Conceptual Site Model (CSM). The CSM has been provided to NDEP for review. NDEP has made comments and sent it back to the contractor. The final CSM is expected to be received by the end of the week.

Mr. Croft stated that the preliminary information indicates the site will respond favorably to an air purge and vapor extraction (SVE) system. The majority of the contamination is from land surface to 10 feet below grade, where the water table resides. We have an assessment for both onsite and offsite. The water table fluctuates approximately 5 feet where there is a smear zone. We have a few data gaps and have authorized the installation of some monitoring wells over the next few months.

NDEP has recently authorized the next phase of work which is the development of a Corrective Action Plan (CAP), which identifies how the site will be cleaned. We anticipate the CAP to

address the removal of source soils below the dispensers and then the installation of the SVE system.

Mr. Croft stated the CAP is expected to be submitted to NDEP in early May. The remedial system should be installed in June and actually turned on sometime in July. He stated that the next Board meeting in June should entail more information regarding the installation and startup of the remedial system.

Mr. Croft stated that to date, what has been authorized, not actually spent, is \$115,000.00 from the Fund. Mr. Croft concluded his presentation and asked for questions.

Chairman Haycock asked if there has been progress in getting reimbursement from the Eagle Gas North owner.

Mr. Croft responded that the court judgments, which include projected cleanup costs, are \$1.6 million. The judgments have been rendered and he has not paid to date. The process has gone through NDEP to the AG's office to the Controller's office for debt collection. Any debt beyond that amount NDEP will pursue separately, including work that has been done over the last couple of years and additional Petroleum Fund dollars currently being spent. He stated he understands the AG's office has put into place a lien process and is working to set up a payment plan.

There were no more questions for Mr. Croft.

Ms. King asked for clarification from the Board if they would like NDEP to work on a Policy Resolution regarding coverage determinations for UST systems which have multiple tanks plumbed to a single pipeline.

Chairman Haycock indicated the Board would like NDEP to work on a Policy Resolution of that nature.

Ms. King indicated NDEP will work on it.

9. PUBLIC FORM

Mr. Croft introduced new Las Vegas NDEP staff, Mr. Rex Heppe and Ms. Laurie McElhannon.

10. CONFIRMATION OF NEXT BOARD MEETING DATE

It was confirmed the next meeting date would be Thursday, June 12, 2014 at 10:00 am.

11. ADJOURNMENT

There being no further business, the meeting adjourned at 11:22 am.