

**STATE OF NEVADA BOARD TO REVIEW CLAIMS  
BOARD MEETING MINUTES  
DECEMBER 15, 2015**

**1. CALL TO ORDER**

Chairman Haycock called the meeting to order at 10:40 a.m. from the Carson City location. The meeting was conducted via videoconference with locations in Las Vegas, at the Nevada Department of Transportation, 123 E. Washington Ave., Building D (Material and Testing Lab Building) and in Carson City at the Nevada Department of Transportation, 1301 Old Hot Springs Rd., Main Training Room 121.

**2. ROLL CALL**

**A. BOARD MEMBERS PRESENT**

Chairman John Haycock, Representative of Independent Petroleum Dealers  
Vice-Chairman George Ross, Representative of Petroleum Refiners  
Maureen Tappan, Representative of the General Public  
Wayne Seidel, Department of Motor Vehicles  
Peter Mulvihill, State Fire Marshal  
Dave Emme, Nevada Division of Environmental Protection  
Michael Cox, Representative of the Independent Retailers of Petroleum

**OTHERS PRESENT**

Brett Kandt, State Attorney General's Office – Carson City  
Jeff Collins, Greg Lovato, Leo Drozdoff (DCNR), Steve Fischenich, Valerie King, Misti Gower, Don Warner, Raquel Diedrichsen, Todd Croft, Laurie McElhannon, Chad Schoop, Rex Heppel and Gail Dansby – Nevada Division of Environmental Protection (DCNR/NDEP)  
James Smack, Chief Deputy – State of Nevada Controller's Office  
Peter Krueger – Nevada Petroleum Marketers and Convenient Store Association  
Chad Collier – Triple Rinse Environmental  
Dennis Drumm – D F Drumm  
Mike Reynolds – Triple Rinse Environmental  
Bryan Vetrano – Broadbent & Associates, Inc.  
Dave Yohey – American Environmental Engineering Consultants  
Ross Sollars – American Environmental Engineering Consultants  
Kalem Sessions – American Environmental Engineering Consultants  
Judith Whitenack – Heating Oil Tank Homeowner  
Micheline Fairbank – State Attorney General's Office – Carson City  
Joe McGinley – McGinley & Associates  
Tony Dimpel – McGinley & Associates  
Rob Thompson – OGI Environmental LLC  
Frins / Pennacchio – V & V Automotive  
Sarah Hoffman – McGinley & Associates  
Stephanie Holst – Broadbent & Associates, Inc.  
Rob Gegenheimer – Converse Consultants  
Zach Amos – The Westmark Group  
Eric Atamian – High Desert Petroleum  
Mark Lytle – Public  
John Gillmartin – Heating Oil Tank Homeowner  
Jim Najima – Public

### **3. PUBLIC COMMENTS**

Chairman Haycock clarified that the public comment portion of the agenda is to discuss items at large. Any comments regarding other specific agenda items must be reserved until the agenda item of interest is heard.

There were no requests to speak.

### **4. RECOGNITION OF CHAIRMAN JOHN HAYCOCK**

Vice-Chairman Ross stated he had a proclamation from Governor Sandoval that he would like to read on behalf of the State of Nevada, Board members, NDEP staff, consulting community and the public (Proclamation Attached). Vice-Chairman Ross thanked Chairman Haycock for the 25 plus years he has served as Chairman on the Board to Review Claims.

Mr. Leo Drozdoff, Director of Conservation and Natural Resources (DCNR) stated that he served on the Board with Chairman Haycock for over five years. Mr. Drozdoff stated Governor Sandoval wished to extend his personal thanks as well. Unfortunately, Governor Sandoval was unable to attend due to the upcoming special session and he apologized for not being able to attend. Mr. Drozdoff stated Governor Sandoval values service, in general, and service in the State of Nevada in particular. Mr. Drozdoff stated that the Governor knows what Chairman Haycock has done for the Board and knows what the Board does for Nevada. He thanked Chairman Haycock on behalf of the Governor. Mr. Drozdoff stated that over the years he has observed how Chairman Haycock conducts himself. He brings a level of fairness and a level of history to the Board. An even keel is something NDEP strives for.

Mr. Peter Krueger, Executive Director of the Nevada Petroleum Marketers & Convenience Store Association introduced Mark Lytle from Las Vegas and president of the Association. Mr. Krueger stated there are not very many people throughout Nevada who understand why this Board was created. In early 1988 the Federal Government required Petroleum operators who had underground tanks to demonstrate financial responsibility. At that time there was very little commercial insurance for tank owners. Those in the industry, including Mr. Krueger and Vice-Chairman Ross, who represented major oil companies at that time, got together with the legislature to create the Board to Review Claims which would oversee a Petroleum Fund. The Fund would clean up contamination from leaking underground storage tanks. The Fund not only cleans up contamination from underground storage tanks, but also contamination from heating oil tanks and above ground storage tanks. With Chairman Haycock's leadership, the Board members and Executive Secretaries throughout the years, the program runs lean and mean compared to any other state in the nation. There are State Fund programs that have 10 or 15 staff but the NDEP runs with 4 or 5 staff, which is very efficient. Mr. Krueger stated it has been great working with Chairman Haycock for all these years. His work has made a difference for the State in cleaning up storage tank contamination.

Chairman Haycock acknowledged those who he has worked with over the years, including staff, for their terrific job along the way which makes the Board's job fairly easy, or as easy as it can be. He thanked Jim Najima for being at the Board meeting on a powder day. Chairman Haycock stated it has been fun and the Board has accomplished what it set out to accomplish and the Board will continue to do so, stating he is leaving the Board in capable hands. He then thanked the Board and NDEP staff. Chairman Haycock stated he would be happy to hand the gavel over at this time if it is protocol or he would continue to finish the meeting. The Board members and NDEP staff encouraged Chairman Haycock to continue.



## *A Proclamation by the Governor*

**WHEREAS**, the State of Nevada is abundantly blessed with precious natural resources, and the protection and conservation of the state's natural heritage is a critical mission of Nevada's state government; and

**WHEREAS**, the oversight of the Petroleum Fund by the Nevada Board to Review Claims supports the state's efforts to manage and protect the environment by facilitating environmental cleanups of petroleum releases; and

**WHEREAS**, John Haycock was voted by his fellow board members to be chairman of the Nevada Board to Review Claims in 1989, the same year as the Board's inception; and

**WHEREAS**, John has served as chairman for the Nevada Board to Review Claims for more than 26 years, and nearly \$200 million has been paid by the Fund for cleanup costs in Nevada during that time; and

**WHEREAS**, John has also served as president of the Nevada Petroleum Marketers Association and the Western Petroleum Marketers Association; and

**WHEREAS**, during his tenure holding key leadership positions in both the public and private sectors, John has set an admirable example of fairness and transparency, and has demonstrated a true commitment to excellence in public service; and

**WHEREAS**, the State of Nevada extends sincere thanks and appreciation to John for his more than 26 years of leadership and service to the citizens of the Silver State;

**NOW, THEREFORE, I, BRIAN SANDOVAL, GOVERNOR OF THE STATE OF NEVADA, do hereby proclaim December 10, 2015, as a day in honor of**

**JOHN HAYCOCK**



*In Witness Whereof*, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City, this 16<sup>th</sup> day of November, 2015.

By the Governor:

Governor

*Brian K. Sandoval*  
Secretary of State

By

Deputy

**5. APPROVAL OF THE AGENDA**

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

**6. APPROVAL OF THE SEPTEMBER 10, 2015 MINUTES**

Ms. Tappan moved to approve the September 10, 2015 minutes. Mr. Cox seconded the motion. Motion carried unanimously.

**7. STATUS OF THE FUND**

Ms. King reported on the status of the State of Nevada Petroleum Fund (Fund). The balance forward for fiscal year 2015 was approximately \$7.5 million. \$390,000.00 had been collected for storage tank enrollment. Approximately \$2.3 million was collected from the ¾ cent per gallon fee. The interest was just over \$8,000.00 for cumulative revenue of \$10,215,931.27.

Ms. King reported the expenditures signifying the transfer to NDEP was just over \$295,000.00. The reimbursement of claims was \$2.3 million. The cumulative expenditure was \$2,636,635.43.

Ms. King reported the liabilities for the Fund were estimated at approximately \$5.7 million.

Ms. King reported the actual funding available is \$7,579,295.84.

**8. SITE SPECIFIC BOARD DETERMINATION**

Proposed Site Specific Board Determination (SSBD) to Designate as a Small Business for V & V Automotive, 2401 N. Rancho Dr., Las Vegas, NV  
Petroleum Fund ID No. 1996000063, Facility ID No. 8-000383

Mr. Fischenich presented Item No. 8, Site Specific Board Determination No. C2015-03, which proposes to designate V & V Automotive a small business with a 10% copayment not to exceed \$50,000.00.

Mr. Fischenich stated that the facility, known as V&V Automotive, is located at 2401 Rancho Drive in Las Vegas. Coverage was granted for \$1 million with a 10% copayment for one release. To date the Fund has paid \$549,577.57 for this case and the owner has paid \$61,535.47 in copayments. The owner is requesting that the subject facility be classified under NAC 790.710 as a small business, which is defined as “a business which receives less than \$500,000 in gross annual receipts for the five years immediately preceding the date on which the discharge was discovered.”

Pursuant to NAC 590.714, an operator must submit to the Division copies of forms reporting federal income tax which show the operator’s gross annual receipts for five years and any other requested information. The claimant has provided documentation showing that they did meet the criteria for this regulation.

Mr. Fischenich stated based on the information provided, NDEP recommends that, for purposes of Petroleum Fund case 1996000063, this facility be designated a small business. With this designation, coverage will be modified to \$950,000 with a copayment capped at \$50,000. V&V Automotive has paid \$11,535.47 over the \$50,000 copayment cap, and if designated as a small business, will be entitled to a refund of \$11,535.47. Mr. Fischenich stated the current accounting is reflected in the latest claim.

Chairman Haycock asked what the process is for a reimbursement such as this. How long will the claimant need to wait for reimbursement?

Ms. King stated it takes 2 – 5 days after the Board meeting for the accounting.

Chairman Haycock asked if the claimant had paid everything including the copayment.

Ms. King stated that is what NDEP records indicate.

**Mr. Mulvihill moved to adopt the motion to approve Site Specific Board Determination C2015– 03, as proposed, to Designate V & V Automotive as a Small Business. Vice-Chairman Ross seconded the motion. Motion carried unanimously.**

## **9. CONTROLLER’S OFFICE – COLLECTION STATUS UPDATE**

Mr. Smack, Chief Deputy of the Nevada Controller’s Office, provided the Board with an update regarding Eagle Gas North. Mr. Smack stated the Eagle Gas North’s debt is currently placed with the Nevada Controller’s office Debt Collection Division.

Mr. Smack provided a brief history on the placement of this debt. The account in question was referred to the State Controller’s Office in July of 2010, and was immediately placed with a collection agency, that which the Controller’s office is no longer in contact. In August of 2011 the debt was recalled and placed with Linebarger, then recalled again in January 2013 and placed with Chapman. Finally, it was recalled in September 2013 and placed with ConServe, where it is still housed. So far, through three different collection agencies, there have been no dollars collected on this debt.

Mr. Smack stated this debt has a judgment attached to it against Eagle Gas, Mr. Mohammad Ahmad, and other Companies that Mr. Mohammad Ahmad is associated with.

Mr. Smack indicated in speaking with ConServe, there seems to be a concentrated effort by the debtor to dodge collection efforts on this account. Mr. Smack quoted a representative from ConServe: “We still have not made contact with Mr. Mohammad Ahmad to date and it appears that he has screened our calls effectively. We do believe that sometimes we are speaking to him but he says he is just an employee.” Mr. Smack stated Deputy Attorney General Katie Armstrong provided a new cell number. However, Mr. Mohammad Ahmad is effectively screening calls through this source as well.

Mr. Smack stated that in reviewing the conversations with ConServe from back in June, and reinforced in recent conversations, ConServe shared with the Controller's Office that they had done a recent skip trace which yielded no new contact information. Mr. Smack quoted ConServe from their asset investigation back in June, "Basic review of the premises shows the business is largely unspectacular in most regards." Mr. Smack also reported back in June, they estimate the assets associated with the business to be approximately 15% of the amount due, which they opined does not bode well for recovery. Mr. Smack stated most of the information had already been presented to the Board but he wanted to review it with the Board.

Mr. Smack stated that currently the Controller's Debt Collection department is in the midst of setting up an automated system for debt collection. This is going to bring them the in-house ability to do garnishments and bank levies which are not presently available. In speaking with ConServe, they are not able to execute on judgments that were placed prior to placement with their agency. However, the Controller's Office should be able to work with the judgment to apply some additional pressure, up to and including a bank levy on Mr. Mohammad's accounts. This option has yet to become available to the Controller's Office due to delays in the final implementation of the new Debt Collection system. The Controller's Office planned on the system going live during the past summer, but due to increased enhancements and delays not foreseen when Mr. Smack testified at the Petroleum Board meeting in June, the system will not be operational until Spring of 2016.

Mr. Smack stated it is still their plan to recall this debt from ConServe once the debt collection system is operational and work the account in-house, utilizing the tools the judgment provides the Controller's Office as well as the bank levy process that will be built into the new system. He stated they have looked at the option of pulling the debt from ConServe and placing it with another collection agency; however, that locks up the debt for six months with a new collection agency per the Controller's Office contract. He stated the feeling at this time is they would be better served simply recalling the debt once the new system is up and running, which will be less than six months from now, and work the garnishment and bank levy opportunities with this debtor at that time.

Mr. Smack stated they are continuing to focus on their Debt Collection Division as an area of opportunity within the Controller's Office and he looks forward to being able to report on some positive results at a future Board meeting. However, he does not hold out a great deal of hope that they will see full repayment of this debt. He does; however, feel that with the tools that the new system will provide, they may be able to achieve some partial payments toward the full amount in the near future.

Chairman Haycock asked if ConServe were to succeed in collecting any amount, is there a compensation to ConServe that is related to the amount they recover.

Mr. Smack stated he was correct. There would be a percentage that would go to ConServe. It would be cheaper to bring it back and make it an in-house debt because the debt percentage payable to the Controller's Office for their recovery effort is substantially less percentage-wise. It is approximately 6 percent versus 12 to 18 percent.

Chairman Haycock asked if the Fund would have to pay the Controller's Office.

Mr. Smack indicated yes, the Controller's Office would take it off any collections they received. It would be a smaller percentage and he would rather it be in-house and be able to take a few shots at it himself.

Chairman Haycock asked how many years the judgment has been in place.

Mr. Greg Lovato, Deputy Administrator of NDEP, stated it will be approximately 5 years in 2016. NDEP has an arrangement with the Attorney General's Office to file an extension. The statute of limitations will not be an issue and the \$1.6 million judgment will not be affected regarding collection efforts.

Mr. Smack expressed that the Controller's Office wanted the judgment to be renewed.

Chairman Haycock stated Mr. Mohammad Ahmad has been very good at dodging collection efforts up to this point. He asked if he is operating an ongoing business.

Mr. Smack stated yes, he is.

Chairman Haycock asked if the assets were approximately \$200,000.00.

Mr. Smack stated 15% of \$1.6 million, so approximately \$200,000.00 to \$240,000.00.

Vice-Chairman Ross asked if Mr. Ahmad had ever claimed bankruptcy.

Mr. Smack stated not to his knowledge.

Mr. Lovato stated Mr. Ahmad attempted to claim bankruptcy. His understanding was that the bankruptcy court dismissed his bankruptcy effort because it did not find the bankruptcy filing viable. Mr. Lovato stated he believed his bankruptcy attempt was approximately 3 or 4 years ago.

Chairman Haycock asked if in a successful bankruptcy filing, what would happen to our debt.

Mr. Lovato stated he did not know how the Fund would rank.

Chairman Haycock stated the Fund would probably not rank well.

Mr. Lovato stated he thinks there were other creditors at that time that were able to demonstrate to the court that it was not a legitimate bankruptcy claim.

Mr. Seidel asked if there is a lien on the property. He stated he had asked back in June if the Secretary of State could address the business licensing. Specifically, he asked if there are any flags that the Secretary of State can place on Mr. Ahmad's businesses within the State of Nevada.

Mr. Lovato stated the Attorney General's Office had attached a lien to the property in the event that it does sell. It has been in arrears with Carson City taxes fairly often and then he makes the payment on the last day prior to Carson City taking possession. That has been the pattern with this property.

Mr. Seidel clarified his concern was regarding the Secretary of State's connection with his annual business licensing and fees. He believes the Controller is a connection as well. He stated the DMV has tools it can use with respect to registration and licensing.

Mr. Smack stated he reached out to the Secretary of State back in June. He does not believe he ever received a response. He will make a notation to contact the Secretary of State's Office again.

Mr. Seidel stated the Controller's Office has the money angle and the Secretary of State has the licensing.

Chairman Haycock stated one would think there would be a hammer there.

Vice-Chairman Ross asked if Mr. Smack was thinking in terms of legislation that would give them more power in such a situation in the future.

Mr. Smack stated it is his understanding that legislation is already in place. The issue is that the debt collection system was set up 12 -14 years ago when Cathy Augustine was the controller and used a manual system utilizing Excel spreadsheets. Mr. Smack stated they are moving to an automated system where everything is in a database. The Controller's Office will be able to keep track of collections, process bank levies and garnishments more efficiently. During the last Legislative session, the Controller's Office was allowed to process administrative garnishments not only on individuals but businesses as well, in addition to bank levies. This issue is the communication factor with the database. He stated they could do a manual chase on a bank; however, with the new system the Controller's Office will be able to run through hundreds of those at a time. It will be totally automated and would not be as man-power intensive.

Mr. Smack stated a lot of the man power has been devoted to testing the new system and developing the new enhancements and everything associated with that. Mr. Smack stated hopefully by the June Board meeting he should have some new information for the Board.

Mr. Emme asked if there is any measurement of success regarding his collection agency contractors in terms of percentage of debt.

Mr. Smack stated they are in the process of renegotiating their debt collection contracts. He stated he would like to see one of the collection agencies move forward, come June 2016, when the three collections agencies' contracts expire and are renegotiated whereby at least one would work with the judgment instead of having all three of their collection agencies say it's great that you have a judgment; however, we cannot do anything with that. Mr. Smack stated they are looking for someone who can address judgments. He stated it would give the Controller's Office an additional hammer.

**10. APPEAL OF NEDEP REIMBURSEMENT RECOMMENDATIONS FOR THREE HEATING OIL TANK CLEANUPS**

Ms. King stated that for the Board to better understand this issue she felt it was important to first describe what "initial abatement" is.

Initial Abatement - When removing an underground storage tank, often times you run into contaminated soil that is identified around and under the tank. Rather than backfilling the hole, demobilizing the heavy equipment and going out for bids, initial abatement is allowed to occur, which is to remove the contaminated soil directly around and under the tank without getting bids. NDEP's Initial Abatement guidance was put out in 2009 and allows for one truckload, approximately 12 cubic yards, to be disposed.

Ms. King indicated over the years NDEP has developed professional relationships with CEM's and contractors in dealing with residential heating oil tanks, which are typically small tanks (250-500 gallons). Initial abatement has been allowed to go to completion in the best interest of the environment, safety and cost savings. Until recently, this approach has been successful on all fronts.



Ms. King stated that recently NDEP received three claims for three different residential heating oil tank cleanup projects from AEEC, who is the CEM consulting firm and Triple Rinse Environmental, the contractor. She stated that it is important to note that the projects were completed in consultation with NDEP. However, as we have done in the past, bids were not required for the initial abatement-type work, and this is the vulnerability of our process. When the claims came in they certainly caught our attention because all three were noticeably higher than what NDEP would typically see for these types of projects. When NDEP calculated the cost per ton when looking only at excavation, disposal of backfill, which includes labor and project management, NDEP determined the billed rate appeared to be approximately 3 - 4 times higher than the claims NDEP received for residential heating oil tank cases over the past 3 years. NDEP noted high equipment cost and duplicative supervisory costs. In addition, the claims included some costs that were not actual invoiced costs but were proposed costs.

Ms. King stated they spoke to AEEC, the CEM who is from Salt Lake City, via telephone. NDEP then met with the owner of Triple Rinse Environmental, Mr. Chad Collier. Mr. Collier subcontracted the lion's share of the work out and included subcontractor costs in his invoices. During the meeting, Triple Rinse agreed to revise its invoice to better reflect reasonable supervision and soil disposal costs and also to provide a more detailed invoice from its subcontractor, Mr. Drumm, who did the excavation work.

Ms. King stated the revised invoices were received from Triple Rinse. They reduced all three invoices by approximately \$18,000.00, which is good. They also provided more detailed invoices from the excavator. However, the new information in these invoices raised additional red flags for NDEP. The thing that stood out the most was the amount of people working on the residential project. There were as many as 11 people at each residential site. NDEP also noted several other issues but stated she did not feel they needed to be discussed at this point.

Ms. King stated NDEP provided the revised Triple Rinse invoices and the new detailed excavator invoices to AEEC who was onsite as the CEM and observed the work.

Ms. King stated AEEC, who was onsite at each of the heating oil residents, provided NDEP comments regarding the revised invoices indicating they also observed inconsistencies based upon what they actually observed, mostly with respect to the level of effort billed and specific equipment billed.

Ms. King stated that based upon the inconsistent invoices, NDEP is not prepared to make a defensible recommendation to the Board for a total amount for each of the three claims.

Ms. King then spoke about how NDEP proposed to resolve the issue. She stated they felt the Board had to take some sort of action because work was done and costs were incurred. She stated NDEP reviewed the last three years of residential heating oil tank projects and determined the average cost per ton of soil disposed. The multiplier calculated is 3.74. NDEP then applied the multiplier to the tonnage disposed from each of the three sites, and that is how NDEP came up with its initial recommendation with the idea of resolving the rest of the claim during the March 2016 meeting.

Ms. King stated NDEP had an alternative option for the Board to consider. This option would allow the Board to resolve each claim in its entirety during the present December Board meeting. NDEP asks that the Board consider approving the initial amount recommended today for each claim, which is based upon a unit cost, in addition to an amount not to exceed the balance of each claim which will allow NDEP to reconcile the inconsistencies found in the invoices. She stated that NDEP has a meeting scheduled for tomorrow with AEEC, Triple Rinse and Drumm to begin the process.

Ms. King stated the Statute that addresses this decision is NRS 590.830, which states the Board shall review each claim presented and authorize payment to the extent warranted by the facts of the case.

Ms. King stated the fact that supports this alternative option is simply that work was done in consultation with NDEP and hard costs were incurred. NDEP has an initial recommendation today based upon unit cost, but within the upcoming days, NDEP will have a defensible reimbursement value after all parties meet and the two invoices for each case from the contractor and subcontractor are reconciled. Ms. King stated NDEP believes the specific facts of these cases warrant payment to be authorized as a "Not to Exceed" value.

Ms. King informed the Board that two additional coverage applications for two new projects have been submitted by AEEC and Triple Rinse for work that has already been done under the initial abatement umbrella. Ms. King stated she has not yet received those claims.

Ms. King stated that in concluding her presentation she wanted to make sure the Board knew that NDEP is working on a permanent fix to this problem. They have an immediate remedy in place, which is to implement their original guidance and limit initial abatement to one truckload for all residential heating oil tank cleanups. NDEP is contemplating a long-term fix to add a task table in the cost guidelines. Right now they are envisioning it will have cost limits for initial abatement but more thought must be put into it before providing it to the public for additional input and comments.

Ms. King stated effective immediately, this cannot happen again.

Chairman Haycock stated he had a few questions; however, he would like to hear from the claimants if they would like to speak to the Board.

Ms. King stated it may make sense to have AEEC speak to the Board first so they can discuss the technical details of the cases.

Mr. Kalem Sessions, CEM and engineer with AEEC, stated he wanted to give the Board a little background. They have been providing CEM environmental services in Nevada, particularly at the Stead Solvent site since 2004. He stated they are interested in doing additional environmental services. This last summer or fall they began forming relationships whereby they could provide additional CEM services. They contacted multiple companies, making them aware of the services they would like to provide. One of the parties they had contacted was Triple Rinse.

Mr. Sessions stated under the CEM guidelines AEEC understood Triple Rinse may call upon them if they encountered contamination during a tank pull. Mr. Sessions wanted to clarify that Triple Rinse is not a contractor to AEEC. He stated how it works is that Triple Rinse enters into a contract with the homeowners to remove the tank. If they encounter contamination, Triple Rinse can refer to AEEC for CEM services. For these cases Triple Rinse did encounter contamination. Triple Rinse contacted AEEC. AEEC then mobilized to the sites to identify that there was contamination, and then communicated with the NDEP case officer and requested permission to proceed under the premise of initial abatement. AEEC oversaw the excavation in accordance with the corrective action cleanup guidelines, getting soil analytical results and communicating with the case officer. They stopped excavation based on the soil analytical results. That was done, as Ms. King noted, in consultation with NDEP.

Mr. Sessions stated they did receive invoices that were submitted by Triple Rinse to the residents. He stated AEEC also entered into contracts with the residents and provided them our cost estimates for services.

Mr. Sessions stated he submitted the claim packets with the Triple Rinse invoices to the residents. Previously, they asked Triple Rinse for additional backup for its invoices. Mr. Sessions stated that Triple Rinse's first response was that they had submitted a similar invoice to the Board and it had been approved. Mr. Sessions stated AEEC still requested additional backup for the Triple Rinse invoices. They did provide additional backup.

Mr. Sessions stated a few weeks later Ms. King contacted AEEC and asked for additional clarification of the invoices that were submitted with the claim.

Mr. Emme asked what AEEC's experience is working with heating oil tank pulls in this area.

Mr. Sessions stated these are the first in this area.

Chairman Haycock stated these, meaning these three?

Mr. Sessions replied yes.

Chairman Haycock asked if Mr. Sessions was from Salt Lake City.

Mr. Sessions replied yes; however, we do have a local presence.

Chairman Haycock asked if they were certified in Nevada.

Mr. Sessions stated he is a State of Nevada CEM. He stated they do have a local presence here as well. Mr. Dave Yohey is an employee of AEEC. He was providing the on-site overview. He was on site collecting samples and submitting the samples to the laboratory. AEEC had another CEM with some local experience who was helping. The intent was to get up to speed with how things are done in Nevada.

Mr. Sessions stated they spoke with Ms. King about other activities that require a NTEP to be submitted. But in this case, AEEC was called on site and were assisting ongoing excavation and were not privileged to the cost of the excavation contractor. Meaning, they have a contract in place with that resident and the contractor rates have already been set in the contractor's contract to initially remove the tank.

Chairman Haycock asked Ms. King if the inordinate pricing that was called to the Board's attention was due to Triple Rinse. He asked Ms. King if the invoiced amounts for their services appear to be appropriate.

Ms. King stated it was Triple Rinse's invoice that made the claim unreasonably excessive and AEEC's prices were reasonable.

Vice Chairman Ross asked for additional information regarding Triple Rinse and the Fund.

Ms. King stated Triple Rinse is a new company formed in 2014. They had a previous heating oil project that included excavation conducted under the initial abatement scenario that went through the last September Board meeting. It was very high tonnage, 264 tons, and the high cost in the single claim did not catch our attention and was not scrutinized as it should have been. We then received the current three claims and have two additional applications from this group which have not yet submitted the claims. The additional two projects have been completed as initial abatement projects as well.

Chairman Haycock asked in hindsight, if the one claim that previously came before the Board was on the high side.

Ms. King stated it was on the high side and should have been further scrutinized.

Chairman Haycock inquired how the first claim compared to the three before the Board right now.

Mr. Fischenich stated it was not as high, perhaps about 30% lower than the other three.

Chairman Haycock asked if there were other questions. He stated he would like to hear from the homeowners at this time.

Mr. Seidel asked if the soil was disposed of in one place.

Mr. Sessions replied it was disposed of at Nevada Thermal.

Mr. Seidel asked if the distance was a factor in the cost.

Mr. Sessions stated it was and Triple Rinse provided Nevada Thermal invoices as backup but they were redacted.

Mr. Dave Emme asked staff at a typical site how is it determined how much to dig. Is it based strictly on analytical results or is it based on visual observations of saturated soil with contaminants based on experience.

Chairman Haycock stated that information comes from the CEM.

Mr. Sessions stated they would not be able to close the tank with visuals, they would have to use analytical results to obtain closures.

Mr. Cox asked Mr. Sessions how the residents found him. He stated AEEC comes out and oversees the excavation done by another company.

Mr. Sessions stated they do not do excavations. Mr. Sessions stated normally under this particular activity the initial abatement or the emergency abatement, is established when a homeowner initiates the tank to be removed. The homeowner's first contract is with an excavation company to remove the tank. Upon removing the tank, if contamination is identified, a CEM is required to come out and oversee the cleanup activity.

Chairman Haycock clarified that is how homeowners found AEEC is through Triple Rinse because that is who you contacted when AEEC decided to do some marketing in the area.

Mr. Sessions stated that was correct.

Mr. Sessions stated he would like to make one more statement. He would like to recommend the Board approve Ms. King's alternative recommendation. He stated they worked with NDEP staff to negotiate what would be paid initially with the understanding that there would be more allocated after resolving the contractor/subcontractor invoices. Mr. Sessions indicated the homeowners were concerned about liens against their properties.

Mrs. Whitenack, a homeowner, stated around September 15, 2015 her and her husband hired AEEC and Triple Rinse. She stated they did not understand how everything worked.

Chairman Haycock asked Mrs. Whitenack if they hired both companies at the same time.

Mrs. Whitenack stated she first considered having the tank slurried and received advice not to slurry the tank.

Chairman Haycock asked if she called Triple Rinse first.

Mrs. Whitenack replied no. She first contacted Mr. Marcel Gurant, who slurries tanks. She then heard if contamination was found subsequent to her tank being slurried, they would not be able to sell the home or do a reverse mortgage. Then she contacted Allied Washoe which is now called something else and they recommended Triple Rinse.

Chairman Haycock asked if it was Triple Rinse who put her in touch with the CEM.

Mrs. Whitenack replied yes. Triple Rinse came in with Drumm. First there was a huge problem trying to locate the tank in the backyard. The tank was under a redwood deck which was put in around 1993. When they found the tank they had to remove portions of the deck and concrete slab. They dug an enormous hole with three pieces of equipment.

Chairman Haycock asked if she knew if the enormous hole was dug before they decided there was contamination. At what point did AEEC come in?

Mrs. Whitenack stated she didn't have that date.

Chairman Haycock asked Mr. Sessions if the giant hole was there when they arrived.

Mr. Sessions stated that Mr. Yohey was present. Mr. Yohey stated the enormous hole was not there when they arrived on site. The initial excavation commenced and they noticed an issue with the fill pipe running above the tank where there was a coupler that was leaking and corrosion was in the fill pipe. He stated they then pulled a sample and ran it for 24 hours. As soon as they got the sample back they notified the state of a potential release.

Chairman Haycock indicated the enormous hole was a result of the findings.

Mr. Sessions stated this is an important point and that the record should be very clear who is making which statements.

Mr. Yohey identified himself as a field technician for AEEC.

Chairman Haycock stated he wanted to ease the homeowners' minds by informing them that this Board is very aware folks get dragged into this position having no experience and it is sad that it happens. The Board is very sympathetic towards that. So as we proceed do not be afraid that you are not an expert, the Board understands.

Vice Chairman Ross stated he wanted to understand. The big hole was basically to remove what looked visually to be contaminated soil.

Mr. Yohey responded it was based on analytical data.

Vice Chairman Ross asked if they tested the soil?

Mr. Yohey replied yes.

Vice Chairman Ross asked if the extent of the hole was to get rid of the contaminated soil.

Mr. Yohey replied he was correct.

Mr. Yohey stated they periodically screened the soil with a PID instrument in the field, but in the end they collect the confirmation samples.

Mrs. Whitenack stated to Mr. Yohey, "As I recall you saw the tank."

Mr. Yohey replied he had.

Mr. Sessions stated, as Mr. Yohey stated earlier, he thinks it got lost a little bit when Mr. Yohey saw the pipe weep. We contacted the State and requested approval to proceed with the case.

Chairman Haycock stated he wanted to make sure the excavator did not proceed without contamination being identified.

Mrs. Whitenack stated that the deck had to be removed.

Chairman Haycock asked if this was all part of the invoice that ultimately came from Triple Rinse.

Mrs. Whitenack stated yes.

Mrs. Whitenack stated there were three pieces of equipment. There is a narrow driveway and only one of these pieces of equipment would go up and down the driveway. It did a lot of damage on the driveway, cracking the concrete and making black stains. They had to remove pieces of fencing.

Chairman Haycock asked if this has been a nightmare for her.

Mrs. Whitenack stated yes, it has been a nightmare. They destroyed the fence to get equipment into the yard. Along the alley were a lot of shrubs up to 8 feet high which she had planted when they were small in order to block the view of the stadium and Lawler Event Center. She stated they had grown into large shrubs and the majority of them are now gone. The fence was turned around so now there are gang signs facing her house.

Chairman Haycock asked if in her opinion this ended up being more than just a large hole, but also a lot of ancillary costs.

Mrs. Whitenack replied yes.

Mr. Cox asked what the timeframe was.

Chairman Haycock stated they were contacted on September 15, 2015.

Mr. Dennis Drumm, of D.F. Drumm, stated they showed up with the mini excavator and removed the tank. Mr. Yohey inspected the tank, inspected the ground, tested the ground then came back and Triple Rinse removed the fence for Mr. Drumm. This allowed them to acquire access through the alley using a trench plate because the yard is approximately 3 feet higher than the alley. D.F. Drumm used the trench plate as a ramp to go in and out of the yard.

Mrs. Whitenack stated her and her husband were still living in the house during the construction and had observed what Mr. Drumm communicated.

Chairman Haycock asked if Mrs. Whitenack has paid Triple Rinse or AEEC.

Mrs. Whitenack replied no.

Mrs. Whitenack stated she has paid what she perceives to be 20%. She stated she paid Triple Rinse \$4,000.00 for the work. Mrs. Whitenack stated it was their understanding that the State would not pay to remove the tank. Mrs. Whitenack stated her husband is against paying any additional money until their yard is restored.

Chairman Haycock stated there is a good chance that somebody will be waiting a little while for some money. He stated it will cost somebody something to have to wait for this payment while all of this gets sorted out. He views it as being a hazard of being in business. He stated he does not necessarily view that as a hazard of being a home owner. Chairman Haycock stated he would feel bad if a home owner was out of pocket money and waiting to be reimbursed.

Mrs. Whitenack wanted the Board to know that they have a notice of a possible lien on their property by Mr. Drumm for his costs.

Chairman Haycock stated it was his understanding that the relationship was between Mrs. Whitenack and Triple Rinse and not with D.F. Drumm. Chairman Haycock asked if that gave Mr. Drumm the right to place a lien on Mrs. Whitenack's property if his contract was with somebody else.

Mr. Kandt, the Board's legal counsel, stated a contractor that furnishes services for materials and labor for a project can place a lien on the property to insure payment.

Chairman Haycock asked Mrs. Whitenack if her and her husband had plans to sell their home any time soon.

Mrs. Whitenack replied no. She stated she doesn't understand why they deserve to have a lien put on their property.

Chairman Haycock stated that happens as a result of customary business for companies.

Vice Chairman Ross asked if the Fund decides that there are unresolved costs, for example \$20,000 and Mr. Drumm puts a lien on her property, will Mrs. Whitenack have a lien on her property until she pays him \$20,000?

Mr. Kandt stated it depends on who places the lien. He stated if a contractor furnishes materials for labor for a project the law provides for their ability to place a lien on the property to ensure that they receive payment.

Mrs. Whitenack stated she does not see how if the Board decides that the amount is unreasonable she will be responsible for the difference.

Mr. Kandt clarified that he cannot provide legal advice to Mrs. Whitenack. He stated she would have to consult an attorney on her own. He stated he is only here in the capacity of and responsibility for, providing legal advice to the Board.

Chairman Haycock asked if there were any other questions. Hearing none he asked the next homeowner to approach the board.

Mr. Cox asked Ms. King if all the invoices have been submitted. He asked Mrs. Whitenack if everything on her residence has been restored.

Mrs. Whitenack replied the yard is nowhere near being completed.



Mr. Cox asked if more expenses will be incurred.

Mrs. Whitenack stated the landscaping estimates were approximately \$15,000 - \$20,000. She stated it was her understanding that everything done after the contamination was discovered would be reimbursed.

Mr. Cox stated Mrs. Whitenack did the right thing by pulling the heating oil tank out of the ground and finding the contaminants and cleaning it up.

Mr. Drumm stated he had two days of excavation and backfill and 76 yards was disposed.

Chairman Haycock asked Mr. Drumm if the bill he submitted was to Triple Rinse.

Mr. Collier, with Triple Rinse, responded he was correct. He stated that AEEC and Mr. Drumm teamed up to remove the tanks. Mr. Collier stated he had an individual contract with both Mr. Gilmartin and Mrs. Whitenack to pull and remove their tanks. They found contamination and reached out to AEEC to start the process of enrolling the two homeowners into the Fund. After Triple Rinse found the action levels they set forth with remediation. Anything removed was contamination. Mr. Collier stated with respect to restoring the property, the only thing that has not been completed has been the landscaping due to weather conditions.

Mrs. Whitenack agreed. However, she stated there is still an issue with the gutter. There should have been a hole in the deck for the gutter to run through.

Chairman Haycock clarified that the project was a much larger project than she anticipated and it was not surprising it had become expensive.

Mr. Gilmartin, a heating oil tank owner, stated that he and his wife chose to have the tank pulled although it was not required. He stated they could have slurried or abandoned the tank. He stated he also has a 270 gallon heating oil tank in his backyard due to a new furnace. He stated they chose to get rid of the heating oil tank as an environmental decision. He stated had he slurried or abandoned the tank he would not have this headache. He stated he knew he had an oil release. He stated he has two consecutive months of heating bills with a \$340 difference. He had three days of measurements with a  $\frac{3}{4}$  inch drop in one day with the furnace off. He stated he began his initial research during the spring and decided to take care of the tank removal in the summer.

Mr. Gilmartin stated he received a business card for Triple Rinse from an oil company. He also contacted Reno Drain Oil and McGinley and Associates who also pull heating oil tanks. He decided to go with Triple Rinse because the upfront cost would not be as great. He stated it was his understanding that he would be responsible for the tank pull and the rest of the job would be covered by the Fund. It was stated by both Mr. George Hagan, the initial CEM on the job site, and Chad Collier the day they began discussions.

Mr. Gilmartin stated there had been a single CEM on-site from the get-go. He stated later there were two CEMs on the jobsite, Mr. Hagan and Mr. Yohey.

Mr. Yohey stated he wished to clarify that Mr. Hagan was not the CEM, that he was the project CEM.

Mr. Gilmartin stated that Mr. Hagan stated he was the CEM on the jobsite, and that he was licensed with the State of Nevada.

Chairman Haycock asked if he worked for AEEC.

Mr. Gilmartin stated yes that he worked for AEEC. He stated the tank has been pulled and has been paid for. In the process of the tank pull there was contamination above the tank and there were also holes in the fill pipe.

Mr. Gilmartin indicated it was stated to him from the very beginning that the Petroleum Fund had criteria for paying for tanks and that he met the criteria with above tank contamination and holes in the fill pipe. He stated in order to get to the contamination the tank must come out of the ground. Therefore it would make sense that the tank removal would be covered.

Mr. Gilmartin stated that the landscaping still needed to be restored. He stated the extent of his restoration was not that of Mrs. Whitenack's.

Mr. Gilmartin stated he started dealing with Triple Rinse and Mr. Hagan from AEEC on July 22, 2015. They had a plan to have it completed in time for the December Board meeting. He stated they looked at doing tank testing with an empty tank. However it did not seem to be very accurate so they chose a different path. Mr. Gilmartin contacted Lawrence tank testing. He stated before a shovel was ever placed in his yard he contacted NDEP. He stated on three or four occasions he spoke to Mr. Fischenich. He stated Mr. Fischenich told him he was doing the appropriate thing.

Mr. Gilmartin stated he believed he did what needed to be done and also talked to two other companies and the State to ensure what he was doing was appropriate. He was informed once again by Triple Rinse and Mr. Hagan that there were no issues. He stated it was July 22, 2015 when Mr. Hagan Mr. Collier came over the first time. They were there two more times between August and October.

Mr. Gilmartin stated he signed a couple of contracts. One contract was with AEEC when Mr. Hagan was present. He stated the other contract he signed was with Mr. Yohey to comply with the State. He stated the consultant was to contact the State with all results and the State would say what needed to be done. The consultant would then come back to me and talk about what was to be done.

Mr. Gilmartin stated he had authorization to dig the initial abatement phase from Mr. Smale, with NDEP. He stated nowhere on the form does it say how much to dig. Mr. Gilmartin asked how a homeowner would know how much contaminated soil should be dug. The consultant stated they would take care of this.

Mr. Gilmartin stated that in four day's work there were eight people, two CEMs and a couple of landscapers. He was informed they were not sure which route the State wanted to proceed. One option was to test the contamination in the ground. Another option was to continue to dig. The third option was for the State to issue a no further action. He was told it could be 2 to 3 months before the State made its decision regarding his yard.

Mr. Gilmartin stated he was not going to wait 2 to 3 months for a decision. The owner of Sentinel Landscape and 2 of his laborers came capped off some sprinklers and compacted some DG. He stated they were there for a total of four working days.

Chairman Haycock asked if he had received a lien.

Mr. Gilmartin replied no.

Chairman Haycock asked if the only payment Mr. Gilmartin made was for the removal of the tank.

Mr. Gilmartin replied yes, that is all he paid. He stated it was verbalized to him that a mechanical lien could be put on his property. He had been informed that this was just an ordinary job and they had done these jobs before.

Mr. Gilmartin stated once again that the homeowner does not determine the amount of soil that is removed. That is the job of AECC, the two CEMs and the State. He stated he should be able to trust who he hires because they are licensed to do the work in the State of Nevada.

Mr. Gilmartin stated there was not enough oversight on the job between the State, the contractor and AECC. He asked if there should be somebody from the State to check on the dig site.

Mr. Gilmartin stated if the Fund does not pay he will have a mechanical lien to the tune of \$40,000 on his property. He stated his yard is still unrestored and there are damaged sidewalks.

Mr. Gilmartin stated there needs to be an easier way for the public to look at this so they understand the process more efficiently in the future so this would not happen to other people, perhaps some different guidelines to that effect.

Chairman Haycock stated that homeowners and business owners find themselves in a situation that they know nothing about and they never bargained for. However everyone collectively has a responsibility to the environment.

Chairman Haycock stated he commends Mr. Gilmartin for doing the right thing by taking his tank out. Chairman Haycock stated he does not know if Mr. Gilmartin had a choice because he knew there was a release; however, that is not for this discussion.

Chairman Haycock stated the purpose of this Fund is for reimbursing leaking underground storage tanks. He stated the Board is not trying to get out of that responsibility. He stated there are many Policy Resolutions and most of those Resolutions are the result of somebody taking the Fund through the hoop, so things need to be tightened up a little bit.

Chairman Haycock stated when NDEP sees costs that are out of the ordinary they absolutely have to be justified because the Board does not write blank checks. He implored the homeowners to not panic because the Fund is very fair. The Board feels the homeowners are in a position to be reimbursed for the removal of the tanks given the appropriate criteria, which he stated the Board is dealing with right now.

Chairman Haycock stated that what staff has asked the Board to approve is the opportunity to dig in and find out why these costs are so extraordinary. If the costs are justified then they will be reimbursed and if they are not justified, it is not because of the homeowners. Chairman Haycock stated there will be some form of reckoning. He stated it was unfortunate and is not something that a homeowner should go through. He stated it is also part of our collective responsibility to the State of Nevada and the environment.

Mr. Sollars stated that Mr. Gilmartin mentioned he had a contract with the State and what he was actually referring to was the application.

Mr. Sollars clarified that AEEC entered into a contract with Mr. Hagan to provide AEEC guidance because he was a local CEM.

Chairman Haycock wanted to bring everybody up to date. According to his understanding regarding the three different claims from the same contractor received on the same day, staff determined they included extraordinary costs and that is why they are on the agenda. Chairman Haycock stated the Board has heard from the contractors and two of the homeowners and given the Board ample opportunity to ask questions.

Chairman Haycock asked if the Board members had any questions for the involved parties. He stated staff has made a fairly decent proposal to the Board. As a Board they can approve a cost which is a result of the multiplier which comes from the historical costs with the opportunity to pay more unresolved costs as they are justified and documented in a not to exceed fashion.

Chairman Haycock asked the Board if they understood what they are voting on. Chairman Haycock asked if any of the Board members had any comments or would like to make a motion.

Mr. Cox asked if there was still more work to be done in excess of the proposed reimbursement values.

Ms. King responded there will be additional claims introduced in the future when the remaining restoration work has been completed.

Chairman Haycock stated the Not to Exceed costs go back to the original claim amount less the \$250.00 deductible.

Ms. King stated staff is recommending two alternatives, that being one of them.

Chairman Haycock stated what he was referring to was the second alternative which would authorize immediate payment of the first redline, which is a unit cost multiplier times tonnage, as based upon historical costs. There would then be some unresolved claim costs which would be taken into consideration by staff with proper documentation and justification. This could reach up to but not exceed the bottom line amount, which is the total original claim less the \$250.00 deductible.

Mr. Mulvihill stated that because staff has scheduled a meeting for the next day to attempt to address some of the unresolved costs, he would be in favor of giving staff the flexibility if they do reach agreements on some of the unresolved costs so they can process payment without waiting for next Board meeting.

Vice Chairman Ross asked for additional information regarding the liens.

Mr. Collier stated the liens that are potentially in place are strictly in order for people to get paid. There are some companies working on jobs with more crew costs than others. The lien was to protect them and ensure payment. At this point, no one wants to lien anyone's home. It was a protection of not knowing what the recommendations of payment were going to be and if those recommendations would cover the costs for the work that has already been paid for.

Mrs. Whitenack asked if there was going to be something in writing that states her landscaping will be restored.

Chairman Haycock stated the Not to Exceed amount will be in writing.

Mrs. Whitenack indicated that she did not have that information.

Chairman Haycock stated the information was in a handout that does not separate the specific jobs, landscaping or excavation.

Mr. Sollars clarified for Mrs. Whitenack that the numbers are for work that has already been completed at her house. The work that is yet to be done will have to go through another process including a Not to Exceed proposal with three bids, sent to the State for their concurrence.

Mrs. Whitenack stated she understood and wanted to know if she was guaranteed to get reimbursed.

Chairman Haycock stated he did not know if there were any guarantees. He stated that is the purpose of the Board. He stated if everything was black and white there would not be a Board. He asserted that for a person to tell Mrs. Whitenack or the other homeowners that the Fund will cover everything was inappropriate.

Mrs. Whitenack stated that was exactly what was told to her, that the Fund will cover anything the contractors destroyed.

Mrs. Tappan stated to Ms. King that when she is looking at the numbers on the table it shows that Mrs. Whitenack's total for her claim is \$104,914.00. However, when Mrs. Tappan looks at the NDEP total it shows \$122,639.00. She wanted to know if she misunderstood what Ms. King stated earlier.

Ms. King stated NDEP used the original invoice that was sent to them. She stated the invoice had been revised and reduced by approximately \$18,000.00.

**Mr. Mulvihill moved to approve staff's recommendation for Alternative #2. This includes the value indicated in Alternative #1, which is based on the tonnage removed for immediate reimbursement, in addition to a "Not to Exceed" value which includes the unresolved costs less the \$250 deductible that Staff will meet with the claimants' representatives to resolve for the Gilmartin, Roop and Whitenack residents. Mr. Seidel seconded the motion. Motion carried unanimously.**

**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 15, 2015**

**HEATING OIL**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
FOR POSSIBLE ACTION	1.	1992000102H Lyon County School District: Yerington Elementary	\$35,790.02	\$32,211.02
FOR POSSIBLE ACTION	2.	2007000013H Churchill County School District: Bus Barn	\$15,973.80	\$15,973.80
FOR POSSIBLE ACTION	3.	2012000015H Don Sinnar: Sinnar Residence	\$18,629.63	\$18,629.63
FOR POSSIBLE ACTION	4.	2012000017H Churchill Co. School District: Old High School	\$14,627.97	\$14,627.97
FOR POSSIBLE ACTION	5.	2013000012H Roger & Gemma Mateossian: Mateossian Residence	\$15,731.90	\$15,731.90
FOR POSSIBLE ACTION	6.	2013000015H Gary Cornwall: Gary Cornwall Property	\$2,343.75	\$2,343.75
FOR POSSIBLE ACTION	7.	2014000021H Town of Gardnerville: Former Eagle Gas - Gardnerville	\$582.50	\$582.50
FOR POSSIBLE ACTION	8.	2014000043H L&G Properties, LLC: Residential Property	\$5,584.25	\$5,584.25
FOR POSSIBLE ACTION	9.	2015000020H Lauren Evans: Evans Residence	\$59,788.58	\$59,538.58
FOR POSSIBLE ACTION	10.	2015000021H Susan Frank: Frank Property / Rental Home	\$15,449.93	\$15,199.93
FOR POSSIBLE ACTION	11.	2015000022H Reno Land Development Co.: Beedle House	\$7,419.91	\$7,112.41
FOR POSSIBLE ACTION	12.	2015000024H Knauss Investments, LP: Former Lucky Concrete	\$17,107.79	\$16,857.79
FOR POSSIBLE ACTION	13.	2015000026H George Roope: Roope Property	\$98,395.72	\$34,920.90
FOR POSSIBLE ACTION	14.	2015000027H Judith Whitenack: Whitenack Residence	\$122,639.14	\$25,720.80
FOR POSSIBLE ACTION	15.	2015000028H John Gillmartin: Gillmartin Residence	\$95,381.43	\$48,372.29
<b>HEATING OIL SUB TOTAL:</b>			<b><u>\$525,446.32</u></b>	<b><u>\$313,407.52</u></b>

**NEW CASES, OTHER PRODUCTS**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1.	2015000014	City Express: City Express	\$27,499.59	\$24,749.63
FOR POSSIBLE ACTION	2.	2015000018	Sierra Rental & Tansport: Sierra Rental & Transport	\$21,032.04	\$18,928.84

**NEW CASES, OTHER PRODUCTS SUB TOTAL:****\$48,531.63****\$43,678.47****ONGOING CASES/OTHER PRODUCTS**

				<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
FOR POSSIBLE ACTION	1.	1992000126	Clark County School District: RC White Transportation	\$65,232.59	\$63,745.42
FOR POSSIBLE ACTION	2.	1993000102	Rebel Oil Company: Rebel #8	\$7,886.67	\$7,886.67
FOR POSSIBLE ACTION	3.	1993000103	Russell Yardley: Charlie Brown Construction	\$6,456.77	\$6,327.63
FOR POSSIBLE ACTION	4.	1993000115	City of Fallon: Former Bootlegger Texaco	\$7,180.92	\$7,180.92
FOR POSSIBLE ACTION	5.	1994000067	Peppermill, Inc.: Former Peppermill Truckstop	\$10,543.33	\$10,543.33
FOR POSSIBLE ACTION	6.	1994000113	Pilot Travel Centers, LLC: Former Unocal Truck Stop	\$36,404.61	\$36,404.61
FOR POSSIBLE ACTION	7.	1994000122	Mike's Gas-A-Mart: Mike's Gas-A-Mart	\$6,321.41	\$6,321.41
FOR POSSIBLE ACTION	8.	1995000012	N Nevada Asset Holdings LLC: Parker's Model T	\$3,817.50	\$3,435.75
FOR POSSIBLE ACTION	9.	1995000039	Al Park Petroleum, Inc.: Crescent Valley Market	\$27,699.90	\$24,929.91
FOR POSSIBLE ACTION	10.	1995000105	Redman Petroleum Corp.: Redman Petroleum	\$27,063.10	\$24,356.79
FOR POSSIBLE ACTION	11.	1996000063	Joan Pennachio: V&V Automotive	\$15,777.11	\$15,777.11
FOR POSSIBLE ACTION	12.	1996000064	H&A Esslinger, LLC: Red Rock Mini Mart	\$96,731.84	\$93,829.88
FOR POSSIBLE ACTION	13.	1996000101	Phillips 66 Company: Circle K #695	\$48,449.01	\$42,816.85
FOR POSSIBLE ACTION	14.	1996000102	Phillips 66 Company: Circle K #542	\$7,630.40	\$5,444.03
FOR POSSIBLE ACTION	15.	1997000008	Ewing Brothers, Inc.: Ewing Brothers Facility	\$2,855.00	\$2,569.50
FOR POSSIBLE ACTION	16.	1998000046	Willdens Automotive Holdings: Frmr Allstate Rent A Car	\$21,206.18	\$19,085.56
FOR POSSIBLE ACTION	17.	1998000068	Phillips 66 Company: Conoco #28003	\$63,892.38	\$57,418.25
FOR POSSIBLE ACTION	18.	1998000080	Seven Crown Resorts, Inc.: Echo Bay Resort	\$26,236.47	\$23,612.82
FOR POSSIBLE ACTION	19.	1999000014	Al Park Petroleum: Conoco Pit Stop #7	\$27,962.63	\$25,166.36
FOR POSSIBLE ACTION	20.	1999000022	Terrible Herbst: Terrible Herbst #129	\$3,831.57	\$2,246.62
FOR POSSIBLE ACTION	21.	1999000029	Terrible Herbst Oil Company: Terrible Herbst #136	\$15,555.09	\$13,924.80
FOR POSSIBLE ACTION	22.	1999000048	Estate of Robert Cowan: Former Lightning Lube	\$9,943.30	\$9,943.30
FOR POSSIBLE ACTION	23.	1999000052	Estate of Martin T Wessel: Ted's Chevron	\$9,294.59	\$8,365.13
FOR POSSIBLE ACTION	24.	1999000064	Al Park Petroleum, Inc.: Conoco Pit Stop	\$7,401.36	\$6,661.22
FOR POSSIBLE ACTION	25.	1999000066	HP Management LLC: Former Haycock Petroleum	\$13,141.75	\$11,827.58
FOR POSSIBLE ACTION	26.	1999000086	Terrible Herbst Oil Company: Terrible Herbst #126	\$3,295.60	\$2,891.25
FOR POSSIBLE ACTION	27.	1999000090	HP Management LLC: Former Haycock Petroleum	\$31,855.09	\$28,669.58
FOR POSSIBLE ACTION	28.	1999000104	Terrible Herbst Oil Co.: Terrible Herbst #118	\$4,863.74	\$4,377.36



**ONGOING CASES/OTHER PRODUCTS: CONTINUED**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	29.	1999000114	City of Fallon: Fallon Maintenance Yard	\$6,007.18	\$5,406.46
FOR POSSIBLE ACTION	30.	1999000135	Terrible Herbst Oil Company: Terrible Herbst #106	\$8,651.45	\$7,786.30
FOR POSSIBLE ACTION	31.	1999000137	Terrible Herbst Oil Company: Terrible Herbst #152	\$9,291.99	\$7,001.54
FOR POSSIBLE ACTION	32.	1999000167	City of Las Vegas: Fire Station #1	\$25,187.54	\$25,187.54
FOR POSSIBLE ACTION	33.	1999000186	Gloria Gayle Pilger: Former D&G Oil Facility	\$50,297.59	\$45,267.83
FOR POSSIBLE ACTION	34.	1999000199	Mary Ann Ferguson: Lakeshore Orbit Station	\$34,089.89	\$33,874.89
FOR POSSIBLE ACTION	35.	1999000244	7-Eleven, Inc.: 7-Eleven #22070	\$6,863.12	\$6,176.81
FOR POSSIBLE ACTION	36.	1999000257	University of Nevada: Newlands Agriculture	\$2,346.50	\$2,346.50
FOR POSSIBLE ACTION	37.	1999000273	V.K. Leavitt: The Waterhole	\$40,004.68	\$35,864.62
FOR POSSIBLE ACTION	38.	2004000011	TA Operating LLC: Four Way Truck Stop	\$43,280.30	\$38,952.27
FOR POSSIBLE ACTION	39.	2005000002	Carson Valley Oil Co., Inc.: Carson Valley Oil	\$11,826.33	\$10,643.70
FOR POSSIBLE ACTION	40.	2005000025	Bordertown, Inc.: Winner's Corner	\$8,685.05	\$7,816.55
FOR POSSIBLE ACTION	41.	2005000036	Phillips 66 Company: Circle K #1791	\$8,718.83	\$6,277.56
FOR POSSIBLE ACTION	42.	2005000044	Ewing Brothers, Inc.: Ewing Brothers Facility	\$18,861.73	\$15,278.01
FOR POSSIBLE ACTION	43.	2007000003	7-Eleven, Inc.: 7-Eleven #29648	\$27,522.06	\$21,443.98
FOR POSSIBLE ACTION	44.	2007000014	Ace Cab Company: Ace Cab Company	\$57,680.32	\$46,683.29
FOR POSSIBLE ACTION	45.	2007000016	TOC Holdings Company: Former Time Oil #6-100	\$3,941.60	\$3,547.44
FOR POSSIBLE ACTION	46.†	2007000023	7-Eleven, Inc.: 7-Eleven #29643	\$0.00	\$7,326.00
FOR POSSIBLE ACTION	47.	2008000005	Avis Rent A Car Systems: Former Avis Rent A Car	\$76,680.07	\$69,012.06
FOR POSSIBLE ACTION	48.	2008000009	Pilot Travel Centers, LLC: Flying J Travel Plaza	\$17,117.32	\$12,324.48
FOR POSSIBLE ACTION	49.	2008000017	Francois Alvandi: Flamingo AM/PM #82153	\$20,107.90	\$10,858.41
FOR POSSIBLE ACTION	50.	2008000018	Jacksons Food Stores, Inc.: Former Terrible's #830	\$9,940.93	\$8,946.84
FOR POSSIBLE ACTION	51.	2008000019	One Panou, LLC: Stop N Shop #2	\$10,443.32	\$9,398.99
FOR POSSIBLE ACTION	52.	2009000017	D&J Holdings, LLC: Convenience Corner Shell	\$13,806.72	\$12,426.05
FOR POSSIBLE ACTION	53.	2009000028	Vegas Rainbows, Inc.: Mick & Mac's Food Mart	\$13,237.94	\$11,616.29
FOR POSSIBLE ACTION	54.	2010000001	Smitten Oil & Tire Company: The Gas Store	\$4,387.50	\$3,948.75
FOR POSSIBLE ACTION	55.	2010000007	Pecos Express, Inc.: Pecos Express	\$12,259.34	\$11,033.41
FOR POSSIBLE ACTION	56.	2010000009	TA Operating: Milll City Travel Center	\$7,327.26	\$5,935.08
FOR POSSIBLE ACTION	57.	2010000010	Pacific Convenience & Fuel: Victorian Food Mart	\$2,490.13	\$2,241.12
FOR POSSIBLE ACTION	58.	2011000007	Echo Bay Marina, LLC: Echo Bay Marina	\$15,228.18	\$13,705.36
FOR POSSIBLE ACTION	59.	2011000009	Cimarron West: Cimarron West	\$5,986.81	\$5,388.13
FOR POSSIBLE ACTION	60.	2012000003	7-Eleven, Inc.: 7-Eleven #26627	\$55,241.14	\$36,103.19
FOR POSSIBLE ACTION	61.	2012000005	ARAMARK Corporation: Zephyr Cove Resort	\$48,928.55	\$44,035.70
FOR POSSIBLE ACTION	62.	2012000011	Golden Gate Petroleum: Baldini's Grand Pavilion	\$4,701.88	\$4,141.69
FOR POSSIBLE ACTION	63.	2012000012	Dewey Has Gas, Inc.: Smart Mart	\$19,613.29	\$17,287.46

**ONGOING CASES/OTHER PRODUCTS: CONTINUED**

				<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>
FOR POSSIBLE ACTION	64.	2012000020	Francois Alvandi: Charleston AM/PM #85155	\$5,362.25	\$4,826.03
FOR POSSIBLE ACTION	65.	2012000022	7-Eleven, Inc.: 7-Eleven #26873	\$5,289.71	\$4,760.73
FOR POSSIBLE ACTION	66.	2013000004	7-Eleven, Inc.: 7-Eleven #29665	\$10,225.31	\$9,202.78
FOR POSSIBLE ACTION	67.	2013000005	RB Properties, Inc.: South Pointe Market	\$13,510.46	\$12,159.41
FOR POSSIBLE ACTION	68.	2013000009	Western Petroleum: Western Petroleum	\$4,542.00	\$4,087.80
FOR POSSIBLE ACTION	69.	2013000011	Slots Unlimited, LLC, Village Shop #4	\$14,775.32	\$13,297.79
FOR POSSIBLE ACTION	70.	2013000019	Hardy Enterprises, Inc.: Sinclair Mini-Mart	\$3,970.00	\$3,573.00
FOR POSSIBLE ACTION	71.	2013000020	7-Eleven, Inc.: 7-Eleven #26395	\$6,634.53	\$5,971.08
FOR POSSIBLE ACTION	72.	2014000003	Sterling-UN Reno, LLC: Former Luce & Sons	\$4,886.42	\$4,397.78
FOR POSSIBLE ACTION	73.	2014000004	Alsaker Corporation: Broadway Colt Service Center	\$73,963.55	\$66,567.19
FOR POSSIBLE ACTION	74.	2014000007	7-Eleven, Inc.: 7-Eleven #29658	\$8,691.57	\$7,822.42
FOR POSSIBLE ACTION	75.	2014000010	7-Eleven, Inc.: 7-Eleven #29667	\$7,321.87	\$6,589.69
FOR POSSIBLE ACTION	76.	2014000016	Fran Smitten: Smedley's Chevron	\$21,673.70	\$19,506.33
FOR POSSIBLE ACTION	77.	2014000020	Ken & Bonnie Goodness: Waterhoe Truck Plaza	\$35,663.06	\$32,096.76
FOR POSSIBLE ACTION	78.	2014000025	Superior Campgrounds of America: Silver City RV Resort	\$7,950.14	\$4,293.12
FOR POSSIBLE ACTION	79.	2014000033	Speedee Mart, Inc.: Speedee Mart #108	\$14,790.87	\$13,311.79
FOR POSSIBLE ACTION	80.†	2014000041	Callville Bay Resort Marina: Callville Bay Resort	\$32,987.65	\$33,738.88
FOR POSSIBLE ACTION	81.	2015000005	Red Lion Hotel & Casino: Red Lion Chevron	\$1,809.25	\$1,628.33

**ONGOING CASES/OTHER PRODUCTS SUB TOTAL:    \$1,583,332.01                    \$1,418,874.85**

**REQUESTED                    RECOMMENDED**  
**CLAIMS TOTAL:    \$2,157,309.96                    \$1,775,960.84**

Chairman Haycock informed the Board that under Ongoing Cases C, item numbers 25 & 27, relative to HP Management LLC, he is the managing partner and his vote will therefore not relate to those two items.

**Ms. Tappan moved for approval of the consent items, Heating Oil, 1 through 15, New Cases/Other Products, 1 through 2, and Ongoing Cases/Other Products, 1 through 81. Mr. Cox seconded the motion. Motion carried unanimously.**

## 12. EXECUTIVE SUMMARY

Ms. King presented the Executive Summary. She informed the Board that since the inception of the Fund in 1989, 1,505 applications have been received for reimbursement. Of those, 126 cases were denied coverage and a total of 1,172 cases have been closed. Nine applications are in pending status awaiting NDEP's review or additional information. Forty-five cases have expired. There are currently 153 active remediation sites. Since January 1<sup>st</sup> of this year, 33 new cases have been received by NDEP for evaluation of Fund coverage.

Ms. King stated prior to this Board meeting, the Board approved approximately \$193.7 million for reimbursement to petroleum storage tank operators throughout Nevada for cleanup expenses. With the approval of approximately \$1.8 million today, the cumulative fund expenditures are approximately \$195 million. With respect to tank enrollment, the tank invoices were issued in August of last year. A total of 1,307 facilities were invoiced at \$100 per tank. Out of those, 1,257 facilities, or approximately 96% have submitted the required fees.

Ms. King updated the Board about the contractor who is developing the Petroleum Fund interactive database. The contractor started actively working on June 2, 2014. NDEP has recently rolled out the Enrollment component of the database and it went well. There have been a few bugs which we have been able to work out. The contractor is working on the application and claim process. NDEP is hoping to roll out the entire database by this time next year.

Ms. King informed the Board that the Attorney General's office has contracted with Lewis Roca Rothgerber, LLP to identify potential oil companies who have "double-dipped," or, obtained insurance money to pay for the cost of the cleanup and also obtained money from the Petroleum Fund for the very same costs. She informed the Board that in other states, specific oil companies have been identified as double-dippers and some of those same oil companies have facilities located in Nevada. The Attorney General's contractor has reviewed Nevada's records to determine if the Fund has been impacted by this activity. They are currently scheduling discussions with several oil companies along with establishing tolling agreements to avoid exceeding any statute of limitation issues.

Ms. King informed the Board that SB89 was approved during this past legislative session. This bill amends Chapter 590 to do two things. First, to clarify the amount of money from the Petroleum fund that the Division may expend cleaning up releases of petroleum products in those rare cases where responsible parties are unable to respond and the release presents an imminent and substantial hazard. The bill eliminates the \$250,000 per release limit and replaces it with an annual limit of \$2,000,000 statewide to respond to all releases, unless additional authorization is provided by the Interim Finance Committee.

Ms. King stated the bill also allows the cleanup of releases of petroleum-based chemicals such as dry cleaning solvents. By having the ability to use the Petroleum Fund to conduct the cleanup or implement other corrective measures, the Division will be able to address these releases as soon as possible in order to minimize the migration of those pollutants off site into commercial or residential areas and into groundwater, reduce the overall cleanup costs and protect public health. Because NDEP will lead the cleanups, claims will not be presented to the Board for approval; however, the Board will be updated on costs associated with this bill. A list of prioritized sites has been attached.

Ms. King stated NDEP updated the Board during the September 2015 meeting about proposed regulations that will facilitate the program reform initiative. NDEP is in the process of finalizing the regulation draft and will subsequently submit it to the LCB for legal review and drafting as well as conduct public workshops. The proposed regulation changes will address the definition of the word "site," will increase the dollar amount that requires three bids, extend the timeframe from 30 days to 60 days for submittal of payment confirmation and address the existing requirement for an owner to refund payment to the Fund under certain circumstances.

Ms. King stated as an additional reform measure, NDEP is addressing Initial Abatement as it pertains to tank removals and over excavating to remove contaminated soil. NDEP is proposing to create a Task Table in the Cost Guidelines to provide additional cost control and clarification of acceptable practices.

Ms. King addressed the Eagle Gas North Cleanup Status. Pursuant to NRS 590.870(1) and NRS 590.830(2), NDEP is responsible for the cleanup, using Petroleum Fund resources, if the responsible party is remiss. During the September 12, 2013 Board Meeting, NDEP and the Attorney General's Office presented the case of Eagle Gas North to the Board. The responsible party has refused to comply with both NDEP Orders and District Court Orders, thereby forcing NDEP to apply the above statutes in response. NDEP requires reimbursement of all money spent from the Fund and the Controller's Office continues to pursue the collection of that money. She stated Ms. Raquel Diedrichsen will provide the Board a brief status update of the clean-up activities to date.

Ms. Diedrichsen identified herself as the Case Officer with the Bureau of Corrective Actions. Ms. Diedrichsen provided the 4<sup>th</sup> quarter update for Eagle Gas North for Mr. Jonathan McRae who was not able to be in attendance. She stated the remediation system at Eagle Gas North run time for the 4<sup>th</sup> quarter in 2015 thus far has been 91%.

Ms. Diedrichsen stated 14,400 gallons of water was treated by the system for the 4<sup>th</sup> quarter 2015. Since the water treatment system was hooked up in February 2015, 204,000 gallons of water have been treated by the remediation system.

Ms. Diedrichsen stated the mass of Total Petroleum Hydrocarbons (TPH) recovered by the remediation system in the 4<sup>th</sup> quarter was 54 lbs. of TPH. Since the activation of the remediation system in October 2014, approximately 1,870 lbs. of TPH has been recovered.

Ms. Diedrichsen stated the concentration of TPH in extracted vapor was 16 parts per million by volume (ppmv) which is similar to 3<sup>rd</sup> quarter concentrations that ranged from 13-16 ppmv. Groundwater concentrations at the site are as follows:  
Benzene was only detected in one monitoring well associated with the site. Benzene is present in a well in the median of N. Carson Street at a concentration of 1,200 µg/L which exceed the Maximum Contaminant Level (MCL) of 5 µg/L.

Ms. Diedrichsen stated Methyl Tertiary Butyl Ether (MTBE) in groundwater is only above the site action level of 200 µg/L in two site monitoring wells. Both of those wells are in the median of North Carson Street. The highest MTBE concentration is 520 µg/L.

Ms. Diedrichsen stated at the beginning of December, NDEP approved a work plan for air sparge (AS) optimization system for the site. Three of the AS wells closest to the property boundary and therefore closest to the contamination in the center of North Carson Street will be pulsed to create mixing that will potentially reach and remove some of the contaminants in the median of North Carson Street. To date approximately \$1,031,000 has been spent on the project.

**13. PUBLIC COMMENTS**

Mr. Collier with Triple Rinse Environmental stated on behalf of him and his company, any activities that were done have been under precedence that he has done in the past. He stated anything they stated or did to any customers was all factual. He knows there were some things that were over stated. However, he never told anyone at any time that everything they removed would be paid for. It is his understanding anything removed inside the contamination was covered.

Mr. Collier stated if he misspoke to anyone he is doing business with then that was his error. It was his understanding from previous jobs in the past that if contamination was found then contamination warrants the dig and the removal of landscaping on the property.

Mr. Collier stated he has been doing this a while; however, he is new to the process as far as being a business owner. He wants to work with everyone to make sure everything is done correctly as well as making sure everyone is on the same page.

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

It was confirmed the next meeting date would be Thursday, March 10, 2016 at 10:00 am.

**15. ADJOURNMENT**

The meeting adjourned at 12:00 pm.