

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
MARCH 11, 2021**

1. CALL TO ORDER

Chair Tappan called the meeting to order at 10:00 a.m. The meeting was conducted via video/phone conference. **Mike Cabbie** thanked retiring employee Victoria Joncas for 27 years of service with the State.

A. BOARD MEMBERS PRESENT

Chair Maureen Tappan – Representative of the General Public
Karen Stoll – Department of Motor Vehicles
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

Mike Dzyak – State Fire Marshal’s Office
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, Megan Slayden
Don Warner, Jonathan McRae, Ben Moan, Diondrae White, Chuck Enberg, and Kevin
Barnes – Nevada Division of Environmental Protection (NDEP)
Matt Grandjean – Stantec
Alan Cubberley – Circle K Store, Inc. Representative
Kathleen Johnson – The Westmark Group
Sydney Veloz – The Westmark Group
Juan Rivera – Green Valley Grocery
Darric Carter – IDECO Nevada Inc.
Jef Peake – Broadbent Inc.
Brian Northam – Southern Nevada Health District
Jeremy Holst – Broadbent & Associates

“In addition to the above-named participants, an additional 14 guests called in to the meeting by telephone and were not identified by name.”

2. PUBLIC COMMENT

There were no requests to speak.

3. APPROVAL OF THE DECEMBER 10, 2020 MINUTES

Chair Tappan invited comments, questions, or changes to the minutes. There were no changes.

LeRoy Perks moved to approve the December 10, 2020 minutes. Mr. Rod Smith seconded the motion. Motion carried unanimously.

Chair Tappan commended Ms. Joncas for the excellent quality of the meeting minutes.

4. STATUS OF THE FUND

Mr. Cabble presented the status of the Fund for State Fiscal Year 2021 thus far. The balance forward from State Fiscal Year 2020 was \$7,500,000 with approximately \$413,400 received for tank system enrollment fees. Approximately \$6,034,236 was generated by the \$0.0075 petroleum fee. The Fund has earned approximately \$37,475 in interest with the total revenue at \$13,985,111.05. Expenditures include Board Member salaries of \$631. In-state travel costs total \$60. Board meeting operating costs totaled approximately \$1,773. Total funds transferred to NDEP and used for State-led cleanups, staff salaries, and ongoing database maintenance was approximately \$577,917. The fee paid to DMV for the collection of the \$0.0075 fee on behalf of the Fund is \$12,714. Reimbursement of Petroleum Fund claims totals \$4,422,642. Cumulative expenditures of the Fund is \$5,015,738.01. This leaves a current balance for Fiscal Year 2021 of \$8,969,373.04.

Chair Tappan invited questions from the Board. There were no questions.

5. SITE SPECIFIC BOARD DETERMINATION FOR PETROLEUM FUND COVERAGE WITH REDUCTION

Megan Slayden, NDEP, presented Site Specific Board Determination No. C2021-02, which proposed to provide reduced Petroleum Fund coverage to Green Valley Grocery No. 34, located at 6055 West Flamingo Road, Las Vegas, Nevada, Petroleum Fund Case ID No. 2020000046, Facility ID No. 8-001366. The subject site is owned by Midjit Market Inc. At the time of release discovery, it consisted of four underground storage tank (UST) systems, three containing gasoline and one containing diesel fuel. On September 15, 2019, the monthly continuous statistical leak detection (CSLD) reports indicated a failure for Tank 3, which requires reporting and investigation of a suspected release. Documentation demonstrating that the owner had reported or investigated the suspected release at that time was not provided with the application for coverage. The CSLD reports submitted as a part of the application show a “Fail” result for Tank 3 each month from September 2019 to April 2020.

On April 3, 2020, the tank failed precision tank tightness testing. The tank was not placed into proper temporary closure until June 1, 2020, in preparation for permanent closure nine months after the original failed CSLD report and nearly two months after the tank failed a tightness test. On August 19, 2020, the tanks at the site were permanently closed by removal from the ground. Petroleum-impacted soil was apparent under Tank 3. Initial abatement activities removed approximately 372 tons of hydrocarbon-impacted soil from the former tank pit. A complete application for coverage was received by NDEP on December 3, 2020. The application identified a hole in Tank 3 as the source of the release.

The UST system was out of compliance with the following UST regulations at the time of the release discovery:

1. The operator did not contact the implementing agency within 24 hours or another reasonable time period to report the suspected release.
2. The operator did not investigate for a release to the environment.
3. Tank 3 continued to operate for six months after the initial failed monitoring result and was not placed in proper temporary closure for two months after a failed tank tightness test.

Pursuant to Board Policy Resolution 94-023, in the event that a site is found to have more than one noncompliance determination, Petroleum Fund staff must recommend to the Board that reimbursement be reduced by the largest percentage associated with any single noncompliance item. The reduction amounts for each noncompliance issue are as follows:

- A. Failure to comply with UST General Operating Requirements (40 CFR 280.30 – 280.34): 10 percent reduction
- B. Failure to comply with release reporting, investigation, and confirmation (40 CFR 280.50-280.53): 40 percent reduction
- C. Failure to comply with release response and corrective action (40 CFR 280.60-280.67): 40 percent reduction

In this case, a 40 percent coverage reduction is recommended. Therefore, Fund staff recommends the Board approve coverage for the subject site for one leaking underground storage tank with a 40 percent reduction and a 10 percent copayment. This would provide a maximum reimbursable cap of \$540,000 in cleanup costs and \$540,000 for damages to a person other than the operator or the State (third party liabilities). Ms. Slayden indicated that representatives of Midjit Market Inc. would like to address the Board regarding this SSBD.

Chair Tappan suggested Board Members allow the representatives to speak prior to the Board asking questions.

Rod Smith stated that he would like to first ask a general question. In reading the findings, it was noted that the leak problems were evident, but not submitted with the documentation. It is concerning that the State was unaware of these circumstances and he questioned whether the State must merely wait for the operator to report issues. **Mr. Cable** stated that with regard to CSLD and onsite leak detection failures, the equipment is onsite at the facility. The State does not visit sites on a daily basis. Generally, in Clark County, inspections are conducted approximately every 12 months. Depending on when the alarm goes into effect and timing of the last inspection, the inspector may not observe an alarm at the time they are present for such inspection. The operator has a requirement to report; this is one of the failures to comply identified in the Site Specific Board Determination. This failure to report a suspected release and follow up accordingly has resulted in staff making a recommendation for a 40 percent reduction.

Mr. Cable invited Mr. Jeremy Holst, Broadbent & Associates, to speak about the site. **Mr. Holst** introduced himself as the Certified Environmental Manager for Green Valley Grocery No. 34. Also present electronically was a representative from Green Valley Grocery, Mr. Juan Rivera, as well as a representative from the certified tank handling company investigating the CSLD alarms, Darric Carter with IDECO. **Mr. Holst** stated that the statements in the Site Specific Board Determination of Green Valley Grocery's failure to respond to the CSLD alarms were disingenuous. He argued that Green Valley Grocery took the matter seriously. Extensive documentation was included with the Petroleum Fund application, which clearly laid out the steps taken. The Site Specific Board Determination asserts that there was a failed CSLD alarm in September of 2019 with no action taken until June of 2020. To the contrary, IDECO immediately responded to the alarm on September 19th, however, there was not sufficient product in the tank to perform a static tank tightness test until October 3rd. When they ultimately performed the test, the results were passing. At that time, they downloaded the CSLD review reports and sent them to Veeder-Root. Veeder-

Root evaluated the results and suggested that the tanks were passing without issue. They further suggested that the factors involved electronic issues and wiring.

IDECO revisited the site on October 22nd, at the time of the subsequent alarms. They once again sent the CSLD reports to Veeder-Root, who once again advised that there were electronic issues having nothing to do with a failed tank tightness test. This is supported by documentation included with the application on the passing CSLD reports on November 1st through November 18. Once again in late November, there were failing CSLD reports. IDECO returned to the site in November 2019, January 2020, February 2020, and March 2020. They remained in constant communication with Veeder-Root. It was not until March 23rd that Veeder-Root suggested that another static test be performed. IDECO performed the static test on March 27th with a failing result. At that point, with a failing static test, Veeder-Root recommended that a precision tank tightness test be performed, which was accomplished on April 3rd and failed. In summary, significant efforts were made throughout the time period, including communications with Veeder-Root and the tank handler.

Not mentioned in the Site Specific Board Determination is the fact that upon failure, the tanks were pumped out immediately on April 4th and were not left containing fuel until June, when the tanks were pulled. This information was also included and documented in the application. Also included in the application were additional CSLD reports, which showed that the product in the tank never dropped below 105 gallons, the measurement recorded on the day it was pumped out up until the tank was actually put into temporary closure on June 1st. The operator did investigate for a potential release under advisement by the Southern Nevada Health District. Broadbent & Associates put in four soil borings, one on each side of the tank. Trace contamination was found at one boring at a depth of approximately 25 feet. The only contaminant found above state action levels was benzene, which was slightly above state action levels. Broadbent then worked with the NDEP case officer assigned to the job to request a delay in further investigation until the tanks were pulled, which was already scheduled to be done by Green Valley Grocery. It appears that only specific information from the application was included in the Site Specific Board Determination, not a comprehensive presentation of all actions taken by Green Valley Grocery. Green Valley Grocery followed many industry standards to investigate the failed CSLD alarm.

Mr. Holst asked Darric Carter of IDECO Nevada Inc., to discuss follow-up on the process, however Board Members had immediate questions for initial discussion. **Greg Lovato** noted the number of actions taken in response to the early alarms, however there was no indication as to when the events were reported. The process relies on the operator taking steps to ensure reporting when required. **Mr. Holst** stated the official report for a suspected release was made to NDEP in April of 2020. Upon reporting, the environmental site assessment was performed under the direction of the Southern Nevada Health District. This is a good juncture for IDECO to discuss how CSLD reports are used and what they mean in regard to a single wall tank. From Mr. Holst's understanding, there are many reasons why alarms activate. It is not necessarily industry standard to immediately conduct a precision tank tightness test every time a tank alarm is activated. Alarms activate for several reasons, including temperature changes and wiring. The length of time in this case is attributable to the fact that there did not appear to be a tank leak issue.

Mr. Lovato asked why there was a delay from September to April for reporting. **Mr. Holst** reiterated that the cause of delay was that the tank did not appear to be failing; this was still being investigated through Veeder-Root and their certified tank handler. Again, the issues appeared to be electronic in nature, involving wiring and temperature. **Mr. Lovato** inquired as to whether there was a disagreement between Petroleum Fund staff and the applicant as to when the reporting was required. **Mr. Holst** confirmed that such disagreement existed.

Chair Tappan invited Mr. Carter to speak. **Mr. Carter** stated that upon report of a CSLD failure, IDECO will initially run a static test on the Veeder-Root. This process requires a certain amount of fuel in the tank. The tank is then shut down for commencement of a two-hour test to ensure that no fuel is being lost. The initial test passed. At that point, the CSLD information is sent to Veeder-Root for analysis. Initial analysis of the CSLD rate table seemed to indicate evaporation issues, which are caused when there is a vacuum on the tank. It was recommended that some environmental factors be installed in the Veeder-Root to compensate for evaporation. At that point, no leak was suspected, because the tank passed the static test. In addition, Veeder-Root did not identify conditions that suggested a leak. The tables were reset and run again. At that point, there were passing results on the CSLD and at times, there were warnings. The next time a failing result was received, the information was again sent to Veeder-Root. Veeder-Root analyzed the data again and said there looked to be communication problems with the probes in the tanks and that they suspected a possible wiring or relay issue. There was a subsequent inspection of the site as to wiring, probe, and relays. At that time, there was again a passing CSLD result. A leak was still not suspected, but possibly a hardware problem with the Veeder-Root. It was assumed that the repairs made had corrected the problem. Subsequently, the problem arose again. The information was again sent to Veeder-Root, who at that point indicated there might be a sticking float, but no indication of a leak. Ultimately, another static test was run and failed, and a precision tank test was immediately scheduled. This test also failed. At that point, work began with Green Valley Grocery on next steps. With CSLD, every correction made is sent to Veeder-Root, who must take the time necessary to analyze and return the data. Once repairs are recommended, the CSLD results can take anywhere from three to ten days to repopulate and establish a rate table.

Mr. Perks asked Mr. Carter to review the difference between a static test and a CSLD test, noting that a static test is generally more accurate. **Mr. Carter** explained that in a static test, the fuel level is measured. The probe in the tank is measuring for losses with no fuel entering or leaving the tank. The test lasts two to four hours and measures how much fuel is leaving the tank. A CSLD takes snapshots of idle time in the tank to create a rate table. Veeder-Root uses an equation that establishes a leak rate based on these snapshots. **Mr. Perks** asked whether Mr. Carter agrees that the static test is generally more accurate. **Mr. Carter** concurred that it is more accurate, as there is no activity in the tank. The initial static test passed. **Mr. Perks** commented that based on his experience, he agrees that it would be a Veeder-Root problem.

Chair Tappan invited further questions from the Board.

Mr. Smith stated that he is not familiar with underground tanks but does have familiarity with above ground tanks. The process would be a static test on the tank, determining whether and where a hole exists depends on how full the tank is. **Mr. Carter** stated that for Veeder-Root, a static test is required to be 50 percent capacity. The requirements of the test are no delivery within eight hours and a fuel level over 50 percent. It is possible, if there is a leak above the 50 percent threshold, that it would not be caught on the static test. **Mr. Smith** asked if a pressure test would pick up a leak above the 50 percent line, to which **Mr. Carter** concurred. **Mr. Smith** asked if they do pressure tests. **Mr. Carter** said they did a precision tank test (vacuum test), by PSMI. The tank failed on that test. **Mr. Holst** commented that it is important to note that the tank had passing CSLD reports in between the static test and precision tank tightness test, which suggested that the repairs to the CSLD system resolved the issue for some time. He expressed a desire to address the J2 task and how it may have negatively affected the investigation and cleanup at the property. **Mr. Cabbie** commented that this is a separate issue from the coverage determination.

Mr. Lovato stated his understanding that there is a requirement to report suspected releases promptly. Based on the presentation today a suspected release was being investigated, but not confirmed. There has been no explanation as to why the suspected release was not promptly reported. There are thousands of tanks throughout the state. He questioned why there is confusion

between the Agency and the applicant as to when a suspected release must be reported. **Mr. Holst** stated that there are many times when the CSLD provides misinformation. That is the point that the certified tank handler begins to deal with the system. A certified environmental manager is not typically informed until the issue has passed through the assessment by the tank handler. In this situation, when Broadbent became aware of the issue through the precision tank tightness test, this was a trigger for reporting the suspected release to the NDEP. Potential misinformation given by the CSLD system would result in a significant increase in the number of suspected releases reported to the NDEP. **Mr. Carter** stated that they did not initially suspect a release, based on passing the static test and Veeder-Root's subsequent analysis indicating the same. Based on past experience, Veeder-Root typically identifies the leak and immediately recommends testing. Every indication in this case was a problem with the Veeder-Root and not a leak. **Mr. Perks** commented that if the State was called every time a Veeder-Root went into alarm, the State would be overwhelmed. It appears that IDECO went through all proper steps.

With no further Board questions, **Chair Tappan** invited staff to speak.

Mr. Cabble addressed reporting requirements for suspected releases. Regulation 40 CFR 280.50 requires reporting if the monitoring system indicates a leak. In this case, the CSLD failed. This is the monitoring system indicating a release. The operator does not have to report if they are able to demonstrate that the monitoring device or system was found defective. Defective components are required to be replaced and there must subsequently be a passing result. A CSLD test and a static leak test performed with a two-hour time interval at 50 percent are very comparable tests. If there is a passing static test followed by another failed CSLD test, this indicates that the component initially repaired was not resolved. This should raise flags to whether or not the operator should report to the implementing agency. Another factor is the time period during which there is a passing test followed by consistent failed tests. In the coverage application, during the month of September, there were failed and passing results, however, this was subsequently followed by a series of failed tests. **Ms. Slayden** added that these were weekly failures. Every seven days for a six-month period, the company received failing results.

Mr. Cabble stated that in the submitted documentation, there were multiple examples of failed CSLD tests, at which time the UST Compliance Program should have been made aware of a potential leak. At that point in time, the service company, operator, and UST compliance agency could come up with a plan of how best to proceed. After months of failed tests, it was not until April that the system test was conducted. Regulation 40 CFR 280.52 discusses release investigation. If there is indication of a leak, the operator is required to do either a system test or a site check. A system test is a tank tightness test or a line tightness test. The Veeder-Root equipment equivalent would be to run a static test for four hours with a tank filled to 90 to 95 percent capacity. There was no indication of this being done during the six- to seven-month process. Because of this, and given the reports submitted with the coverage application, the coverage reduction recommendation is based on failure to investigate and report the suspected release appropriately.

Mr. Lovato referenced Mr. Perks' concern that if every failed test was called in, this would overwhelm the State, but noted that this is a far different situation, where there are weekly failed tests over a period of months. This is quite different than calling in every single failed alarm.

Mr. Perks commented that the owner did everything he believed to be right. **Ms. Slayden** stated that unfortunately, the owner was not following proper procedure, as they failed to follow the federal regulation to report.

Mr. Holst acknowledged that there was a delay in the reporting requirements by the letter of the law, however Green Valley Grocery took the matter seriously and did not ignore the situation. It is a more accurate statement that the system as a whole failed, including the way that Veeder-Root

evaluated the data presented to them and thus, it would be unfair to Green Valley Grocery to enforce a 40 percent reduction.

Mr. Cabble reminded the Board that the recommendation made by staff is a requirement of the policy resolution. The Board has the ability to modify, reduce, or remove any reduction recommended by staff.

Mr. Smith shared his standpoint that this situation continued for far too long before proper reporting occurred.

Chair Tappan invited further questions from the Board. With no further questions pending, she invited a motion on the item.

Mr. Lovato asked Mr. Holst to provide a summary of the status of the investigation and scope of understanding with respect to the magnitude of release. **Mr. Holst** said an environmental site assessment was done before the tanks were pulled, with very little contamination identified in any borings outside the UST basin. The UST was later removed. They were working closely with NDEP during this process. Indications were that the bulk of contamination was to be located directly beneath the tanks. Soil samples were taken, data was assessed, and excavation commenced under the failed tank. Broadbent worked with the NDEP corrective action case officer to expand the extent of the excavation, requesting an additional 200 tons beyond that of the J2 task allotment. This was done because measured vapor concentrations remained elevated in soils being excavated. Approval was received from NDEP to expand the excavation. The morning of initial work and after corrective action approval, they received a stern letter from a member of the Petroleum Fund, dictating what could be done, what would not be reimbursed, how they should evaluate data, what data should be collected, and how they should proceed with the investigation. It was clear that if they did not adhere to these parameters, reimbursement would not be provided. This greatly tied the operator's hands to be able to do what was necessary with "an open hole" and the source area exposed. A significant amount of contaminated soil was left in place with TPH levels from 6,000 to 8,000 beneath the tank pit. A couple of test pits were conducted within the test pit for further delineation, but this was limited under the J2 task. There is contamination to a depth of 30 to 40 feet at significant levels with both TPH, BTEX, trimethylbenzenes, and naphthalene, all exceeding state action levels. Following initial abatement, USTs went back in the hole and reconstruction at the site was completed. Depth to groundwater is 135 feet plus. A work plan has been submitted to the corrective action case officer for installation of an angle boring underneath the active UST system. They do not yet know how far down it goes. They will propose to convert the soil boring into a soil vapor extraction well in preparation for potential remediation. Further work may include installation of directional borings underneath an active UST system to remediate the soil contamination underneath.

Mr. Lovato requested that representatives from the Southern Nevada Health District comment on their view of the reporting requirement related to the failed tests. **Brian Northam**, Southern Nevada Health District, stated that he was sent out on the failed tank test on April 8th. At that point, actions went quickly. This is the initial notification to the Southern Nevada Health District contained in the agency's file. Given the series of weekly failures, notification should have been provided earlier in the process. Occasional failed tests do occur, however consistent failures over a long period are concerning.

Mr. Smith inquired as to Mr. Holst's assertions that they were not allowed to "clean the mess up." **Mr. Holst** stated that according to the J2 initial abatement task of the current Petroleum Fund guidelines, there are clear parameters for what can be done during initial abatement. The initial limit of soil excavation is 210 tons. A CEM is limited in the number of hours they have to oversee initial abatement and additional equipment cannot be brought onsite. Most allowable costs are

calculated based on a formula in the task, which limits how much work can be performed. **Mr. Lovato** shared his understanding that when this was revised a few years ago, there was an outreach effort and public comment. He asked whether Mr. Holst submitted comments at that time and/or if he was now petitioning the Board to revisit how the task is written. **Mr. Holst** said that at the time the J2 task was released, it seemed to be a good thing to have the opportunity to dig up to a certain level without NDEP involvement. It appeared to be written that the operator could obtain case officer approval if they wanted to expand. As they have since used the J2 guidance, it appears to be restrictive. He would be happy to draft a proposal for changes to the J2 task.

Mr. Cabbie commented that the agenda item is running long and that J2 is another issue. He suggested that the Board consider adding it as an agenda item for the next meeting. He concurred that the CEM cannot request additional hours for the task. The task is meant to be very short-lived, as there are zero cost controls on the CEM, aside from the formula. They do not want to allow an operator to keep digging to get out of a source zone, when there are other things to evaluate when considering additional soil removal, including assessing the depth of contamination and determining depth of groundwater. At this site, nearly 400 tons of soil were removed just in the initial excavation. The task is meant as a stop-check to verify with NDEP whether the soil has to be removed to close the case and whether or not groundwater will be impacted if it is left in place. **Mr. Smith** agreed that there needs to be discussion at an upcoming meeting on the J2. Moving away from the J.2 discussion, he further noted that the Board is free to modify any decision it makes today regarding the SSBD, based on any new information that comes to light going forward. **Mr. Cabbie** confirmed that if the SSBD is adopted with a reduction today, the Board could reconsider the reduction amount at a later date if requested by the operator per the policy resolution.

Mr. Perks commented that 40 percent is excessive, as the owner did take steps to resolve the issue. **Chair Tappan** stated that based on the summary, the operator did make efforts and Veeder-Root continually stated that no significant issues were identified. However, there is a concern that the operator received weekly negative results and failed to be more aggressive with its testing. To Mr. Smith's point, there can be further discussion on reconsideration once the operator begins to work earnestly with a plan to progress the cleanup swiftly. **Mr. Cabbie** agreed with Chair Tappan. However the operator is asking for leniency in this case because they did work with Veeder-Root and IDECO in an attempt to address the issue. There is also a substantial cost associated with the initial abatement work. If the reduction were lowered or removed at a later date following a Board reconsideration, the new rate, or lack thereof, would apply to work performed that day forward. An approval of the SSBD today with a reduction would apply to the initial abatement work already performed, which Mr. Holst has expressed is of great concern. **Mr. Holst** concurred. There has been work done and Green Valley has made efforts to clean up the impacted soil at the site. There is a significant cost, which will be reduced via the recommended Board reduction.

Chair Tappan asked for an estimate of expenditures thus far. **Mr. Holst** stated that he was unable to provide an exact total at this time. The information needs to be compiled into the J2 task for submittal for reimbursement. He estimated the costs to be \$75,000 to \$85,000 at this time, if not more. **Chair Tappan** sought clarification that no bills have yet been submitted to NDEP. **Mr. Holst** stated that as this is their first meeting to obtain coverage, they have not yet made a submission. Once the Board makes its coverage recommendation, they will immediately put together the J2 initial abatement task submittal as well as subsequent submittals for reimbursement of costs already incurred and those that will be incurred. **Mr. Cabbie** clarified that until the Board rules that coverage is granted for the facility, a claim cannot be reviewed and approved by NDEP.

Mr. Lovato offered a review of the discussion thus far. The owner operator took steps to investigate, however, they did not report in a timely manner. Because they did take active steps to address the issue, this should be a reason to adjust the reduction. The presentation from staff indicates that on September 15, 2019, there was a failure which required reporting and

investigation. No one disputes that it was not reported until six months later. The Fund staff report indicates that it had not been investigated at that time. The owner-operator has indicated that they were, in fact, working on it. He asked for clarity on the timing the owner-operator began to investigate the September 15, 2019 failure and what steps were taken. **Mr. Holst** stated that the initial investigation started on September 19th. With the initial static testing on April 3rd, once the tank met the capacity as well as the refueling requirements, the investigation continued on a monthly basis until March 23rd, 2020. At that point, Veeder-Root finally recommended the precision tank tightness test, completed on April 3rd and the tanks were immediately drained on April 4th. Subsequently, the environmental site assessment was done under the guidance of the Southern Nevada Health District.

Mr. Smith stated that there are two factors. First is the inability to report the incident and secondly are the events since then. The cleanup is on track. The problematic issue is the time period between the initial suspected failure to the final confirmation of the failure. That time frame was too long. There is a responsibility to address a failure on a timely basis. **Mr. Holst** asserted that they were approaching this in a responsible manner. He acknowledged that they failed to do a precision tank tightness test. However, the work being done to address the issue was largely in accordance with industry standards and it would be unfair to enforce a full reduction. The environmental portion of the work is being done in a timely and effective manner. Green Valley Grocery is a good client and a community business with a good compliance record.

Chair Tappan inquired as to whether the Board was prepared to move forward with a motion. **Mr. Perks** recommended cutting the reduction in half.

Mr. Perks moved to adopt Site Specific Board Determination C2021-02 as modified by the Board, granting coverage under the State of Nevada Petroleum Fund to Green Valley Grocery No. 34 for \$720,000, representing \$1 million in coverage for one gasoline UST system with a 20 percent reduction and a 10 percent copayment. There was no second. The motion failed.

Chair Tappan noted that the motion failed and invited another motion.

Mr. Smith moved to adopt Site Specific Board Determination C2021-02 as proposed, granting coverage under the State of Nevada Petroleum Fund to Green Valley Grocery No. 34 for \$540,000, representing \$1 million in coverage for one gasoline UST system with a 40 percent reduction and a 10 percent copayment. Mr. Lovato seconded the motion. The motion passed with three (3) Aye votes from Mr. Lovato, Mr. Smith, and Ms. Stoll; and two (2) Nay votes from LeRoy Perks, Chair Tappan.

Chair Tappan thanked everyone for the lengthy discussion and input on this agenda item.

6. SITE SPECIFIC BOARD DETERMINATION FOR PETROLEUM FUND COVERAGE WITH REDUCTION

Megan Slayden, NDEP, Presented Site Specific Board Determination No. C2021-01, which proposed to provide reduced Petroleum Fund coverage to Circle K Store No. 2701364, located at 3285 South Nellis Boulevard in Las Vegas, Nevada, Petroleum Fund Case ID No. 2019000009, Facility ID No. 8-000119. The subject site is owned by Circle K Stores, Inc. At the time of release discovery, it consisted of three underground storage tank (UST) systems, two containing gasoline and one containing diesel. On October 11, 2011, the monthly statistical inventory reconciliation (SIR) reports, indicated Tank 2 had two consecutive months of inconclusive test results, which requires reporting and investigation for a suspected release. Documentation demonstrating that the

owner had reported or investigated the non-passing results was not provided with the application for coverage. On November 10th, 2011, the tank failed a precision tank tightness testing. The SIR results submitted as a part of this application do not show a passing monthly report for Tank 2 from August 2011 through December of 2011. The operator was unable to provide SIR records for this site for January through May of 2012. Documentation demonstrating that Tank 2 was emptied to less than one inch of product within 24 hours of the failed tank tightness test is not available. On February 27th, 2012, all three tanks at the site were repaired and passed tank tightness testing on February 28th of 2012.

A complete application for coverage was received by NDEP on July 29, 2020. The application identifies the premium tank as the source of the release. The UST system was out of compliance with the following UST regulations at the time of the release discovery: The operator did not empty Tank 2 to less than one inch of product within 24 hours of the failed tank tightness test; 2. It could not be substantiated that Tank 2 was removed from service prior to its repair on February 27, 2012, six months after the original failed SIR and three months after the failed precision tank tightness test. Pursuant to Board Policy Resolution 94-023, in the event that a site is found to have more than one noncompliance determination, Petroleum Fund staff are directed to recommend to the Board that any reimbursement be reduced by the largest percentage associated with any single noncompliance item. The proposed percent reductions associated with the violations at the site are as follows: Failure to comply with release reporting, investigation, and confirmation 40 CFR 280.50-280.53, 40 percent reduction; failure to comply with release response and corrective action 40 CFR 280.60-280.67, 40 percent reduction. Fund staff therefore recommend that the Board approve coverage for the subject site for one leaking UST with a 40 percent reduction and a 10 percent copayment. This would provide a maximum reimbursable cap of \$540,000.00 in cleanup costs and \$540,000.00 for damages to a person other than the operator or the state (third party liabilities). The operator has stated that they do not plan to contest the recommendation at this time.

Chair Tappan invited questions from the Board. As there were no questions, she invited a motion.

Mr. Lovato moved to adopt Site Specific Board Determination C2021-01 as proposed, granting coverage under the State of Nevada Petroleum Fund to Circle K No. 2701364 for \$540,000, representing \$1 million in coverage for one gasoline UST system with a 40 percent reduction and a 10 percent copayment. Mr. Smith seconded the motion. The motion passed unanimously.

7. **REVIEW AND APPROVE PROPOSED CEM IN-HOUSE OR RENTED EQUIPMENT RATES**

Mr. Cabble stated that the modifications apply to Appendix A and C in the State of Nevada Petroleum Fund CEM Cost Guidelines, which was adopted by the Board under Policy Resolution 2001-05. Appendix A is the primary focus, and it includes a list of CEM in-house equipment and materials generally needed to carry out sampling and remediation system maintenance activities. Minor updates were also made to Appendix C since the two appendices reference one another. Prior to making the changes, Petroleum Fund staff reached out to Certified Environmental Managers for input and suggestions on new rates of existing equipment and any additional equipment routinely used in the field. The intent is to develop a standard rate for the equipment, which will result in efficiencies in staff review. In addition to adding equipment and raising some rates, also included were miscellaneous field supply rates. Some defrayments of these materials would be helpful, as they are required to ensure proper sampling techniques and eliminate sample cross-contamination. Development of a nominal fee that a CEM can charge for these items helps

to streamline the review process. This item is listed as an action item. Several CEMs were invited to attend the meeting and provide further input, if desired.

Chair Tappan invited CEMs to provide input. There were no comments received from CEMs. As such, **Mr. Cabbie** suggested that the Board move to approve the revised rate schedule in Appendix A and minor edits in Appendix C of the CEM Cost Guidelines. **Chair Tappan** invited a motion.

Mr. Perks moved to accept staff's recommendation for Appendix A CEM In-House Equipment and Rental Charges Updates and Appendix C CEM Equipment Usage Rate Calculation Modifications. Mr. Smith seconded the motion. The motion passed unanimously.

8. UPDATE BOARD ON PETROLEUM FUND PROGRAM AUDITS

Mr. Cabbie stated the Petroleum Fund has been through two audits by the Governor's Finance Office, Division of Internal Audits (DIA). The follow-up annual report for the first audit and new findings and recommendations report for the second audit were both presented during the Executive Branch Audit Committee meeting on January 28th, 2021.

That Committee is comprised of the following:

- Nevada's Governor
- Lieutenant Governor
- Secretary of State
- State Treasurer
- State Controller
- Attorney General
- Member of the public

In terms of Report No. 19-05, the DIA has accepted NDEP's progress and indicated that three of the five recommendations made in the first report have been fully implemented. Two recommendations remain only partially implemented, including Recommendation No. 1, which speaks to Fund statutes and Recommendation No. 2, which speaks to third party liability funds being used for cleanup when initial cleanup funding is exhausted. In regard to Recommendation No. 1, NDEP drafted Assembly Bill 40, which is currently in session with the Nevada Legislature. The Bill was drafted to address the concerns raised by the DIA regarding the Petroleum Fund reimbursements to small businesses. The main driver of the bill was to look at the definition of small business in statute. Proposed language in the bill states "the Board shall define by regulation 'small business.'" This is the first step in actually coming up with a small business definition. The intent is to remove the definition from statute, which can only be reviewed once every two years during legislative session, and instead define "small business" solely in regulation. This will allow NDEP to draft a new definition and revised it as market conditions change. The Board would approve such regulations.

In addition to the "small business" revision in the statutes, there is clarification of testing requirements for a storage tank prior to registration and coverage. This language is what allowed the Fund to fully implement Recommendation No. 5 of the first audit report. Additional language edits are also proposed under AB40. The definition of "operator" was expanded to include responsible parties. In many cases, the storage tank is removed, and therefore there is no longer a current storage tank operator. Expansion of the definition clarifies that the former operator can be

reimbursed by the Fund. Lastly, distribution piping was added to the “storage tank” definition in statute.

Chair Tappan invited questions from the Board.

Mr. Perks asked if it would be advantageous for Board Members to go to the website and vote in favor, while identifying themselves in the comments. **Mr. Cabbie** deferred to Mr. Lovato on this question, while noting that it is a public meeting and staff can provide links to the meetings. Generally, unless someone is speaking to the committee, they are unable to provide comment. **Mr. Perks** clarified that there is a website where individuals are able to comment on all the bills. In the past, he has received responses from Senators on comments made on bills. **Mr. Lovato** said there are a couple of options. The Bill has been heard in the Committee of Assembly for Natural Resources and has not been scheduled for a work session yet, where the vote takes place. There are opportunities to submit comments directly to the Committee. At the first hearing (which already took place), they will take comments of support and opposition. Once it moves to work session, they typically do not take comments in support or opposition. This does not preclude someone from submitting comments on the Bill directly to the Committee through NELIS. If it passes out of this Committee and moves to the other side of the House, it will be heard in Senate Natural Resources. There will be an opportunity at that time to voice support or opposition. Board members can be kept apprised of those dates.

Mr. Lovato referenced the first audit. Last year, Mr. Smith asked a number of good questions about how NDEP is progressing on old cases. NDEP has reported to the Board separately on this. In the October 2020 response, NDEP laid out how they are dealing with other cases compared to other states. Nevada falls in line with or performs better than other States to which it was compared regarding case cleanup progress.

Mr. Cabbie stated that the second recommendation of the first audit report pending deals with third party funding for cleanup. During the January 28th, 2021 Executive Branch Audit Committee meeting, the Division of Internal Audits indicated that they had submitted a request for an official opinion by the State’s Attorney General. The letter making the request actually went out February 3rd of 2021. Until NDEP receives the official opinion, NDEP will not be taking further action to address this item. Small business will likely remain an issue or be partially implemented until the end of 2021, when a regulation is in place. Recommendation No. 2 regarding third party liability is dependent upon when the AG official opinion comes out.

The second audit was conducted by the Division of Internal Audits and presented under report number 21-04, dated January 28th, 2021. Four recommendations were made in the report, in addition to the original five in the first audit. The first recommendation is to reconcile project costs. Audit staff states: “Reconciling invoice project costs will ensure transparency and consistency of skill levels and rates on not to exceed proposals and CEM invoices.” They go on to say that CEMs should reference Not to Exceed Proposal (NTEP) tasks on their invoices. Together, these actions could ensure that actual project costs do not exceed authorized limits. In the interest of transparency. NDEP will pursue matching up project hours to be set in the CEM cost guidelines as well as the rates, to ensure that the rates being applied to hours match up with the skill levels. NDEP does require a CEM to identify an NTEP and bill their invoices to a specific NTEP. As such, CEM invoiced costs are capped by the total NTEP amount. A plan will be brought to the Board in June that discusses additional program transparency.

Recommendation No. 2 was to establish a rate schedule for professional services. The intent is for NDEP to state how much a CEM can charge at an hourly rate for various skill levels. This recommendation has the shortest time frame, with a plan expected by July, 2021. Audit staff states: “Establishing a rate schedule will ensure that the Fund pays consistent rates for CEM professional

services and provides an objective basis to define costs paid by the Fund for CEM services.” The report further contends that there may be a cost savings to the Fund of up to \$1 million annually by setting hourly rates. NDEP has not fully committed to setting an hourly rate for various staff levels. What they have planned is an evaluation of current CEM costs using the free market approach currently in place. NDEP sets hours for remediation tasks and the CEM sets their own rates. Being set up in this manner, the assumption is that a CEM that sets high rates will obtain less work, and those who charge a reasonable price will generally have more work. This is what has been seen over the past 30 years. However, NDEP will look at the numbers and compare them to setting individual skill level rates to determine if there is any cost savings. They hope to complete the analysis by June and provide the results to the Board at that time. NDEP disagrees with the assertion that up to \$1 million can be saved in annual costs. The formula in the report is based on using the highest CEM rate for a given skill level and assumes that all claim invoices only include CEM hourly costs. The formula provided does not take into account that many claims have other vendor and subcontractor costs that can make up the bulk of costs reimbursed on a claim.

Mr. Perks inquired as to how the Department of Labor Commission calculates wage rates. **Mr. Cabbie** said he would need to look into this further. California uses its own consumer price index, separate from the nation. These are things NDEP would look at if they go down the road of setting rates. The first step is determining whether setting a rate actually reduces the amount paid by the Fund or if the current system is effective through market controls in reducing costs. They will look at the California approach as well as the National Consumer Pricing Index. **Mr. Perks** noted that Nevada sets and updates its own labor rates on a yearly basis. Could the Fund adopt these same rates?

Mr. Lovato stated that there is a philosophical difference between the audit staff and NDEP. The Board will want to form its own ideas about how setting rates for CEMs would actually work. There are a number of questions about how effective this would be. Deciding up front that this would be advantageous without considering all the pros and cons makes little sense. The proposal should be evaluated with consideration for different analyses and points of view. Certain classes of work are subject to labor rates, such as public works projects and those subject to prevailing wage requirements. This is very different than work for consultants, which is what the proposal addresses. More evaluation must be done. It will be important for the CEM community to provide input. **Mr. Cabbie** stated that NDEP staff will be reaching out to CEMs to determine impacts.

Mr. Cabbie addressed Recommendation No. 3, which is to strengthen CEM certification requirements. The audit staff state: “Strengthening CEM certification requirements will ensure individuals hired to manage remediation projects have a strong working knowledge of geological and engineering principles needed to carry out remediation projects. Requiring professional certifications and additional work experience would improve the standard of work from CEMs.” They go on to say that: “Certification standards in other states suggest that Nevada certification and renewal requirements are not as robust.” They make a recommendation to fill a staff engineering position in NDEP to oversee more complex cases. The findings of the recommendations seek to address items that generally fall outside the Petroleum Fund program. However, NDEP does have a certification program, which dictates standards CEMs must meet to become certified in Nevada. The certification program was initially developed as a general consumer protection program in relating to managing environmental matters associated with hazardous substances and hazardous waste releases. At this time the program is not well-funded and would require additional resources to develop the more robust standards being recommended. There is also disagreement that every CEM needs a professional engineering background, as suggested in the report for all cleanup cases. Many CEMs with various science backgrounds are capable of managing petroleum releases from storage tank systems. Fund staff will collaborate with the CEM program moving forward to determine best steps in addressing the recommendation.

Recommendation No. 4 states: “Perform random verification of proofs of payments.” Audit staff states: “Performing random verification of proof of payments will ensure that owners and operators are fulfilling their financial obligations for assessment and remediation activities.” They go on to say: “The proof of payment process currently in place within the Petroleum Fund is not adequate to ensure that an operator has made their ten percent copayment.” NDEP generally agrees that improvements can be made within the program to verify that an operator is paying their required copayment. With limited staffing, conducting random full case audits will be quite challenging. As an alternative proposal, they would look at requiring additional payment verification, such as processed checks, credit card receipts and vendor receipts to ensure the full invoice amounts being requested in the claims are actually being paid by the operators. This is done in some scenarios, such as when the payment goes to a CEM on behalf of an operator. In this scenario, it is known that the 90 percent of cleanup costs were paid to the CEM, but NDEP also requests that the operator demonstrate payment of their ten percent copayment to the CEM company. Implementing review of additional payment verification documentation will likely require some modifications or changes to existing regulation and policy, which is not likely to occur until the last half of 2021.

9. **ADOPTION OF CONSENT ITEMS**

The Board reviewed all items as a consent calendar item. There were no items marked by an asterisk (*), or 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 – MARCH 11, 2021**

HEATING OIL

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	2012000017; 79917	Churchill County School District: Old High School	\$4,716.55	\$4,716.55
FOR POSSIBLE ACTION	2	2018000043; 79886	Mr. William Kennedy: William Kennedy Residential Heating Oil Tank	\$18,094.21	\$18,072.66
FOR POSSIBLE ACTION	3	2020000052; 79892	North Summit Company, LLC: Apn 164-290-02 Heating Oil Tank	\$5,934.67	\$5,597.17
FOR POSSIBLE ACTION	4	2020000053; 79947	North Summit Company, LLC: Apn 164-290-06 Heating Oil Tank	\$7,487.29	\$7,149.79
SUB TOTAL:				<u>\$36,232.72</u>	<u>\$35,536.17</u>

ONGOING CASES

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	1992000126; 79954	Clark Co. School District: RC White (Arville) Trans. Satellite	\$16,797.91	\$16,797.91
FOR POSSIBLE ACTION	2	1993000099; 79873	Reno-Tahoe Airport Authority: Reno Tahoe Airport	\$9,406.20	\$9,406.20
FOR POSSIBLE ACTION	3	1993000103; 79944	Charlie Brown Construction: Charlie Brown Const.	\$9,178.10	\$8,994.54
FOR POSSIBLE ACTION	4	1994000012; 79891	Breakthru Beverage: Frmr Deluca Liquor & Wine	\$73,317.93	\$73,317.93
FOR POSSIBLE ACTION	5	1994000027; 79882	7-Eleven Inc.: 7-Eleven #19653	\$39,742.23	\$39,742.23
FOR POSSIBLE ACTION	6	1995000039; 79907	Al Park Petroleum Inc: Crescent Valley Market	\$13,797.11	\$12,417.40
FOR POSSIBLE ACTION	7	1995000042; 79842	FBF Inc.: Gas 4 Less	\$33,537.01	\$30,183.31
FOR POSSIBLE ACTION	8	1996000063; 79890	Joan Pennachio: V & V Automotive	\$5,296.91	\$3,471.22
FOR POSSIBLE ACTION	9	1996000064; 79945	The Esslinger Family Trust: Red Rock Mini Mart	\$33,256.89	\$32,259.18
FOR POSSIBLE ACTION	10	1996000101; 79885	Phillips 66 Company: Circle K Store #2700695	\$30,521.26	\$27,349.82
FOR POSSIBLE ACTION†	11	1998000075; 79859	55 McDermit Crude, LLC: McDermit Motel & Convenience Store	\$13,889.35	\$12,398.31
FOR POSSIBLE ACTION	12	1999000014; 79910	Al Park Petroleum Inc.: Pit Stop #7 Conoco	\$7,134.39	\$6,412.85
FOR POSSIBLE ACTION	13	1999000135; 79919	Terrible Herbst, Inc.: Terrible Herbst #106 (Gas) & #108 (Lube)	\$8,047.58	\$7,242.82
FOR POSSIBLE ACTION	14	1999000243; 79883	7-Eleven Inc.: 7-Eleven #27607	\$14,129.72	\$11,944.01

ONGOING CASES: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	15	2004000011; 79914	Hpt Ta Properties Trust: Wells Petro Truck Service	\$6,322.25	\$5,690.03
FOR POSSIBLE ACTION	16	2007000014; 79953	Raiders Oz Business, LLC: Former Ace Cab/Frias Transp.	\$267,319.61	\$238,562.65
FOR POSSIBLE ACTION	17	2007000016; 79951	Golden Gate Petroleum of Nevada LLC: Golden Gate Petroleum	\$1,470.00	\$1,323.00
FOR POSSIBLE ACTION	18	2008000019; 79813	One Panou LLC: Golden Market #3	\$15,448.68	\$13,903.81
FOR POSSIBLE ACTION	19	2010000009; 79915	Hpt Ta Properties Trust: Mill City Travel Center	\$26,081.52	\$21,126.03
FOR POSSIBLE ACTION	20	2011000009; 79916	Cimarron West: Cimarron West	\$23,942.73	\$21,543.27
FOR POSSIBLE ACTION	21	2013000019; 79918	Hardy Enterprises Inc.: Elko Sinclair #53	\$23,900.82	\$21,510.74
FOR POSSIBLE ACTION	22	2014000004; 79909	Alsaker Corp: Broadway Colt Service Center	\$27,076.39	\$24,368.75
FOR POSSIBLE ACTION	23	2014000016; 79938	Smitten Oil and Tire Co. Inc.: Former Smedley's Chevron	\$231,790.25	\$208,611.23
FOR POSSIBLE ACTION	24	2016000005; 79949	Golden Gate S.e.t. Retail of NV LLC: Golden Gate Petro. 65 - Fallon	\$2,775.09	\$2,465.81
FOR POSSIBLE ACTION	25	2016000012; 79934	DLF Corporation: Mr. Ds Fastlane	\$10,808.44	\$9,727.60
FOR POSSIBLE ACTION	26	2016000023; 79940	Al Park Petroleum Inc.: Pit Stop #1	\$12,153.87	\$8,750.79
FOR POSSIBLE ACTION	27	2016000027; 79913	Terrible Herbst, Inc.: Terrible Herbst #272	\$16,702.78	\$13,529.25
FOR POSSIBLE ACTION	28	2017000015; 79935	Ellen 5 LLC: Green Valley Grocery #63	\$88,459.04	\$74,703.58
FOR POSSIBLE ACTION	29	2018000009; 79941	Reed Incorporated: Pacific Pride	\$9,438.03	\$8,486.13
FOR POSSIBLE ACTION	30	2019000011; 79545	Midjit Market Inc.: Green Valley Grocery #43	\$33,082.97	\$29,774.67
FOR POSSIBLE ACTION	31	2020000015; 79948	Canyon Plaza, LLC: Gas 2 Go	\$61,132.72	\$32,972.79
FOR POSSIBLE ACTION	32	2020000016; 79903	James N. and Rita H. Pulsipher Trust: Us Gas #7	\$69,774.84	\$62,797.36
			SUB TOTAL:	<u>\$1,235,732.62</u>	<u>\$1,091,785.22</u>
			RECOMMENDED CLAIMS TOTAL:	<u>\$1,271,965.34</u>	<u>\$1,127,321.39</u>

Chair Tappan asked whether any member of the Board needed to recuse him or herself from any item on the consent list. There were no requests for recusal. As such, she invited a motion to approve the consent items as listed.

Mr. Smith moved for approval of the consent items. Heating Oil Cases 1 through 4, Ongoing Cases 1 through 32. Mr. Perks seconded the motion. Motion carried unanimously.

10. 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.

HEATING OIL – DIRECT PAYMENT

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR DISCUSSION	1	2020000032; 79868	661 Lake Property LLC: 661 Lake Street Heating Oil Tank	\$20,750.49	\$20,500.49
FOR DISCUSSION	2	2020000033; 79867	661 Lake Property LLC: 644 N Center Street Heating Oil Tank	\$12,837.23	\$12,587.23
FOR DISCUSSION	3	2020000034; 79866	661 Lake Property LLC: 109 E 6th Street Heating Oil Tank	\$14,253.04	\$13,753.04
FOR DISCUSSION	4	2020000037; 79869	661 Lake Property LLC: 121 E. 6th St. & 615 Lake St. Heating Oil UST Tanks	\$32,093.08	\$31,593.08
FOR DISCUSSION	5	2020000045; 79874	Chris Goodwin: Christopher Michael Goodwin Residence	\$11,559.97	\$11,309.97
FOR DISCUSSION	6	2020000048; 79876	Diana Martin: Diana Joy Martin Residence	\$18,001.40	\$17,751.40
FOR DISCUSSION	7	2020000050; 79877	Mary Cook: Mary Marguerite Cook Residence	\$10,219.58	\$9,969.58
FOR DISCUSSION	8	2020000055; 79878	Sean & Karen De Queiroz: Sean Dequeiroz Property	\$25,776.97	\$25,526.97
FOR DISCUSSION	9	2020000057; 79879	Cameron Tabucchi: Cameron Tabucchi Property	\$22,950.43	\$22,700.43
FOR DISCUSSION	10	2020000058; 79880	Cheryl Peabody: Cheryl Lavonne Peabody Residence	\$22,470.92	\$22,220.92
FOR DISCUSSION	11	2020000059; 79887	Eric Plam: Eric Hudson Plam Property	\$17,822.46	\$17,572.46
FOR DISCUSSION	12	2020000060; 79901	Hannah Carlson: Hannah J. Carlson Residence	\$19,220.86	\$18,970.86
FOR DISCUSSION	13	2020000061; 79905	Joseph Cadena: Joseph P Cadena Living Trust	\$19,185.54	\$18,685.54
SUB TOTAL:				<u>\$247,141.97</u>	<u>\$243,141.97</u>

ONGOING CASES – DIRECT PAYMENT

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR DISCUSSION	1	1993000102; 79937	Rebel Oil Company: Rebel Store #2008	\$6,142.25	\$6,142.25
FOR DISCUSSION	2	1993000103; 79841	Charlie Brown Construction: Charlie Brown Const.	\$16,984.97	\$16,645.27
FOR DISCUSSION	3	1994000015; 79932	Pilger Family Holdings: Former D & G Oil Company	\$47,983.11	\$47,983.11
FOR DISCUSSION	4	1999000022; 79912	Terrible Herbst, INC.: Terrible Herbst #129	\$3,798.98	\$3,419.08

ONGOING CASES – DIRECT PAYMENT: CONTINUED

FOR DISCUSSION	5	1999000023; 79936	Nevada Ready Mix Corp: Nevada Ready Mix	\$25,922.36	\$23,330.12	
FOR DISCUSSION	6	1999000066; 79933	HP Management, LLC: Former Haycock Petroleum	\$40,189.59	\$36,170.63	
FOR DISCUSSION	7	1999000086; 79911	Terrible Herbst, Inc.: Terrible Herbst #126	\$5,420.23	\$4,878.21	
FOR DISCUSSION	8	2008000018; 79908	Jacksons Food Stores Inc.: Jacksons Food Stores #0145	\$832.90	\$749.61	
FOR DISCUSSION	9	2012000004; 79865	7-Eleven Inc.: 7-Eleven #15426	\$90,541.87	\$81,487.68	
FOR DISCUSSION	10	2012000012; 79860	Dewey Has Gas, Inc.: Smart Mart	\$43,155.46	\$38,772.05	
FOR DISCUSSION	11	2013000004; 79733	7-Eleven Inc.: 7-Eleven #29665	\$14,720.55	\$13,248.50	
FOR DISCUSSION	12	2013000009; 79920	Western Petroleum: Western Petroleum of Nevada	\$23,036.55	\$20,732.89	
FOR DISCUSSION	13	2013000011; 79930	Har Moor Investments, LLC: Village Shop #4	\$24,437.00	\$21,993.30	
FOR DISCUSSION	14	2013000021; 79809	7-Eleven Inc.: 7-Eleven #27700	\$13,211.62	\$11,890.46	
FOR DISCUSSION	15	2014000007; 79864	7-Eleven Inc.: 7-Eleven #29658	\$15,350.02	\$13,815.02	
FOR DISCUSSION	16	2014000033; 79929	Speedee Mart Inc.: Speedee Mart #108	\$47,246.87	\$42,522.18	
FOR DISCUSSION	17	2017000015; 79779	Ellen 5 LLC: Green Valley Grocery #63	\$76,814.87	\$69,133.38	
FOR DISCUSSION	18	2017000019; 79926	Rebel Oil Company: Rebel Store #2197	\$23,256.30	\$20,930.67	
FOR DISCUSSION	19	2017000035; 79925	Rebel Oil Company: Rebel Store #2177	\$57,231.97	\$51,235.73	
FOR DISCUSSION	20	2018000005; 79922	Rebel Oil Company: Rebel Store # 2153	\$7,901.25	\$7,111.13	
FOR DISCUSSION	21	2019000001; 79923	Rebel Oil Company: Rebel Store #2160	\$8,134.00	\$7,312.50	
FOR DISCUSSION	22	2019000002; 79924	Rebel Oil Company: Rebel Store #2166	\$12,693.75	\$11,424.37	
FOR DISCUSSION	23	2019000004; 79921	Rebel Oil Company: Rebel Store #2142	\$17,075.00	\$15,367.50	
FOR DISCUSSION	24	2019000005; 79928	Fairway Chevrolet Co.: Fairway Chevrolet Co.	\$11,492.00	\$10,342.80	
FOR DISCUSSION	25	2019000014; 79927	Western Cab Co.: Western Cab Co.	\$9,310.75	\$8,379.67	
				SUB TOTAL:	<u>\$642,884.22</u>	<u>\$585,018.11</u>
				DIRECT PAYMENT CLAIMS TOTAL:	<u>\$890,026.19</u>	<u>\$988,759.74</u>
				BOARD MEETING CLAIMS TOTAL:	<u>\$2,161,991.53</u>	<u>\$1,127,321.39</u>

Chair Tappan invited questions on any of the items listed. There were none.

11. **EXECUTIVE SUMMARY**

Mr. Cabble stated annual invoices for enrollment year 2021 were issued on August 17, 2020. A total of 1,255 facilities have been invoiced and approximately 97 percent have submitted the required enrollment fees. Since the Fund was created, a total of 1,721 remediation cases have applied for Fund coverage. Of those applications, 173 have been denied due to ineligibility or other reasons. Of the cases that were provided Fund coverage, 1,432 cases have since been closed and no longer receive Fund reimbursement. Currently, there are 113 active Fund cases. Since January 1, 2021, NDEP has received 3 new applications for Fund coverage. Three applications are currently pending. Prior to this Board meeting, the Board to Review Claims has approved a cumulative total of \$244,565,182.88. This includes \$828,160.08 for direct payment claims since the last Board meeting. With today's approval of \$1,127,321.39, the cumulative Fund expenditure will increase to \$245,692,504.27. No UST award payments were made during the past quarter. Audit updates were provided in Agenda Item No. 8.

Chair Tappan invited Board Members to ask questions. There were no questions.

Chair Tappan stated that because the full Board was not present, they will move the nomination and election of the Vice Chair to June.

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 03, 2021, at 10:00 am. Subsequent meetings are tentatively scheduled for September 9th, 2021 and December 9th, 2021.

14. **ADJOURNMENT**

The meeting adjourned at 12:16 p.m.