

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
DECEMBER 12, 2019**

1. CALL TO ORDER

Chair Tappan called the meeting to order at 11:00 a.m. from Carson City at the Nevada Legislative Building, 401 S. Carson Street, Room 2134. The meeting was also conducted via videoconference with Las Vegas at the Grant Sawyer Building, 555 E. Washington Ave., Room 4412E.

A. BOARD MEMBERS PRESENT

Chair Maureen Tappan – Representative of the General Public
Vice-Chair Dawn Lietz – Department of Motor Vehicles
Greg Lovato – Nevada Division of Environmental Protection
Mike Dzyak – State Fire Marshal’s Office
Rod Smith – Representative of Petroleum Refiners
LeRoy Perks – Representative of the Independent Retailers of Petroleum

BOARD MEMBERS NOT PRESENT

Vacant – Representative of Independent Petroleum Dealers

OTHERS PRESENT

Peter Handy, State Attorney General’s Office – Carson City
Jeff Collins, Jeff Kinder, Michael Cabbie, Victoria Joncas, Kim Valdez, Don Warner, Megan Slayden, Jonathan McRae, Diondrae White, Ben Moan, Chuck Enberg, and Karen Kovacs – Nevada Division of Environmental Protection (NDEP)
Caitlin Jelle – McGinley & Associates
Ryan Defilippi – McGinley & Associates
Kathleen Johnson – The Westmark Group
Kevin Paprocki – Converse
Kurt Goebel – Converse
Rex Heppe – Terracon
Keith Stewart – Stewart Environmental

2. PUBLIC COMMENT

There were no requests to speak.

3. APPROVAL OF THE SEPTEMBER 12, 2019 MINUTES

Chair Tappan invited comments, questions or changes to the minutes. There were none.

Mr. Smith moved to approve the September 12, 2019 minutes as submitted. Mr. Lovato seconded the motion. Motion carried unanimously.

4. STATUS OF THE FUND

Mr. Cabbie provided a budget status for the State of Nevada Petroleum Fund (Fund) for Fiscal Year 2020. He summarized the financial results. The balance forward from Fiscal Year 2019 was \$7,500,000. Approximately \$376,000 has been received from tank enrollment fees to date. The \$0.0075 petroleum fee on each gallon of fuel purchased in the State has generated approximately \$2,612,255. Interest income is approximately \$65,934. Total revenue of the Fund for FY 2020 is \$10,554,188.84.

Mr. Cabbie reviewed expenditures for FY 2020. Board member salaries totaled approximately \$362 and Board member in-state travel totaled approximately \$61. Board meeting operating costs total approximately \$265. Funding spent operating the program under NDEP, including State-led cleanups, staff salaries, and ongoing database/software maintenance totals \$396,695. The service fee paid to DMV to administer the cleanup fee is \$12,714. Total reimbursement for paid claims was approximately \$2,983,410. The current balance for the new FY (2020) is \$7,160,681.94.

5. EXECUTIVE BRANCH AUDIT SIX-MONTH FOLLOW-UP STATUS REPORT

Mr. Cabbie indicated this item was included on the meeting agenda to update the Board on NDEP's progress toward addressing the audit findings outlined by the Division of Internal Audits in their June 2019 report (DIA Report No. 19-05). The audit staff requested NDEP provide a status report and include the following information for each recommendation:

1. Make a determination of the current status for each recommendation using the following three categories: Fully Implemented, Partially Implemented, or No Action
2. Provide backup documentation demonstrating progress. NDEP is currently gathering this documentation.
3. Provide an estimated completion date for any recommendation that is not Fully Implemented.

Mr. Cabbie summarized the status report provided to the audit staff and included it in the Board member packets. Recommendations #1, #2, and #4 will be revisited during the March 2020 Board meeting, at which time NDEP will have gathered more information to present a path forward in addressing the audit recommendations. Recommendation #3 will be discussed in the following agenda item of this meeting and will likely result in a new Policy Resolution being drafted and presented for adoption during the March 2020 meeting. Recommendation #5 was discussed at length during the September Board meeting, during which the Board decided current enrollment and reimbursement policy resolutions were sound, implemented unilaterally throughout the state, and updates would not be pursued. As such, NDEP met its commitment to reevaluate these policies with the Board and noted the status of this recommendation as Fully Implemented.

Mr. Cabbie stated that each of NDEP's responses would be presented by the Division of Internal Audits to the Executive Branch Audit Committee during its next meeting (February 26, 2020). He reminded everyone that it is a public meeting and encouraged attendance.

Mr. Perks asked for a couple of weeks' notice before February's meeting.

Mr. Cabbie stated he would send that out.

6. EQUIPMENT BOARD POLICY RESOLUTIONS AMENDMENTS

Mr. Cabble noted that this agenda item is meant to address audit Recommendation #3, which suggested staff should be in the field conducting periodic inspections of equipment that is being reimbursed by the Fund. He stated that a formal draft was not yet in place, due to not wanting to rush the process of replacing three existing policy resolutions with a new one while also creating a new field audit program. The purpose of this agenda topic is to discuss the issue and gain feedback. The resulting information will be evaluated and used to draft the new policy, which will then be provided for additional feedback to the Board, certified environmental managers, and the regulated community. The intent is to have a finalized draft ready by the March meeting for possible adoption.

Mr. Cabble provided a brief outline of key points for the new policy resolution:

- Conduct inspections of newly installed equipment that meets a defined value (\$6,000 proposed), and conduct follow up inspections every two years thereafter.
- Track equipment greater than \$6,000 in value and require contractors obtain bids prior to the purchase of this equipment. This is consistent with current policy for other Fund reimbursement costs.
- Utilize the current database to track equipment.
- Provide or establish a formal process for transfer, selling, or disposal of tracked equipment.
- Include language stating once an operator accepts reimbursement funds for equipment, they are entering a contract to care for and maintain the equipment for its useful life. A form is required in existing policy and requires signature of the operator. The new policy eliminates the signature step and form.
- An attachment that includes expectations or a manual on how each piece of equipment should be maintained and operated.
- Lastly, outlines the field inspection process.

Mr. Cabble continued that he was looking for some input from the Board on a few key issues beyond what had been outlined for the new policy resolutions; specifically, staff intends to rely on the CEM Cost Guidelines and Bid Policy resolutions for equipment purchases equaling \$6,000 or more. As a condition of reimbursement for this equipment, operator's CEM will need to update an Onsite Equipment Form when a claim for reimbursement is submitted to the Fund.

Mr. Cabble stated another area staff is requesting input includes the process for transferring equipment. Staff are proposing that prior to moving a piece of equipment from one site to another, concurrence from the NDEP cleanup case officer as well as the Fund will be required. The requested timeframe for notifying the Fund prior to relocating a piece of equipment is 30-days. This will give NDEP staff time to figure out what site the equipment can be used. If equipment is transferred, the new operator will take on the same responsibilities as the former operator. Staff are also considering transferring equipment without debiting the value of the equipment from the new owner and crediting the same value to the old operator. Instead, just the costs associated with transport and/or hook-up fees would be incurred. This could potentially encourage the transfer of equipment rather than the purchase of new equipment.

Mr. Cabble stated that selling or salvaging equipment must be considered, which would require setting a value to tracked equipment. He noted the method for valuating equipment currently is a three-year depreciation to 10% of the purchase price. He added that extending the three years is being considered to be more representative of how long remediation equipment is actually used. Another area he is soliciting input is the final depreciated value of equipment. For example: a packaged remediation system can initially cost between \$250,000 and \$500,000. If the Fund is

required to recover 10% of the purchase price, \$50,000 would need to be recovered when the equipment is no longer used. This may be appropriate if the equipment is only used 3 years, but if it was used for 10 years at multiple facilities, \$50,000 may be a lot to ask. Depreciating the equipment to a lower value over a longer term may be more representative.

Mr. Cabbie concluded with an attachment to the new policy resolution would outline a maintenance equipment policy manual. To effectively implement a maintenance schedule, staff would require warranty and maintenance information from the equipment manufacturers at the time the equipment is reimbursed by the Fund. The manufacturer information can then be referenced by staff during site inspections and compared to a maintenance log kept onsite by the consultant.

Mr. Smith expressed concern with the State using the term “depreciation” as it is a term better associated with accounting and taxes. He further stated depreciation does not necessarily equate to the value of the property. Property could potentially last a lot longer than the depreciation, which would help in gaining the investment back. He believed that separating depreciation from the value of the equipment might be more ideal.

Mr. Cabbie said he was not opposed to using a different term, but was simply pulling in terms from the existing policy. He noted that devaluing a piece of equipment might be a better way to phrase it.

Mr. Smith said that certain recovery tanks and other equipment could retain value longer than three years, so straight-line depreciation is possibly not the best method.

Vice-Chair Lietz asked what typically happens to equipment once it was depreciated per current policy. Also, does NDEP own the equipment?

Mr. Cabbie stated that NDEP does not own the equipment. Current policy allows NDEP to require an operator to maintain a piece of equipment onsite that is capable of being used at another Fund cleanup for up to two years. In the past, if the equipment was not transferred to another facility, it would be moved to a storage yard for future use. Equipment storage yards are no longer available to NDEP at this time. Rather than requiring an operator to keep equipment at their facility for up to two years following cleanup, staff would like to set value, sell it, and deposit the sale value back into the Fund. If the equipment is not worth more than scrap, recover whatever value the operator receives for the equipment when it is removed from the site.

Vice-Chair Lietz requested more information on the cycle of the useful life of the equipment.

Mr. Cabbie responded with this timeline: Condition of the equipment would be evaluated at the time that the operator no longer needed it, after which it could be moved to another site. There would be no cost to the new operator for the equipment; however, the new operator would pay for loading, hauling, and set up of the equipment at their facility. This results in a net savings to the State by not having to purchase new equipment for the second owner of previously reimbursed Fund equipment. If a piece of equipment was no longer usable due to a long-term cleanup, it would be devaluated by a formula, sold, and the money would come back to the Fund.

Mr. Perks asked who would determine the useful life of the equipment, since some sites are better at maintenance than others.

Mr. Cabbie replied that the CEM would initially make the request, and Fund staff would review the CEM’s estimate for accuracy. He added that he expects much feedback from all parties on developing the new procedure for valuing a piece of equipment.

Mr. Perks asked if it might be feasible to inspect sites upon closing.

Mr. Cabble agreed that seemed like a good idea.

Mr. Perks followed up by saying staff inspections should be coordinated with CEMs or the responsible party.

Mr. Cabble confirmed that staff intends to coordinate with CEMs and operators, especially during the initial inspection, due to the varied nature of these systems and cleanup sites. Many of these systems are fenced off or enclosed to protect the equipment from the elements, theft, or vandalism.

Mr. Smith said that depreciating the equipment in the current manner did not make sense to him. He cited the outline provided by staff regarding Policy Resolution 95-009 Equipment Disposition; section (#4.a) was not clear to him. He noted that midway through it mentioned that operator's reimbursement could be credited the amount of the sale or some percentage of sale. Staff would clarify this in the new policy. He stated this seemed to state that the Fund would not accept more money for the sale of equipment that was greater than the equipment purchase price and asked what would happen to the difference – does the operator pocket that difference?

Mr. Cabble said that the equipment sales section had been pulled from the existing policy resolution, which stated that the operator could not sell the equipment for a higher amount than the Fund purchased it.

Mr. Smith asked why not, especially since that could go back to the Fund.

Mr. Cabble stated that would work as long as the money went back to the Fund, although he was doubtful that used equipment could bring in as much as the original purchase price. He undertook to explore that possibility, and noted that the intent of the policy is to prevent operators from buying the equipment, using it for a short time, reselling it, and pocketing any extra money. He stated he would clarify that if that should occur, the overage would come back to the Fund.

Mr. Cabble said that he would clarify the policy language to read that “any sale of equipment would be reimbursed back to the Fund”.

Mr. Perks also felt the depreciation did not make a lot of sense to him. He added that it would be important to establish life expectancy through the manufacturers of equipment and set a possible value in that manner, rather than using a depreciation formula.

Mr. Cabble responded that direction was not taken because there is a big difference between buying a complete system for hundreds of thousands of dollars vs. buying a piece of equipment such as a blower or motor that is substantially worth less and will wear out more quickly than the overall package system. He added that if the Board wanted to track equipment for the life of each individual piece of equipment, a schedule would have to be devised that would track the piece through its estimated life. The intent of the policy is not to track every piece of equipment; it is to track pieces of equipment with significant value that can be used on other cleanup sites. The only way to do that is by assigning a value.

Mr. Smith said that if a piece of equipment for the system failed, the value of that component would not matter, since they would only be looking to replace that piece. What is the purpose of tracking that piece of equipment, whether it was moved to another site or scrapped, it would not matter.

Mr. Cabble provided a scenario in which a piece of equipment has been purchased for \$50,000 and is still in good working order making it available for use at another site. The operator could request that the equipment be removed stating they do not need it. That operator could simply sell that expensive piece of equipment to anyone for a very low price just to get it off of his property. Devaluation of the equipment becomes important by setting a limit on sales of reusable equipment.

Mr. Smith said that depreciation is an accounting term that may not be the appropriate term in this use. It essentially makes the equipment worth \$0 after 3-years.

Mr. Cabble stated staff is looking for input on what the minimum value a piece of equipment should be and how long should it take to reach that value. Currently, the minimum depreciation is set at 10% after three years. He suggested the 10% was a bit high, but not valuing the equipment at all is concerning. Not setting a value opens the door for buying equipment, getting it reimbursed by the Fund, and then selling it for less than it was worth.

Vice-Chair Lietz expressed concerns about the process given that the operator holds the title to the equipment. She asked how the State would know if the equipment was sold.

Mr. Cabble stated that if the equipment were sold, it would be evident at the next inspection, and the Fund would require the full reimbursed value back from the operator. The inspections also provide a mechanism to verify maintenance costs for the equipment that are reimbursed by the Fund are valid.

Vice-Chair Lietz stated that she understood those points, but was a bit confused about how that would play out altogether. A new field audit program would take resources and time; she wondered if it is important for the State to spend all that time on items that the State does not even own, but she could see the importance of keeping some track of useful life and making sure equipment is where it was assigned.

Mr. Lovato said it appeared that two different problems seemed to be under discussion, which were, one, the audit group desired a system in place that would keep the State aware that the equipment they were paying for was on site. The second issue is more complicated: whether the State reasonably and consistently understands what value it should be receiving for equipment once it is no longer being used (a fiduciary duty). Staff is asking for ideas on how best to meet these two objectives efficiently and consistently.

Vice-Chair Lietz said that it seemed to her the goal of tracking equipment could be performed by inspection at time of purchase and at time of site closing. She noted that operators can show proper maintenance at the end of site closing. It might be helpful to place in the operators' agreement/policy that they would have to repay a certain amount to the Fund if it was found the equipment was not maintained properly.

Mr. Dzyak agreed that a schedule for every piece of equipment is not reasonable, but each piece of equipment does have a useful life. Use that life span and establish a percentage schedule based on the manufacturer's literature of how long a piece of equipment should last.

Mr. Perks pointed out that the hardest part might be finding a new home for the equipment. If the equipment sits unused for two years before being transferred, does that count against the life expectancy? Another consideration is who finds a new cleanup site for usable equipment? He noted the process is complicated in that the Fund does not own the equipment, nor does it have a place to store it. Tracking, assigning a value, and finding a site where the equipment can be reused will be difficult.

Mr. Smith makes a statement that the operator of the equipment has paid 10% of the value of Fund reimbursed equipment. When the equipment is no longer needed, the operator will feel the equipment still has value (more than \$0). The Fund is robbing him of money spent.

Mr. Lovato opined that the Board at the time the current equipment policy resolutions were written likely had similar discussions when attempting to value items case by case based on their history was probably originally deemed too complicated, which lead to the current depreciation schedule. Is there a better way to fairly reflect what the value of the equipment should be, taking into consideration that the State paid the majority of its cost, and be able to index and recover some of that cost? It appears that neither the Board nor Fund staff is settled that the existing method is the way to proceed at this point.

Mr. Cabbie stated that he assumed in 1995 there were similar discussions and surmised that the Board reached the conclusion they did to allow staff to maintain consistency across the State and implement an equipment program that was mindful of reimbursed funds. He reiterated that staff does not have a preference on how to value equipment but added that the timeline staff would like to establish should reflect the equipment's useful life. Since it takes time to perform cleanups, the equipment in most cases, would reach its life expectancy. As such, when a cleanup is complete, the equipment would be at its minimum value, which could be set by the manufacturer, the Fund, or in some other way. He also noted the importance of not leaving an owner on the hook for a 10% minimum value on a piece of equipment originally purchased for \$500,000. He is hoping for consistent policy that operators, CEMs, and staff can all understand and refer back to when valuing equipment.

Vice-Chair Lietz stated that since the operator owns the equipment and would benefit most from its sale because the amount received from the sale will be credited back to their case, there is an incentive to keep the equipment in good operating condition. Rather than NDEP establishing a value, just focus on ensuring the money received for the equipment comes back to the Fund.

Mr. Cabbie stated he was on board with that, and he believed that in 99% of cases, operators would be sensible in their use of the equipment; unfortunately, this process would not address the one percent of operators who might be attempting to commit fraud by selling the equipment at a reduced value to a friend.

Vice-Chair Lietz said that at the end of the day, that one percent might not be worth the extra expense and staff time.

Mr. Cabbie said that staff was being called out on that possibility by the current audit.

Vice-Chair Lietz proposed allowing owners to get what they can for the equipment, but include language that allows NDEP to investigate/audit sales that appear fraudulent.

Mr. Perks noted the importance of the tracking but was concerned that it could be a nightmare for the State, since he did not believe there is enough staff to deal with it.

Mr. Cabbie addressed the concern of staff resources for inspections. He said that the majority of sites could likely be inspected within 10 or 12 days total throughout the year. This would not be a significant strain on resources.

Mr. Cabbie expressed concern that the existing policies are confusing and include outdated language in terms of programmatic processes. Instead, the new policy needs to provide a consistent manner in which to manage equipment reimbursed by the Fund. The policy also needs to be defensible and capable of preventing fraudulent behavior.

Mr. Smith asked if there might have been some other way that someone had figured this out, specifically other state programs.

Mr. Cabbie said that other states handle equipment in a variety of ways. Some states purchase the equipment but don't own nor actively track it. Other states purchase their own equipment, perform their own maintenance, and lease the equipment to operators. This is not feasible for Nevada. Lastly, other states have programs similar to Nevada's.

Chair Tappan suggested a tiered valuation approach to indicate when equipment might have no or very little value, and then giving the State the option to sell it or use it at another site at the end of the site clean-up. If value of the equipment is deemed minimal by the State, then the operator could dispose of it as they see fit.

Chair Tappan inquired how long staff have to implement the policy in response to the audit recommendation.

Mr. Cabbie stated that NDEP's response to the audit staff stated a finalized draft would be available for possible adoption at the March 2020 meeting. He noted he could circulate a rough draft to the Board Members first and receive their feedback. A revised draft incorporating the Board's suggestions could then be sent out for comment by CEMs and the regulated community prior to the March meeting.

Mr. Lovato said that auditors seemed more interested in having the State involved in verifying Fund reimbursed equipment was present onsite, but he did not see the focus of the audit being about recovering all costs. It may be better to focus on just the equipment inspection/audit aspect to satisfy the audit and save the valuation discussion for later.

Mr. Cabbie said he was fine with that, and that would entail removing some existing language of the current Resolution. He added that he would write the policy focused on the presence of equipment vs. value of used equipment.

Mr. Smith said he would like to see public input before revising the policy.

Mr. Cabbie agreed. He proposed to write the policy that encompasses the presence and the valuation process for equipment, then send it to the Board, the public, and CEMs. If there is a majority that does not like the equipment valuation criteria, then that criteria would be removed from the policy.

Mr. Lovato agreed with that plan.

Ms. Lietz asked if the audit required a two-year inspection.

Mr. Cabbie stated that the internal policy specified "not less than two years."

Ms. Lietz cautioned against setting a timeframe that might not always be possible to meet.

Mr. Cabbie stated the wording could be changed to "periodic inspections."

Chair Tappan asked for the Board's consensus on Mr. Cabbie's suggestion to send out a draft to the Board and regulated community including verification and valuation of equipment. The Board agreed to that course of action.

ADOPTION OF CONSENT ITEMS

The Board reviewed all items as a consent calendar item. There were no items marked by an asterisk (*), or a members of the public who wished 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 12, 2019**

HEATING OIL

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	2007000013	Churchill County School District: Churc. Co. S.D. Bus Barn	\$6,762.50	\$6,762.50
FOR POSSIBLE ACTION	2	2012000017	Churchill County School District: Old High School	\$3,039.10	\$2,419.04
FOR POSSIBLE ACTION	3	2018000043	Mr. William Kennedy: William Kennedy Resid. Heating Oil Tank	\$9,791.99	\$9,331.99
FOR POSSIBLE ACTION	4	2019000013	Truckee River Flood Managem. Authority: Brothers of Holy Rosary	\$43,564.01	\$43,280.99
FOR POSSIBLE ACTION	5	2019000018	Canyon Flats III LLC: 621, 623, 625 N. Center St. Heating Oil Tank	\$12,790.87	\$12,790.87
FOR POSSIBLE ACTION	6	2019000019	Canyon Flats III LLC: 661 N. Center Street Heating Oil Tank	\$10,953.58	\$10,703.58
FOR POSSIBLE ACTION	7	2019000020	Canyon Flats III LLC: 615 N., 617 N. & 619 N. Center St. Heating Oil	\$10,201.54	\$10,201.54
FOR POSSIBLE ACTION	8	2019000026	Albrecht Family Trust: Michael Fischer Resid. Heating Oil Tanks	\$8,223.37	\$2,000.00
FOR POSSIBLE ACTION	9	2019000030	Mardian Development Company: Michael E. Mardian Property	\$10,966.43	\$10,623.93
FOR POSSIBLE ACTION	10	2019000037	Gardnerville Water Company: Gardnerville Water Company	\$12,893.17	\$12,643.17
			SUB TOTAL:	<u>\$129,186.56</u>	<u>\$120,757.61</u>

NEW CASES

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	2018000018	Primadonna Company LLC: Whiskey Pete's Stateline Stop	\$151,723.40	\$70,098.02
FOR POSSIBLE ACTION	2	2019000004	Rebel Oil Company: Rebel Store #2142	\$145,826.61	\$131,243.95
			SUB TOTAL:	<u>\$297,550.01</u>	<u>\$201,341.97</u>

ONGOING CASES

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	1992000126	Clark Co. School District: RC White (Arville) Transp. Satellite	\$20,597.95	\$20,588.27
FOR POSSIBLE ACTION	2	1993000011	7-Eleven Inc.: 7-Eleven #29646	\$54,865.03	\$54,865.03
FOR POSSIBLE ACTION	3	1993000103	Charlie Brown Construction: Charlie Brown Const.	\$4,088.62	\$4,006.85
FOR POSSIBLE ACTION	4	1994000067	Peppermill Casinos Inc.: Frmr Peppermill Truckstop	\$2,805.33	\$2,805.33
FOR POSSIBLE ACTION	5	1994000113	Pilot Travel Centers LLC: Former Unocal Truck Stop #6328	\$69,730.57	\$69,697.33
FOR POSSIBLE ACTION	6	1995000012	N. Nevada Asset Holdings, LLC: Parker's Model T	\$1,647.50	\$1,482.75
FOR POSSIBLE ACTION	7	1995000039	Al Park Petroleum Inc.: Crescent Valley Market	\$33,935.53	\$30,411.48
FOR POSSIBLE ACTION	8	1995000042	FBF Inc.: Gas 4 Less	\$20,632.78	\$18,034.11
FOR POSSIBLE ACTION	9	1996000064	The Esslinger Family Trust: Red Rock Mini Mart	\$37,705.12	\$36,573.97
FOR POSSIBLE ACTION	10	1998000034	Chevron USA Products Co.: Chevron #9-4116	\$60,450.67	\$45,411.74
FOR POSSIBLE ACTION	11	1999000023	Nevada Ready Mix Corp: Nevada Ready Mix	\$42,006.13	\$37,805.52
FOR POSSIBLE ACTION	12	1999000064	Al Park Petroleum Inc.: Pit Stop #4 (Conoco)	\$12,377.59	\$11,139.83
FOR POSSIBLE ACTION	13	1999000199	Village Springs, LLC: Lakeshore Orbit Station	\$8,144.73	\$8,144.73
FOR POSSIBLE ACTION	14	1999000243	7-Eleven Inc.: 7-Eleven #27607	\$309,745.24	\$278,753.91
FOR POSSIBLE ACTION	15	2004000011	Travel Centers of America: Wells Petro Truck Service	\$20,498.20	\$18,385.05
FOR POSSIBLE ACTION	16	2005000002	Carson Valley Oil Co. Inc.: Carson Valley Oil Co.	\$2,067.50	\$1,860.75
FOR POSSIBLE ACTION	17	2007000014	Frias Transp. Managem. LLC: Former Frias Transp. Managem.	\$659,797.19	\$587,067.47
FOR POSSIBLE ACTION	18	2007000016	Golden Gate Petroleum of Nevada LLC: Golden Gate Petroleum	\$7,586.63	\$6,782.97
FOR POSSIBLE ACTION	19	2008000018	Jacksons Food Stores Inc.: Jacksons Food Stores #0145	\$44,087.00	\$39,172.24
FOR POSSIBLE ACTION	20	2008000019	One Panou LLC: Golden Market #3	\$17,495.74	\$15,746.17
FOR POSSIBLE ACTION	21	2010000007	Pecos Express: Pecos Express	\$6,949.08	\$6,254.17
FOR POSSIBLE ACTION	22	2010000009	Travel Centers of America: Mill City Travel Center	\$57,471.72	\$45,691.25
FOR POSSIBLE ACTION	23	2012000003	7-Eleven Inc.: 7-Eleven #26627	\$15,861.19	\$11,420.05
FOR POSSIBLE ACTION	24	2012000005	Travel Systems, LLC: Zephyr Cove Resort	\$15,833.41	\$14,250.07
FOR POSSIBLE ACTION	25	2012000012	Dewey Has Gas, Inc.: Green Valley Grocery #61	\$38,384.00	\$34,545.60
FOR POSSIBLE ACTION	26	2013000004	7-Eleven Inc.: 7-Eleven #29665	\$46,111.29	\$41,456.57
FOR POSSIBLE ACTION	27	2013000019	Hardy Enterprises Inc.: Elko Sinclair #53	\$61,975.98	\$55,582.94
FOR POSSIBLE ACTION	28	2013000021	7-Eleven Inc.: 7-Eleven #27700	\$19,302.56	\$17,372.30
FOR POSSIBLE ACTION	29	2014000004	Alsaker Corp: Broadway Colt Service Center	\$297,933.76	\$268,108.70
FOR POSSIBLE ACTION	30	2014000007	7-Eleven Inc.: 7-Eleven #29658	\$44,930.46	\$39,153.11
FOR POSSIBLE ACTION	31	2014000010	7-Eleven Inc.: 7-Eleven #29667	\$21,692.33	\$19,523.10
FOR POSSIBLE ACTION	32	2014000025	Superior Campgrounds of America LLC: Silver City RV Resort	\$41,210.86	\$35,239.28
FOR POSSIBLE ACTION	33	2015000009	Travel Centers of America: Las Vegas Travel Center	\$28,056.25	\$25,250.63
FOR POSSIBLE ACTION	34	2016000005	Golden Gate S.e.t. Retail of NV LLC: Golden Gate Fac. #65 - Fallon	\$4,261.03	\$3,357.93
FOR POSSIBLE ACTION	35	2016000021	7-Eleven Inc.: 7-Eleven #29647	\$11,549.92	\$10,394.93

ONGOING CASES: CONTINUED

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	36	2016000023	Al Park Petroleum Inc.: Pit Stop #1	\$120,001.65	\$57,851.91
FOR POSSIBLE ACTION	37	2017000004	Regional Transp. Commission: Regional Transp. Commission	\$4,444.25	\$4,444.25
FOR POSSIBLE ACTION	38	2017000015	Gmr National A Nevada General Partnership: 24x7 Mini Mart	\$8,252.68	\$5,941.93
FOR POSSIBLE ACTION	39	2018000009	Reed Incorporated: Pacific Pride	\$98,294.06	\$88,454.57
FOR POSSIBLE ACTION	40	2018000035	CD/Park7 Reno Owner, LLC: Wolf Fastop	\$4,560.48	\$3,693.99
FOR POSSIBLE ACTION	41	2018000042	7-Eleven Inc.: 7-Eleven #23759	\$5,236.25	\$4,712.63
FOR POSSIBLE ACTION	42	2019000002	Rebel Oil Company: Rebel Store #2166	\$7,387.70	\$6,648.93
FOR POSSIBLE ACTION	43	2019000005	Fairway Chevrolet Co.: Fairway Chevrolet Co.	\$29,301.33	\$26,371.20
			SUB TOTAL:	<u>\$2,419,267.29</u>	<u>\$2,114,455.54</u>
			RECOMMENDED CLAIMS TOTAL:	<u>\$2,846,003.86</u>	<u>\$2,436,555.12</u>

Mr. Perks moved for approval of the consent items. Heating Oil Cases 1 through 10, New Cases, 1 and 2, Ongoing Cases, 1 through 43. Vice-Chair Lietz seconded the motion. Motion carried unanimously.

8. DIRECT PAYMENT OF UNCONTESTED CLAIMS MADE PER POLICY RESOLUTION 2017-02

The Board to Review Claims authorizes NDEP to make claim payments prior to a Board meeting when the recommended payment value is uncontested. This authorized delegation is consistent with the findings in the memorandum from the Attorney General's Office dated August 3, 2017 (Attachment A of Policy Resolution 2017-02). Below is a list of all quarterly claim payments made on the Board's behalf in accordance with Policy Resolution No. 2017-02.

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.

<u>HEATING OIL – DIRECT PAYMENT</u>				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	2018000041	Adolf Allesch: Adolf S. Allesch Property	\$1,990.00	\$1,990.00
FOR POSSIBLE ACTION	2	2019000032	M&M Clark Properties LLC.: M&M Clark Properties, LLC	\$10,465.72	\$10,215.72
FOR POSSIBLE ACTION	3	2019000033	Linda Linton: Linda J. Linton Residence	\$18,717.60	\$18,467.60
FOR POSSIBLE ACTION	4	2019000034	Marmot Insight LLC.: Golombik/Danahey Family Trust - Marmot Insight, LLC	\$12,552.92	\$12,302.92
FOR POSSIBLE ACTION	5	2019000035	Sierra Solitude, LLC: Sierra Solitude, LLC	\$11,365.51	\$11,115.51
FOR POSSIBLE ACTION	6	2019000036	Gardnerville Water Company: Gardnerville Water Company	\$13,222.41	\$12,972.41
FOR POSSIBLE ACTION	7	2019000039	Gary Hansen: Gary R. Hansen Property	\$17,781.18	\$17,531.18
FOR POSSIBLE ACTION	8	2019000040	Valerie Brinker: Valerie Lynn Brinker Property	\$14,169.38	\$13,919.38
FOR POSSIBLE ACTION	9	2019000041	Trevor & Tourine Johnstone: Trevor Stephen Johnstone Residence	\$15,033.97	\$14,783.97
FOR POSSIBLE ACTION	10	2019000042	Richard Edmiston: John Malcolm Edmiston Residence	\$14,159.67	\$13,909.67
SUB TOTAL:				<u>\$129,458.36</u>	<u>\$127,208.36</u>

<u>OTHER CASES – DIRECT PAYMENT</u>				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	1997000008	Ewing Bros Inc.: Ewing Bros Inc.	\$3,975.02	\$3,577.52
FOR POSSIBLE ACTION	2	1999000029	Terrible Herbst, Inc.: Terrible Herbst #136 (Arco)	\$8,690.29	\$7,821.26
FOR POSSIBLE ACTION	3	1999000066	HP Management, LLC: Former Haycock Petroleum	\$29,404.26	\$26,463.83
FOR POSSIBLE ACTION	4	1999000135	Terrible Herbst, Inc.: Terrible Herbst #106 (Gas) & #108 (Lube)	\$9,147.06	\$8,232.35
FOR POSSIBLE ACTION	5	1999000137	Terrible Herbst, Inc.: Terrible Herbst #152 (Gas) & #155 (Lube)	\$16,161.13	\$14,545.02
FOR POSSIBLE ACTION	6	1999000199	Village Springs, LLC: Lakeshore Orbit Station	\$9,134.85	\$9,134.85

OTHER CASES – DIRECT PAYMENT: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	7	1999000086	Terrible Herbst, Inc.: Terrible Herbst #126	\$3,350.00	\$3,015.00
FOR POSSIBLE ACTION	8	1999000104	Terrible Herbst, Inc.: Terrible Herbst #118 & #120 Lube	\$11,817.06	\$10,624.96
FOR POSSIBLE ACTION	9	1999000135	Terrible Herbst, Inc.: Terrible Herbst #106 (Gas) & #108 (Lube)	\$15,304.30	\$13,773.87
FOR POSSIBLE ACTION	10	1999000137	Terrible Herbst, Inc.: Terrible Herbst #152 (Gas) & #155 (Lube)	\$11,480.99	\$10,332.89
FOR POSSIBLE ACTION	11	2005000044	Ewing Bros Inc.: Ewing Bros Inc.	\$12,899.88	\$7,790.63
FOR POSSIBLE ACTION	12	2011000009	Cimarron West: Cimarron West	\$25,406.70	\$22,835.25
FOR POSSIBLE ACTION	13	2013000009	Western Petroleum: Western Petroleum	\$22,581.95	\$20,323.75
FOR POSSIBLE ACTION	14	2013000011	Har Moor Investments, LLC: Village Shop #4	\$18,014.81	\$16,213.33
FOR POSSIBLE ACTION	15	2014000016	Smitten Oil And Tire Co Inc.: Former Smitten Oil	\$5,666.75	\$5,100.07
FOR POSSIBLE ACTION	16	2014000025	Superior Campgrounds of America LLC: Silver City RV Resort	\$57,406.63	\$50,975.64
FOR POSSIBLE ACTION	17	2014000033	Speedee Mart Inc.: Speedee Mart #108	\$32,424.55	\$27,107.59
FOR POSSIBLE ACTION	18	2016000027	Terrible Herbst, Inc.: Terrible Herbst #272	\$57,741.19	\$46,467.84
FOR POSSIBLE ACTION	19	2017000035	Rebel Oil Company: Rebel Store #2177	\$40,201.57	\$36,157.11
FOR POSSIBLE ACTION	20	2018000005	Rebel Oil Company: Rebel Store # 2153	\$10,470.67	\$9,423.60
FOR POSSIBLE ACTION	21	2019000014	Western Cab Co: Western Cab Co.	\$67,943.25	\$61,148.93
			SUB TOTAL:	<u>\$497,143.46</u>	<u>\$439,210.76</u>
			DIRECT PAYMENT CLAIMS TOTAL:	<u>\$626,601.82</u>	<u>\$566,419.12</u>
			BOARD MEETING CLAIMS TOTAL:	<u>\$3,472,605.68</u>	<u>\$3,002,974.24</u>

Mr. Lovato complimented the CEM's and Fund staff stating the Board has received more information regarding what work has been completed with each of these claim reimbursements.

9. **EXECUTIVE SUMMARY**

Mr. Cabble presented the Executive Summary. Tank enrollment fees are tracked pursuant to the Federal fiscal year, which runs October 1st through September 30th. Enrollment invoices were generated on August 22, 2019 for enrollment year 2020. To date, a total of 1,221 facilities have been invoiced, of which 95.2 percent of those invoices have been paid. Since the inception of the Fund, a total of 1,654 remediation cases have applied for coverage, of which 171 have been denied due to ineligibility or other reasons. Of the total cases provided Fund coverage, 1,345 have been closed and are no longer receiving funding. There are currently 137 active cases. NDEP has one application that is pending that has not received coverage determination as of this Board meeting. Prior to this meeting, the Board has approved a cumulative total of \$234,375,780.87 for reimbursement of petroleum claims. This cumulative total includes 31 claims paid via the direct payment method. With today's Board approval of the consent items, the cumulative expenditure rises to \$236,812,335.99.

Mr. Cabble provided an update regarding the miscellaneous 1099 tax form. He heard back from USDA on November 22nd that the application was still in process. It was noted that a backlog of 2018 Farm Bill documents was slowing the application review. He added he would check back quarterly for new developments.

Mr. Cabble provided a quick update regarding Eagle Gas North. He informed the Board in the September 2019 meeting that staff was working with the Attorney General's Office to set up a contract with a third party collector. NDEP has since been informed that we would have to go through the State Purchasing Office for the contract, which will take additional time. That process will begin in January 2020.

Mr. Smith requested an update on not getting responses from outlying areas regarding UST Upgrade Grant Program.

Mr. Cabble stated that last year one grant was issued, and the state would be opening the grant application process starting January 1 through March 31, 2020. He added that two additional applications were received last year but staff is still working on them (obtaining their financials being the biggest challenge), and the back and forth with contractors is also a factor. He said that a funding agreement had been sent out for one of those grants yesterday and once that was approved by Mr. Lovato, payment could be issued. He noted the second one would have the work done in the spring of 2020 (contractor reluctant to go out and break concrete in winter), so that grant would probably be paid in March of 2020.

Mr. Cabble added that phone calls of interest had been received during the year, but the application period was only open from January through March.

10. **PUBLIC COMMENTS**

There were no requests to speak.

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

It was confirmed the next meeting date would be Thursday, March 12, 2020, at 10:00 am.

12. **ADJOURNMENT**

The meeting adjourned at 12:25 p.m.