

**STATE OF NEVADA BOARD TO REVIEW CLAIMS  
BOARD MEETING MINUTES  
March 8, 2018**

**1. CALL TO ORDER**

Vice-Chairman Tappan called the meeting to order at 11:00 a.m. from Carson City at the Nevada Legislative Building, 401 South Carson Street, Room 2134. The meeting was also conducted via videoconference with Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412.

**A. BOARD MEMBERS PRESENT**

Vice-Chairman Maureen Tappan – Representative of the General Public  
John Saxon – Representative of Independent Petroleum Dealers  
Greg Lovato – Nevada Division of Environmental Protection  
Rod Smith – Representative of Petroleum Refiners  
LeRoy Perks – Representative of the Independent Retailers of Petroleum

**BOARD MEMBERS NOT PRESENT**

Dawn Lietz - Department of Motor Vehicles  
Bart Chambers - State Fire Marshal

**OTHERS PRESENT**

Peter Keegan, State Attorney General's Office – Carson City  
Jeff Collins, Michael Cabble, Victoria Joncas, Kim Valdez, Don Warner, Megan Slayden,  
Jonathan McRae, Michael Friend, Robin Short, Chuck Enberg, Diondrae White,  
and Ben Moan – Nevada Division of Environmental Protection (NDEP)  
Scott Bittinger – Stratus Environmental  
Joe McGinley – Nevada Petroleum Marketers & Convenience Store Association /  
McGinley & Associates  
Caitlin Jelle – McGinley & Associates  
Dennis Pinkerton – Nevada State Fire Marshal's Office  
Jon Bell – Broadbent Inc.  
Rob Gegenheimer – Converse  
Kevin Paprocki – Converse  
John Edmond – Nucleus Investments  
Kathleen Johnson – The Westmark Group  
Keith Stewart – Stewart Environmental

Vice-Chairman Tappan welcomed two new board members. Mr. Rod Smith representing the Petroleum Refiners has replaced Mr. George Ross, and Mr. LeRoy Perks representing the Independent Retailers has replaced Mr. Mike Cox. Vice-Chairman Tappan thanked Mr. George Ross and Mr. Mike Cox for their service over the years.

Mr. Rod Smith introduced himself and gave a brief synopsis stating he spent 34 years in the petroleum business. He worked for Chevron in the refinery operations managing pipeline facilities from Colorado to Spokane, as well as Bakersfield managing California pipelines. He also spent three-years in Russia building a pipeline from Kazakhstan to the Black Sea. He has since retired and is presently involved with the National Automobile Museum.

Mr. LeRoy Perks introduced himself, thanked the Board and stated he is very honored and excited to be on the Board. Mr. Perks is familiar with testing and various items the Board reviews, as he has worked extensively in Nevada and California as a storage tank system contractor.

Vice-Chairman Tappan stated she feels there is excellent experience on the Board.

2. **PUBLIC COMMENT**

Mr. Joe McGinley with McGinley and Associates introduced himself. He stated on behalf of the Nevada Petroleum Marketers & Convenience Store Association that they would like to welcome Mr. Smith and Mr. Perks to the Board.

3. **APPROVAL OF THE DECEMBER 14, 2017 MINUTES**

Mr. Lovato noted minor changes to the December 14, 2017 minutes. The December meeting started at 11:00 am instead of 10:00 am, and the location was 401 South Carson Street instead of 401 North Carson Street.

**Mr. Lovato moved to approve the December 14, 2017 minutes with changes. Mr. Saxon seconded the motion. Motion carried unanimously.**

4. **STATUS OF THE FUND**

Mr. Cabble reported on the status of the State of Nevada Petroleum Fund (Fund). Mr. Cabble stated that the balance forward was \$7,500,000.00 and the cumulative revenue is \$14,165,639.49. To date, Fund expenditures for the state fiscal year 2018 including Board Member salaries, travel, Petroleum Fund program operating costs, and reimbursement of claims paid for corrective actions currently total \$5,460,868.43.

Mr. Cabble reported the current Fund obligations, which include expected Board member salaries and travel, the anticipated transfer to the Nevada Highway Fund, claims approved/paid, and other expected obligations, total \$4,020,347.80.

Mr. Cabble reported a current actual funding availability of \$8,704,771.06.

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

Ms. Slayden presented proposed Site Specific Board Determination (SSBD) No. C2018-01, to Provide Third Party Liability Coverage to Chuck's Circle C Market, 20225 Cold Springs Drive in Reno, Nevada. Petroleum Fund Case ID No. 2009000024, Facility ID No. 4-000744.

Previously the Board approved the subject site owned by Parampreet Investment, LLC for \$900,000.00, which represents \$1,000,000.00 in Fund coverage for a single UST system with a 10% copayment. As of the December 2017 Board meeting, the subject site had been reimbursed \$893,379.21. Despite progress in remediating the site, contamination remains in concentrations above State Action Levels, which creates the potential for third party liability. Petroleum Fund staff and the leaking underground storage tank case officer agree that providing third party liability coverage will facilitate remedial action to continue toward closure.

In accordance with Board Policy Resolution 2007-10, 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. Fund staff therefore recommended that the subject facility receive the third party liability funds, which amounts to an additional \$1,000,000.00 in coverage minus the 10% copayment. This would increase the reimbursement cap for the facility to \$1,800,000.00.

In conclusion, it was NDEP's recommendation that the Board adopt SSBD No. C2018-01 as proposed, granting third party liability Fund coverage to the subject site for one underground storage tank system with a 10% copayment.

**Mr. Lovato moved to adopt SSBD No. C2018-01, as proposed. Mr. Perks seconded the motion. The motion was unanimously approved.**

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

Ms. Slayden presented proposed Site Specific Board Determination (SSBD) C2018-02, to provide Third Party Liability Coverage and associated claim reimbursement to Conoco Pit Stop No. 7, 1600 Idaho Street in Elko, Nevada. Petroleum Fund Case ID No. 1999000014, Facility ID No. 6-000009.

Previously the Board approved coverage for the subject site owned by A1 Park Petroleum, Inc. for \$540,000.00, which represents \$1,000,000.00 in Fund coverage for a single UST system, with a 40% reduction and a 10% copayment. At a subsequent Board meeting (March 10, 2010), pursuant to an appeal from A1 Park Petroleum, Inc. and a recommendation from the Nevada Attorney General's Office, the Board rescinded the 40% reduction for site activities conducted after December 9, 2009. Fund staff notified A1 Park Petroleum, Inc. of the new reimbursable cap of \$725,400.00, which represented the remaining value of the \$1,000,000.00 allotment, with a 10% copayment.

As of the December 14, 2017 Board meeting, the subject site had been reimbursed \$718,229.35 of the \$725,400.00 reimbursement cap. NDEP staff recommended reimbursement of an additional \$18,236.76 pending the approval of third party liability coverage presented under this SSBD. The subject site has moved into post-remediation monitoring and is expected to move toward closure in the coming quarters.

In accordance with Board Policy Resolution 2007-10, 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. Fund staff therefore recommend that the subject facility receive the third party liability funds, which amounts to an additional \$1,000,000.00 in coverage minus the 10% copayment. This would increase the reimbursable cap for this facility to \$1,625,400.00.

NDEP recommended the Board adopt SSBD No. C2018-02 as proposed, granting third party liability Fund coverage to the subject site for one underground storage tank system for \$900,000.00, which represents \$1,000,000.00 in Fund coverage with a 10% copayment. Additionally, the Fund recommended the Board approve payment of the total submitted claim amount of \$18,236.76.

Mr. Lovato posed a question for Mr. Jonathan McRae. He stated the report from Ms. Slayden indicated the site is moving into post-remediation monitoring phase and is expected to reach closure in the coming quarters. Is that estimated to be over the next year?

Mr. McRae responded it was his understanding it will be over the next year, after the four quarters of post-remediation monitoring are completed. NDEP will review monitoring reports for anomalies or increasing contaminant concentration trends.

Mr. Lovato stated we are not expecting further active remediation and therefore are not likely to utilize the entire additional million in coverage at this site.

Mr. McRae confirmed.

**Mr. Smith moved to adopt SSBD No. C2018-02, as proposed. Mr. Perks seconded the motion. The motion was unanimously approved.**

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

Mr. Cabble presented proposed Site Specific Board Determination (SSBD) No. 2018-03 to Provide Third Party Liability Coverage to the Former Haycock Petroleum, 715 West Bonanza Road in Las Vegas, Nevada. Petroleum Fund Case ID 1999000066, Facility ID No. 8-001512.

In 1999, the Board approved coverage for the subject site owned by HP Management LLC for \$1,800,000.00, which represents \$2,000,000.00 in Fund coverage for two aboveground storage tank systems (ASTs), minus the 10% copayment.

In December of 2016, the Board approved an additional \$1,000,000.00 (minus the 10% copayment) in third party liability coverage because the site exceeded the initial amount granted. This brought the maximum reimbursement amount to \$2,700,000.00.

Contamination at this site is fairly widespread, and the remedial efforts thus far have not been working. Recently, NDEP encouraged the operator to expand the current remediation system and excavate impacted source soils. These actions would facilitate a more robust air sparge and vapor extraction system at the site and move the project toward closure at a more rapid pace.

On December 26, 2017, HP Management LLC requested approval to use their final allotment of third party liability funds, which represents \$1,000,000.00 in Fund coverage minus the 10% copayment, for reimbursement of corrective action activities at the site. Prior to this board meeting, the subject site has been reimbursed \$2,033,978.44, leaving \$666,021.56 available for corrective action. Recent remedial efforts including the removal of source materials and the expansion of the remediation system resulted in a large claim submittal exceeding that amount by \$68,087.92.

In accordance with Board Policy Resolution 2007-10, the owner/operator acknowledged that using third party funds for corrective action will reduce the remaining funds available in the event of a third party lawsuit. Fund staff recommended that the subject facility receive the third party liability funds, which amounts to an additional \$1,000,000.00 in coverage minus the 10% copayment. This would increase the maximum reimbursement amount for the facility to \$3,600,000.00, which represents the total \$4,000,000.00 available to the site less the 10% copayment. Additionally, Fund staff recommended the reimbursement of two claims be approved for a combined amount of \$734,109.48.

Mr. Lovato asked Mr. Keith Stewart with Stewart Environmental, Inc. to describe the situation that lead to the source material being addressed this late in the process.

Mr. Stewart, representing HP Management, responded that the project initially started around 2000 with a very active petroleum site with a small footprint. Initially a more passive approach was taken, in which all parties including NDEP approved, for free product removal and the use of hydrogen peroxide injection. There was a significant reduction in the groundwater concentration. Approximately six years ago, Stewart Environmental sought avenues for closure, which would not have been a clean closure, rather would have been classified as a risk-based closure.

Mr. Stewart stated during that process, he met with former Case Officer, Todd Croft, and John Haycock to discuss a path for closure. It was determined at that time to go back to an active remedial system. Over the last three years, several options were researched, including excavating most of the source material from the site.

Mr. Stewart stated the site went vacant roughly 18 months ago, at which time they meet with NDEP staff to discuss further action. Following those discussions, roughly 1,500 tons of soil were excavated in source areas including a combined 600 feet of remedial trenching dug to a depth of 22 feet. Mr. Stewart concluded that the above activities could not have been performed had the site not been vacated and that initially all parties came to the agreement that an active remediation system was not an available option early on in the project.

Mr. Stewart stated approximately \$800,000.00 has recently been spent, including all trenching, purchase of the remedial system, and installation. Mr. Stewart expects to be fully operational in roughly 10 days. With adoption of the additional \$1,000,000.00 in Third-Party Liability Fund Coverage, they would be looking at a path to closure.

Mr. Lovato inquired, was there an opportunity to take these actions earlier and possibly reduce the overall cost of the project?

Mr. Stewart responded he did not see an available opportunity as the site was occupied until the late 2000s, and then it was rented. An agreement of full active remediation was reached only a few years ago. During the interim, only quarterly monitoring and sampling were performed, which did not result in large sums of money being spent.

Ms. Maureen Tappan inquired it will be in full operation in 10 days?

Mr. Stewart confirmed and added, they have completed thousands of feet of air sparge piping, 30 remedial wells have been installed, as well as a full soil ventilation system. They expect a few days of piping installation and electrical work, and then will be ready to complete the asphalt work.

**Mr. Lovato moved to adopt SSBD No. C2018-03 as proposed, granting third party liability Fund coverage to the subject site for \$900,000.00, \$1,000,000.00 million less the 10% copayment. Additionally, the Board approves the current claims for a total amount of \$734,109.48. Mr. John Saxon seconded the motion. Motion carried unanimously.**

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

Mr. Don Warner presented Site Specific Board Determination (SSBD) C2018-04, to propose reduced coverage for the Jeanne W. Murr Living Trust. Petroleum Fund Case ID No. 2017000043; Facility ID 4-001157. The subject site is located at 817 Ophir Peak Road, Incline Village, Nevada. This facility/residence consisted of an underground storage tank (UST) with two split compartments.

On May 4, 2017, the UST system and associated piping passed precision tightness testing conducted by Afforda-Test. On May 31, 2017, a facility notification was received by NDEP. Prior to this time, this facility and its regulated UST system was never registered with the State of Nevada Underground Storage Tank Program. On June 2, 2017, the UST system was enrolled into the Fund. On October 18, 2017, the UST system was removed and permanently closed by Bramco Construction. During the UST removal, the piping from the underground storage tank to the dispenser was discovered to have been leaking. In addition, soil contamination was observed, indicating a possible release. Approximately 14.5 tons of impacted soil was removed, and soil samples were collected and submitted to Alpha Analytical for analyses.

On October 23, 2017, McGinley & Associates reported a suspected release to NDEP under Spill Report No. 171023-04. On October 24, 2017, the Washoe County Health District requested an initial site assessment report. An Alpha Analytical Laboratory report dated October 31, 2017 indicated TPH GRO concentrations as high as 3,200 milligrams per kilogram. This exceeds NDEP's reportable concentration and confirmed a release had occurred to the environment. On November 22, 2017, NDEP received an application for coverage for a single UST system identifying the underground supply line that ran to the dispenser as the release source.

Mr. Warner stated the UST system was out of compliance with the following UST regulations at the time of release discovery. First, notice of the UST system's existence had not been received by NDEP until just recently when the tank system was enrolled in the Fund. Second, the tank and associated piping were bare steel with no corrosion protection. Third, no spill prevention or overfill protection equipment appeared to be installed on the tank system. Fourth, neither the tank components nor the product piping were being monitored for releases.

Board Policy Resolution No. 94-023 states noncompliance with certain regulations may not necessarily be proximate cause for a discharge, but noncompliance may still result in increased costs for site remediation. Resolution 94-023 also states when a determination of noncompliance is made, the staff of the Nevada Division of Environmental Protection will recommend to the Board that any reimbursement awarded be reduced in accordance with the reimbursement reduction schedule specified in 94-023. In accordance with Board Resolution No. 94-023, Petroleum Fund staff is required to propose reductions in Fund coverage for violations of Federal UST and leaking UST regulations.

The Petroleum Fund staff must also list each noncompliance violation and the resulting reduction percentage for the Board's consideration and recommend to the Board that the largest percentage associated with any one noncompliance issue be applied. The following are the items requiring reductions:

- Failure to comply with design, construction, installation, notification, or changes in service – 10% reduction
- Failure to comply with release detection requirements – 20% reduction

In conclusion, it is NDEP's recommendation to the Board to adopt SSBD No. C2018-04 as proposed, granting coverage under the State of Nevada Petroleum Fund to Jeanne W. Murr Living Trust for one UST system and associated underground piping with a 20% reduction. The 20% reduction is the larger percentage of the multiple noncompliance violations associated with this facility. The total amount of coverage recommended is \$720,000.00, which is \$1,000,000.00 minus the 20% reduction minus the 10% copayment.

Mr. LeRoy Perks inquired whether the site had ever been permitted and how old it was.

Mr. Warner responded that the site was never permitted and based on the known information the tank is 5,000 gallons with two compartments that each hold 2,500 gallons and was installed in 1979.

Mr. Perks asked if anyone was aware the tank was there until recently.

Mr. McRae responded that was correct. NDEP received a spill call and that is when they became aware of the tank. The tank was installed in the late 1970s, before the 1988 requirement for notification of USTs to the federal government and long before the 1988, 2008, and now the 2015 regulations.

Mr. Perks asked if there is a cleanup cost estimate or has cleanup been completed.

Ms. Caitlin Jelle from McGinley & Associates responded conservatively \$75,000.00 is needed for drilling and classification of soils in the area and to confirm groundwater is not impacted.

Ms. Jelle stated based on initial investigation, impacts were 13 to 15 feet below ground surface. There is a well in the area for another project, and groundwater is between 50 and 70 feet. Moving forward would require minimal drilling and analysis to ensure groundwater is not impacted.

Mr. Smith asked whether this case involves the original property owners or are they new owners.

Ms. Jelle stated it was her understanding that the property has been in the family from the beginning.

Mr. Smith asked they did not purchase the property and then discover the problem.

Ms. Jelle stated she did not believe so.

Mr. Saxon inquired whether this is a commercial site or a private facility.

Mr. McRae confirmed it is a private residence in Incline Village.

Mr. Perks asked if this is a private residence as opposed to commercial, is there a policy where they could pay \$250 upon discovery of a tank.

Mr. Cabble responded the \$250 copayment referenced is specific to heating oil tanks on residential properties. This UST stored gasoline in both compartments, which is a regulated substance. Additionally, the UST's volume also exceeds the 1,100-gallon exception allowed in regulations for a residential tank.

**Mr. Lovato moved to approve SSBD No. C2018-04 as proposed, granting coverage under the Nevada Petroleum Fund to the Jeanne W. Murr Living Trust for one UST system and associated underground piping with a 20% reduction and 10% copayment. Mr. Smith seconded the motion. The motion passed unanimously.**

9. **STATUS OF ASSESSMENT/CLEANUP SCHEDULE AT THE MLK GAS MART – CASE NO. 2017000027**

Mr. Cabble introduced Mr. John Edmond, owner of MLK Gas Mart, and Mr. Keith Stewart, Stewart Environmental, CEM, to provide a summary of the actions and assessment done to date and provide a schedule of corrective action work to be completed.

Mr. Stewart stated at the last meeting, information was shared regarding Mr. Edmond purchasing the site at auction, moving forward with tank removal, and assessment work had yet to be completed.

Mr. Stewart stated on November 7, 2017, NDEP requested an initial site assessment be performed with a report due by February 7, 2018. The report was submitted on January 12, 2018. During the assessment, four groundwater monitor wells were drilled, installed, and sampled. Groundwater impacts are minor and contaminant concentrations are below action levels in all wells. Minor soil impacts were noted.

Mr. Stewart stated on March 7, 2018, NDEP submitted a request for additional site characterization including approximately three soil borings and sample collection. NDEP also requested quarterly sampling be initiated; however, due to low concentrations at the site, NDEP has not requested a monitoring duration. There is potential that if the drilling results are favorable, the site might qualify for closure.

Mr. Stewart stated they are hopeful the Board will remove the current 5% coverage reduction.

Mr. Lovato thanked Mr. Stewart and Mr. Edmond for assessing and making progress on the site.

Mr. Lovato asked how long the site was in operation and when it closed.

Mr. Edmond responded he believed the site was built back in the late 1980s. Then closed for roughly five years prior to Mr. Edmond purchasing the property at auction.

Ms. Tappan stated she leans toward taking away the 5% reduction and stated, she believes Mr. Edmond was not aware of the situation and should be rewarded for cleaning up the area up rather than penalized.

**Mr. Lovato made a motion to amend the Site Specific Board Determination No. 2017-06 granting coverage under the Petroleum Fund to MLK Gas Mart for one UST system and associated underground piping with a 0% reduction and 10% copayment. Mr. Saxon seconded the motion. The motion passed unanimously.**

**10. 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 –March 8, 2018**

**HEATING OIL**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1.	2007000013	Churchill County School District: Churc. Co. S.d. Bus Barn	\$2,466.25	\$2,466.25
FOR POSSIBLE ACTION	2.	2012000017	Churchill County School District: Old High School	\$9,514.19	\$9,514.19
FOR POSSIBLE ACTION	3.	2017000044	Wendy Adkins: Claude G. Adkins Property	\$11,585.85	\$11,335.85
FOR POSSIBLE ACTION	4.	2017000046	Chris Theisen: Christopher M. Theisen Residence	\$12,665.30	\$12,285.30
FOR POSSIBLE ACTION	5.	2018000001	Michelle Erlach: Michelle M. Erlach Property	\$14,524.37	\$14,274.37
FOR POSSIBLE ACTION	6.	2018000002	Lewis Operating Corporation: Pioneer Pkwy Holding Co., LLC	\$12,578.30	\$12,328.30
FOR POSSIBLE ACTION	7.	2018000003	Nicholas Davis: Nicholas A. Davis Residence	\$21,081.66	\$20,831.66
FOR POSSIBLE ACTION	8.	2018000004	Laura Scott: Laura A. Scott Residence	\$32,554.00	\$32,304.00
			<b>SUB TOTAL:</b>	<b><u>\$116,969.92</u></b>	<b><u>\$115,339.92</u></b>

**NEW CASES**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1.	2016000021	7-Eleven Inc: 7-Eleven #29647	\$74,149.54	\$66,734.59
FOR POSSIBLE ACTION	2.	2016000027	Terrible Herbst, INC.: Terrible Herbst #272	\$4,036.25	\$3,269.36
FOR POSSIBLE ACTION	3.	2017000027	John Edmond: Milk Gas Mart	\$45,483.18	\$38,888.12
FOR POSSIBLE ACTION	4.	2017000033	Ws Dynoco Petroleum Management Llc: Green Valley Grocer #58	\$38,142.77	\$34,328.49
			<b>SUB TOTAL:</b>	<b><u>\$161,811.74</u></b>	<b><u>\$143,220.56</u></b>

**ONGOING CASES**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	1.	1992000126	Clark County School Dist.: Rc White (Arville) Transp. Satellite	\$80,256.16	\$80,256.16
FOR POSSIBLE ACTION	2.	1993000103	Charlie Brown Construction: Charlie Brown Const.	\$5,379.50	\$5,271.91
FOR POSSIBLE ACTION	3.	1993000115	City Of Fallon: Former Bootlegger Texaco	\$25,265.00	\$25,265.00
FOR POSSIBLE ACTION	4.	1994000015	Pilger Family Holdings: Former D & G Oil Company	\$40,310.00	\$40,105.40
FOR POSSIBLE ACTION	5.	1994000113	Pilot Travel Centers Llc: Former Unocal Truck Stop #6328	\$27,836.86	\$24,830.66
FOR POSSIBLE ACTION	6.	1994000122	Michelsen's Gas A Mart, Inc: Mike's Chevron	\$1,070.00	\$1,070.00
FOR POSSIBLE ACTION	7.	1995000012	N. Nevada Asset Holdings, Llc: Parker's Model T	\$1,080.00	\$972.00
FOR POSSIBLE ACTION	8.	1995000039	Al Park Petroleum Inc: Crescent Valley Market	\$60,899.29	\$54,431.36
FOR POSSIBLE ACTION	9.	1995000042	FBF Inc: Gas 4 Less	\$20,680.84	\$18,612.76
FOR POSSIBLE ACTION	10.	1996000063	Joan Pennachio: V & V Automotive	\$4,816.10	\$4,816.10
FOR POSSIBLE ACTION	11.	1996000064	H & A Esslinger, Llc: Red Rock Mini Mart	\$15,121.94	\$14,668.28
FOR POSSIBLE ACTION	12.	1996000101	Phillips 66 Company: Circle K #695	\$14,711.16	\$13,240.04
FOR POSSIBLE ACTION	13.	1997000008	Ewing Bros Inc: Ewing Bros INC	\$3,440.00	\$3,096.00
FOR POSSIBLE ACTION	14.	1998000046	Willdens Automotive Holdings: Frmr Allstate Rent A Car	\$22,255.47	\$20,029.92
FOR POSSIBLE ACTION	15.	1998000068	Phillips 66 Company: Conoco #28003	\$24,097.71	\$21,457.49
FOR POSSIBLE ACTION	16.	1998000075	Phillip M. Stone: McDermitt Motel & Convenience Store	\$11,433.69	\$10,290.32
FOR POSSIBLE ACTION	17. *	1999000014	Al Park Petroleum Inc: Pit Stop #7 Conoco	\$20,263.07	\$18,236.76
FOR POSSIBLE ACTION	18.	1999000022	Terrible Herbst, INC.: Terrible Herbst #129 (Chevron)	\$21,529.26	\$19,376.33
FOR POSSIBLE ACTION	19.	1999000023	Nevada Ready Mix Corp: Nevada Ready Mix	\$12,385.00	\$11,146.50
FOR POSSIBLE ACTION	20.	1999000029	Terrible Herbst, INC.: Terrible Herbst #136 (Arco)	\$17,003.88	\$15,297.04
FOR POSSIBLE ACTION	21.	1999000064	Al Park Petroleum Inc: Pit Stop #4 (Conoco)	\$4,267.87	\$3,841.08
FOR POSSIBLE ACTION	22. *	1999000066	HP Management, Llc: Former Haycock Petroleum	\$815,778.77	\$734,109.48
FOR POSSIBLE ACTION	23.	1999000086	Terrible Herbst, INC.: Terrible Herbst #126 (Arco)	\$26,727.44	\$24,046.19
FOR POSSIBLE ACTION	24.	1999000104	Terrible Herbst, INC.: Terrible Herbst #118 (Arco)	\$51,206.71	\$46,076.32
FOR POSSIBLE ACTION	25.	1999000135	Terrible Herbst, INC.: Terrible Herbst #106 (Gas) & #108 (Lube)	\$16,406.09	\$14,753.33
FOR POSSIBLE ACTION	26.	1999000137	Terrible Herbst, INC.: Terrible Herbst #152 (Gas) & #155 (Lube)	\$13,851.40	\$12,457.38
FOR POSSIBLE ACTION	27.	1999000167	City Of Las Vegas: Fire Station #1	\$16,098.13	\$16,098.13
FOR POSSIBLE ACTION	28.	1999000199	Village Springs, Llc: Lakeshore Orbit Station	\$6,565.72	\$6,565.72
FOR POSSIBLE ACTION	29.	1999000273	Mr. V. K. Leavitt: The Waterhole	\$27,817.50	\$25,035.75
FOR POSSIBLE ACTION	30.	2004000011	Travel Centers Of America: Wells Petro Truck Service	\$35,491.12	\$31,914.31
FOR POSSIBLE ACTION	31.	2004000039	Clark County Dept Of Aviation: Frmr National Car Rental	\$50,557.78	\$39,431.34
FOR POSSIBLE ACTION	32.	2005000036	Phillips 66 Company: Circle K #1791	\$2,925.66	\$2,106.48
FOR POSSIBLE ACTION	33.	2005000044	Ewing Bros Inc: Ewing Bros INC	\$19,890.96	\$17,901.86
FOR POSSIBLE ACTION	34.	2007000014	Ace Cab Company: Ace Cab Company	\$70,810.60	\$62,306.75
FOR POSSIBLE ACTION	35.	2008000005	Avis Rent A Car System Llc: Avis Rent A Car	\$5,870.29	\$5,283.26

**ONGOING CASES: CONTINUED**

			<b><u>REQUESTED</u></b>	<b><u>RECOMMENDED</u></b>	
FOR POSSIBLE ACTION	36.	2008000018	Jacksons Food Stores Inc: Jacksons Food Stores #0145	\$11,155.67	\$10,040.10
FOR POSSIBLE ACTION	37.	2008000019	One Panou Llc: Golden Market #3	\$23,403.32	\$21,048.41
FOR POSSIBLE ACTION	38.	2009000017	D & J Holdings, Llc: Convenience Corner Shell	\$6,276.05	\$5,648.45
FOR POSSIBLE ACTION	39.	2009000028	Vegas Rainbows, Inc: Mick & Mac's Food Mart	\$30,945.47	\$27,154.65
FOR POSSIBLE ACTION	40.	2010000007	Pecos Express: Pecos Station	\$2,358.93	\$2,123.04
FOR POSSIBLE ACTION	41.	2011000009	Cimarron West: Cimarron West	\$85,971.84	\$77,374.66
FOR POSSIBLE ACTION	42.	2012000005	Travel Systems, Llc: Zephyr Cove Resort	\$24,811.98	\$22,321.78
FOR POSSIBLE ACTION	43.	2012000012	Dewey Has Gas, Inc: Smart Mart	\$29,443.48	\$26,499.13
FOR POSSIBLE ACTION	44.	2013000009	Western Petroleum: Western Petroleum	\$37,538.78	\$33,784.90
FOR POSSIBLE ACTION	45.	2013000011	Har Moor Investments, Llc: Village Shop #4	\$21,014.75	\$18,913.27
FOR POSSIBLE ACTION	46.	2013000015	Gary Cornwall: Gary Cornwall Property	\$1,663.75	\$1,663.75
FOR POSSIBLE ACTION	47.	2013000019	Hardy Enterprises Inc: Elko Sinclair #53	\$10,153.05	\$9,137.75
FOR POSSIBLE ACTION	48.	2014000004	Alsaker Corp: Broadway Colt Service Center	\$33,005.89	\$29,705.30
FOR POSSIBLE ACTION	49.	2014000016	Smitten Oil And Tire Co Inc: Former Smitten Oil	\$3,730.26	\$3,357.23
FOR POSSIBLE ACTION	50.	2014000025	Superior Campgrounds Of America Llc: Silver City Rv Resort	\$31,089.06	\$27,980.15
FOR POSSIBLE ACTION	51.	2014000033	Speedee Mart Inc: Speedee Mart #108	\$21,022.67	\$18,920.40
FOR POSSIBLE ACTION	52.	2014000041	Forever Resorts: Callville Bay Resort Marina	\$15,150.00	\$13,635.00
FOR POSSIBLE ACTION	53.	2015000005	Elko Acquisitions LLC dba Red Lion Chevron: Red Lion Chevron	\$9,780.14	\$8,802.13
FOR POSSIBLE ACTION	54.	2015000009	Travel Centers Of America: Las Vegas Travel Center	\$1,406.25	\$1,265.63
FOR POSSIBLE ACTION	55.	2015000014	Abe Kaabipour: City Express	\$13,838.66	\$12,454.73
FOR POSSIBLE ACTION	56.	2015000034	Town Of Gardnerville: Eagle Gardnerville	\$6,152.50	\$5,537.25
FOR POSSIBLE ACTION	57.	2016000005	Golden Gate S.e.t. Retail of NV Llc: Golden Gate Fac. #65 - Fallon	\$16,841.05	\$15,156.95
FOR POSSIBLE ACTION	58.	2016000023	Al Park Petroleum Inc: Pit Stop #1	\$34,842.77	\$25,029.20
FOR POSSIBLE ACTION	59.	2017000015	Gmr National A Nevada General Partnership: 24x7 Mini Mart	\$28,531.36	\$20,542.58
			<b>SUB TOTAL:</b>	<b><u>\$2,094,228.65</u></b>	<b><u>\$1,882,493.85</u></b>
			<b>CLAIMS TOTAL:</b>	<b><u>\$2,373,010.31</u></b>	<b><u>\$2,141,054.33</u></b>

Mr. Lovato requested clarification regarding MKL Gas Mart, which appears under New Cases as Item No. 3, Mr. Lovato questioned, would the Boards vote today change the claim amount or only for future claim amounts.

Mr. Cabbie responded that generally if there were an existing claim or previous claims, they would not retroactively apply the new reduction. Because the claim is on the agenda for today's approval, it would receive a 5% reduction. Going forward, there would be a 0% reduction for anything submitted after today's board meeting.

**Mr. Lovato moved for approval of the consent items, Heating Oil, 1 through 8, New Cases, 1 through 4, Ongoing Cases, and 1 through 59. Mr. Perks seconded the motion. Motion carried unanimously.**

## 11. EXECUTIVE SUMMARY

Mr. Cabble stated, from inception of the Fund in 1989, roughly 1,575 applications have been received – 172 cases have been denied coverage, 1,239 cases have received closure and 4 applications are currently pending NDEP review or require additional information. There are currently 158 active remediation sites with nine new applications received since January 1, 2018.

Prior to this meeting the Board approved reimbursements totaling \$220,710,402.90 for owners and operators throughout the State of Nevada. Upon approval of \$2,141,054.33 at today's Board meeting, the cumulative Fund expenditure will be \$222,851,457.23.

Tank enrollment invoices were generated in August of 2017 for 1,287 facilities at \$100 per tank. To date approximately 99%, or 1,275 of the 1,287 facilities invoiced, have submitted the required enrollment fees.

On December 14, 2017, the Board approved Regulatory Petition R032-17 allowing a grant program to be established in order to pay for approved UST system upgrades throughout the State of Nevada. Currently a grant application is available online where operators may apply through the Nevada Environmental Activities database. The active grant application period is January 1st through March 31st of each year. Applications will be reviewed based on a documented financial need, the amount of product dispensed at the facility, and the applying facility's proximity to other stations. These factors will determine if and when facilities receive grant funds. Any facility that receives a grant award will not be eligible to receive additional grant funding as the program is established as a one-time grant award. Facilities that apply, but do not receive money may reapply in following years until they receive a grant award.

Mr. Cabble stated that during the December 14, 2017 meeting, Board Policy Resolution 2017-02 was approved by the Board. The policy resolution allows Petroleum Fund staff to pay claimants without approval from the Board if a claimant declares the claim amount approved by Fund staff is uncontested. The Board was notified that the Fund has made improvements to its database to begin allowing direct payments to claimants following the March 8, 2018 Board meeting. During the June 2018 Board meeting, two lists will be provided to the Board including a claim consent list for the Board to approve and a list of facilities for which NDEP has issued a direct reimbursement payment on the Board's behalf.

Mr. Cabble noted, a new Chairman must be nominated and elected during the June 2018 Board meeting. Should Ms. Tappan receive that nomination, a second nomination and vote would follow for a new Vice Chairman as well.

Mr. Jonathan McRae, NDEP UST-LUST Program Supervisor, informed the Board of progress at the Eagle Gas North site, which is nearing closure. The remediation system was deactivated on July 1, 2016 and quarterly post-remediation monitoring has been completed. A report was received indicating one well in the middle of North Carson Street yielded a benzene concentration of 340ppm, which is above the State Action Level. However, that particular well has consistently been over the action level during remediation. Upon cessation of remediation and during post-remediation monitoring, the contamination has remained unchanged in the middle of North Carson Street indicating plume stability. None of the monitoring wells have exceeded action levels for MTBE.

In February of 2018, the UST/LUST contractor provided an addendum to the 2014 conceptual site model which will be one of the mechanisms used for a groundwater exemption on this project. NDEP case officer Raquel Diedrichsen is reviewing the site model and has submitted comments. Once comments are reviewed and incorporated by the contractor, they will prepare a

closure report. Upon final NDEP approval of the closure report, the UST/LUST contractor will abandon the 45 site wells and decommission the air sparge/SVE remediation systems.

At this time, the property owner has converted the former gas station into a convenience store and used car lot. As the board is aware, the owner has been uncooperative during this project and requesting movement of vehicles in order for equipment to be removed from the site may also cause delays in closure.

Mr. Perks inquired about the three-month period in which applicants may apply for a grant. He asked if they miss the three month application period, would they be required to wait and apply the following year.

Mr. Cabble stated the three month enrollment period (January 1<sup>st</sup> through March 31<sup>st</sup> of each year) helps Fund staff manage a potential influx of applicants. The application is thorough regarding the amount of financial information staff must review. This allows staff time to review applications and to finalize the amount of money available at the end of each fiscal year. NDEP staff anticipates roughly \$2,000,000.00 per year to spend on the grant program; however, that amount may fluctuate year to year. Funds not spent on grants that are in exceedance of the \$7,500,000.00 cap, would be transferred to the State's Highway Fund each fiscal year.

Mr. Perks asked if there was a mechanism in place extending the enrollment period if additional funding became available.

Mr. Cabble stated at this time the application period is set in regulation, and changes to that regulation must follow a formal process. The fiscal year closes annually on June 30<sup>th</sup>, which allows approximately three months from the time applications are received to vet them, and determine the current financial status of the Fund. It would be difficult to establish a set amount of funds available to pay out grants if applications are received throughout the year.

Mr. Perks stated a mechanism needs to be found to use the money for its intended use.

Mr. Cabble stated grant application will likely be driven by periodic testing of UST system components. Proactive facilities testing before the October 15, 2018 deadline that detect an issue may apply right now with an excellent shot at grant approval. After periodic testing documentation requirements go into effect in October of 2018, there could be a rush of applicants for the grant program. Now is the time for facilities interested in the grant program to test and submit a grant application.

Ms. Tappan asked if any applications for the grant program have been received.

Mr. Cabble stated at this point there has been little interest and operators may rely on their tank handlers to assist with them in the grant processes. Recently, a tank handler expressed concern the required three-bid process could create some competition among handlers and discourage applicants. However, NDEP staff believes that operators are not doing the required testing at this time because inspectors are not asking for the test records at this point. In October of 2018, when compliance inspections begin to request periodic testing documentation of operators, NDEP staff expects a rush of applications; particularly from facilities that have failed testing.

Mr. Lovato asked what has the overall outreach been and what steps has the Petroleum Fund staff taken to notify owner/operators of the availability of these funds?

Mr. Cabble responded prior to the adoption of the regulations, there were workshops held with notification sent to all operators in the state as well as many, if not all, certified individuals in the

program, including Environmental Managers, tank handlers, and testers. Following the regulation adoption, an email containing a one page flier was provided to all the operators, tank handlers, and certified individuals notifying them that these testing requirements are in effect October of 2018. A link to the website containing additional information and a link to the grant application was also included.

Mr. McRae stated inspectors for the State of Nevada as well as Washoe County and the Southern Nevada Health Districts provide the flier as a handout during inspections. Emails were sent out as well, and NDEP staff has been talking to the owner/operators since NDEP started adopting the revised Federal Regulations in 2015. Efforts have been made to inform everyone of the new regulations starting in October 2018. The Petroleum Marketers Association has pushed forward with some alternative testing methods as well.

Manufacturers have started coming up with products to help mitigate repairs and there are companies with new testing methods as well. Industry and the government agencies are ready for the October 2018 deadlines. Early adopters moving forward with redoing their spill buckets and the sump testing include mostly large national carriers, but these carriers have more than 150 employees and therefore are not eligible to apply for the grant program.

Mr. McRae continued, UST component manufacturers have come into Nevada from California, and those companies are already gearing up with their handlers in anticipation of testing all 1,500 facilities in the State of Nevada. There will be an enormous amount of requests for parts from these manufacturers with a current expected failure rate of 60%. However, NDEP staff anticipates a failure rate closer to 80% or 90%.

Mr. Lovato asked if a representative from the Nevada Petroleum Marketers & Convenience Store Association could offer any insight to whether owners/operators are aware of the program.

Mr. Saxon stated there is always a case to be made that the word does not get out as soon as it should; however, he believes the word is out there. The industry as a whole is trying to improve their training and adaptability. However, additional public posting and providing a site a flyer would also help get the word out.

Mr. Joseph McGinley stated he concurred that the word has gotten out, although there are a number of owners and operators that still are not aware of the program or the details including the pending deadline.

Ms. Tappan asked if applications are not received, then \$2,000,000.00 would be given back to the State Highway Fund?

Mr. Cabble confirmed, remaining Funds in excess of the \$7,500,000.00 cap set by State statute would go to the Highway Fund. This would be very similar to previous years prior to the grant program.

Mr. Perks inquired about the larger companies who are not eligible and lease out their facilities to LLC's where the lessees' are responsible for maintenance and upkeep of the facilities, would they be eligible for a grant?

Mr. Cabble stated that based on the regulation, it is the person responsible for or the owner of the underground storage tank system that would be eligible. It would really depend on a written lease agreement in which the lessee is expected to take ownership of those tanks and any potential contamination associated with those tanks if they leak. If a new LLC is created and they take ownership of the tanks and liability, then there could be a possibility.

Mr. Perks noted it might be a struggle to get underground tank handlers to jump on board. An underground tank handler presents a grant to their client that they have had as a client for a long time, and now have to tell their client to solicit three bids, which is a bid against them as the primary contractor. This may not be seen as a benefit to the contractor and that contractor might be more apt to dissuade a customer than to use it.

Mr. Cabble responded the onus and the responsibility of this program falls on the operator, not on their handler. If staff determines in speaking with other handlers that this is a commonality, then this Board would need to make a determination whether staff would need to revisit the regulations and the three-bid process.

Mr. Lovato stated these are public funds and therefore the three-bid process is typical to safeguard the fiduciary duty of using public funds, and will need to be managed.

Mr. Perks stated for the three-bid process, which the State requires everywhere, we need to put a little more language into the grant that identifies the materials a customer can use. The rulebook needs more detail regarding the three-bid process that tells a consultant what materials to use. This way, everybody is bidding the same job.

Ms. Tappan asked for follow up from NDEP staff at the following meeting including receipt of any grant applications through the end of March, along with pertinent feedback.

Mr. Perks stated he felt the Board needs to revisit this and that the grant was left open-ended. Everything in the State of California specifies what is done, including materials, Nevada does not. He further stated he felt a gap was left which will make it harder to legitimate bids.

Mr. Cabble stated Nevada differs from California. Nevada has a very large rural area within the state. The intent in requiring the three bids, is obtaining contractors from different areas of the state that can maybe come in and compete with one another. The Board will be updated at the June 2018 meeting, and hopefully by that time there will be more interest from the regulated community. If there is none, NDEP staff may revisit the regulations.

Lastly, Mr. Cabble provided an update to the 1099 Miscellaneous Tax Form. The application for a determination was submitted to the Department of Agriculture in January of 2018, shortly after the December 2017 meeting, and is currently in the review process.

**12. PUBLIC COMMENTS**

There were no requests to speak.

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

It was confirmed the next meeting date would be Thursday, June 14, 2018 at 11:00 am.

**14. ADJOURNMENT**

The meeting adjourned at 12:22 pm.