

**STATE OF NEVADA BOARD TO REVIEW
CLAIMS BOARD MEETING MINUTES
SEPTEMBER 8, 2022**

1. CALL TO ORDER AND ROLL CALL

Chair Tappan called the meeting to order at 10:00 a.m. The meeting was conducted via video/phone conference.

BOARD MEMBERS PRESENT

Maureen Tappan, Chair – Representative of the General Public
Rod Smith, Vice Chair – Representative of Petroleum Refiners
Karen Stoll – Department of Motor Vehicles
Greg Lovato – Nevada Division of Environmental Protection
LeRoy Perks – Representative of the Independent Retailers of Petroleum
Jason Case – Representative of Independent Petroleum Dealers

Ian Carr – Legal Counsel for State of Nevada, Attorney General’s Office

BOARD MEMBERS NOT PRESENT

Mike Dzyak – State Fire Marshal’s Office

OTHERS PRESENT

Jeff Collins, Jeff Kinder, Michael Cabble, Megan Slayden, Don Warner, Jon McRae, Tristin Alishio, Chuck Enberg, Grant Busse, Kevin Barnes, and Michael Mazziotta – Nevada Division of Environmental Protection (NDEP)
Matthew Grandjean – Stantec Consulting Services, Inc.
Kurt Goebel – Converse Consultants
Rex Heppe – Terracon Consultants, Inc.
Joe McGinley – McGinley & Associates
Caitlin Jelle – McGinley & Associates
Keith Stewart – Stewart Environmental
Doug Guerrant - Broadbent & Associates
Jeremy Holst - Broadbent & Associates
Stephanie Holst – Broadbent & Associates
Brian Northam – Southern Nevada Health District

In addition to the above-named participants, there were an additional 4 guests that called into the meeting by telephone and were not identified by name.

2. PUBLIC COMMENT

There were no public comments.

3. **APPROVAL OF THE JUNE 1, 2022 MINUTES**

Chair Tappan called for any modifications to the minutes. There were no proposed changes.

Rod Smith moved to approve the June 1, 2022 minutes. LeRoy Perks seconded the motion. Motion carried unanimously.

4. **STATUS OF THE FUND**

Mr. Cabble presented the status of the Fund for State Fiscal Year 2023, which began July 1, 2022. Revenues included the balance forward from State Fiscal Year 2022 of \$7,500,000 and approximately \$10,400 received for tank registration fees thus far. There have not yet been revenues from the \$0.0075 petroleum fee transferred to the Fund. Total revenue is \$7,510,400. Expenditures include Board Member expenses at approximately \$41 and reimbursement of Petroleum Fund claims paid are approximately \$200,290. Combined expenditures equal \$200,330.96. The current balance available for claims is \$7,310,069.04.

5. **ADOPTION OF BOARD POLICY RESOLUTION 2022-02: PETROLEUM FUND COST GUIDELINES**

Mr. Cabble stated that if adopted, this policy and the associated cost guidelines in Attachment A would replace the current CEM cost guidelines in Board Policy Resolution Number 2001-05. The cost guidelines provide the basis for preparation and review of Fund coverage applications, cost proposals for assessment and remediation, claims for reimbursement, and proof of payment documentation. The earliest version of the cost guidelines was adopted in 1996 with a major revision in 2001, from which the current version is largely based. Policy Resolution Number 2001-05 incorporated earlier policies from the 1990's that were used to establish certified environmental manager, or CEM, oversight costs and identify eligible and ineligible costs for Fund reimbursement. The proposed updated guidelines will essentially replace the current not-to-exceed-proposal (NTEP) system with a lump sum approach.

The Fund has established lump sum costs for many of the work scope tasks, based on review of previous NTEPs. The data reviewed was from December 2016 through May 2022. The lump sum costs take into account current professional service rates, recent inflation, and will be revised periodically to account for any future cost increases associated with economic conditions. The values and the rates are reflective of the conditions at the time of review. Because this is a Board policy, amendments can be made frequently, as often as quarterly, when needed. The lump sum method will allow streamlining of project work based on CEM experience and site-specific needs. Staff have updated the Cost Guidelines to address findings and recommendations identified by the Division of Internal

Audits (DIA) in their report, No. 21-04. The recommendations of that report include reconciling project costs and establishing a rate schedule for professional services.

Notable changes include a shift from Fund established hours and CEM proposed hourly rates under NTEPs to a Fund established lump sum task pricing schedule. The predefined tasks include CEM oversight and preparation costs for the activities identified in the scopes of work in each task. For tasks without a lump sum value or not included in the guidelines, a miscellaneous task must be used. The guidelines include hourly professional service rates for miscellaneous tasks, and the CEM would request hours needed to carry out the task using the Fund defined rates. This is the opposite of what is being done using NTEPs.

The guidelines also include additional requirements for invoices submitted to the Fund with claims. The invoices need to include enough information on them to allow staff to reconcile requested project costs with NDEP approved costs. Some of this information includes identifying the site work that was performed, what NDEP approved cost proposal the invoiced costs are associated with, and a description of work performed.

Lastly, tasks J.1 and J.2 that address initial abatement were also revised. The hourly schedule has been removed based on input from CEMs. The non-CEM contractor formula is becoming more and more difficult to implement with rising transportation costs associated with excavating and exporting soil. A lump sum approach will be used for both CEM costs and non-CEM costs; both categories being substantially raised. Once these caps are reached, the CEM must check in with the case officer and begin using the predefined tasks for additional work.

Mr. Cabble indicated the draft guidelines were developed over the past year, following the June 2021 DIA audit. During that time, staff introduced conceptual changes to the Board in multiple meetings. General formatting examples of the Cost Guideline tasks were provided during the last Board meeting, which the Board indicated their approval. With that approval, the lump sum task format was applied throughout the document. Lump sum task amounts should cover most "typical" gas station sites, and staff expect 85 to 90 percent of CEM oversight costs to be paid using the defined tasks. For work that cannot be covered using a lump sum task, the miscellaneous task provides more flexibility with additional NDEP review and approval.

On July 22, 2022, the draft guidelines with associated lump sum values were provided to all the CEMs for review and comment. Additionally, the same document was provided to all the NDEP case officers on August 2nd. From the comments received by both CEMs and case officers, Fund staff made further revisions to the draft document. Those revisions are included in the document provided to the Board in strike-through, red text for deletions and bold, blue text for additions. If adopted today, the revised cost guidelines will go into effect in December. During the interim, the guideline changes will be implemented in the database system. This will also provide CEMs with additional time to compare the new task values against what they would have submitted in the past. If CEMs identify task values that are underfunded, these tasks will be reviewed and if found insufficient by staff, adjustments can be made and brought to the Board for approval prior to the December implementation.

Chair Tappan invited questions from Board members.

LeRoy Perks stated that he likes the approach, which should make it easier for everyone involved. He noted the rise of inflation and asked how this will be adjusted for. **Mr. Cabbie** acknowledged the increasing inflation rates. Adjustments have been made based on reviewed rates over the past four years and staff will continue to review and adjust as necessary moving forward. A periodic review has not been set in the guidelines. Instead, staff will rely on feedback from CEMs when established rates no longer keep pace with market conditions. Staff will also look at whether Nevada's rates are tracking with other states. Additionally, the Fund database can be queried to look at frequency of miscellaneous tasks or change orders to existing tasks and analyze whether tasks are being covered under the lump sum totals.

Mr. Perks asked whether the Board or staff adjusts the task values. **Mr. Cabbie** stated that in most cases, rate changes will be reviewed and approved by the Board. The only exception would be a case where Fund staff propose rate changes, which then go through a comment period and receive absolutely no opposition. In that very specific case, rates could be approved without review and approval by the Board.

Mr. Perks asked for clarification on the percentage drop for subcontractors from 15 percent to 8 percent. Did staff consider inherent business costs such as various training or staff certification costs when lowering the rate. **Mr. Cabbie** stated that some of those inherent costs are merely the cost of doing business. With that said, Mr. Cabbie also indicated his intent to request a revision to this percentage from 8 percent to 10 percent if the Board were to adopt the new guidelines. He added that the current 15 percent markup value is only available for invoices that have a total of less than \$3,000. Invoices of \$3,000 or more do not receive any markup. While the rate for percentage of markup was lowered, the invoice cap would be increased to \$15,000 for most subcontractor invoices. There are some specifically listed exceptions.

Rod Smith stated his preference for round-number task values, as opposed to an example of \$1,319. **Mr. Cabbie** clarified that every number used was arrived at via formula. **Mr. Smith** suggested that the totals be rounded off. **Mr. Cabbie** stated that leaving the numbers as arrived at via formula allows better tracking of changes over time, however, as the governing body, the Board can direct that the numbers be rounded. Clarification would be required as to whether they should round up, down, to the nearest \$50, etc. **Mr. Smith** recommended rounding up. For example, \$1,319 should round to \$1,400 or \$1,500. A total of \$2,792 should round to \$2,800. **Mr. Cabbie** voiced the need to be consistent across the board with any decisions for rounding up. **Mr. Smith** referenced one of the totals of \$514 and said it should round to \$600 (the nearest hundred, up).

Greg Lovato commented that it may be important for staff to maintain the underlying calculation record that led to the number, while also showing the ultimate rounding of the final numbers. **Mr. Cabbie** agreed that they must be justified in any numbers which are set, particularly taking into consideration any additional future audits. **Mr. Smith** agreed with this approach and suggested that when publishing the guidelines, totals should be

rounded up to the next hundred. **Mr. Cabbie** added that there are some other minor amendments staff was going to recommend for final Board approval. The rounding of task values could also be included. **Mr. Perks** noted that CEMs will certainly not argue with rounding up and this should be much easier for payment bookkeeping. **Chair Tappan** stated that she was impressed at the level of detail, as this reflects the utilization of a clear formula. While she would approve of keeping the specific numbers as is, she is willing to take a rounded figure approach, if that is the preference of other Board members.

Mr. Lovato stated that these are costs that are paid out by the Fund as state dollars. Nothing prevents an owner operator from hiring a CEM and paying them more than the stated amounts. Despite the fact that many owners/operators do not have the wherewithal to hire someone for more than the reimbursed rates, this approach is not artificially influencing the market in general, as owner operators are free to hire and pay a higher rate to a CEM. **Mr. Cabbie** said that based on research, Nevada is currently the highest paying state in terms of miscellaneous task individual hourly rates. They surpass California, Colorado, and Utah. The consumer pricing index (CPI) and California specific CPI were used to ensure that rates are in line with these other state rates if adjusted using the CPI. In response to a question from Mr. Perks, **Mr. Cabbie** confirmed that when looking at the claim overall, the Fund pays 90 percent of these rates. The owner is obligated to pay 10 percent in most cases.

With no further questions from the Board, **Chair Tappan** welcomed public comments.

Jon McRae, State of Nevada UST/LUST Supervisor, commented that Fund staff have worked tirelessly to complete this work from the Governor's audit. As someone who supervises case officers and because the state is able to pay contractors and CEMs, they have been able to close 100 cases over the last four years. Other states without this type of relationship and control have floundering cases, and lack of contractors willing to do the work. He commended Mr. Cabbie for updating the guidelines and including a mechanism for handling inflationary issues.

Caitlin Jelle, McGinley & Associates, introduced herself as a CEM with 22 active Petroleum Fund cases. She thanked Mr. Cabbie and Fund staff for reaching out to the CEMs. There was sufficient time to provide comments. In addition, comments were responded to on an individual basis, which was greatly appreciated. There has been a happy medium found between the audit findings and the actual payment thresholds.

Peter Krueger, Nevada Petroleum Marketers and Convenience Store Association, representing tank owner operators, expressed support for the significant work done by Fund staff. The revised cost guidelines will provide a greater level of understanding. He inquired as to the timeline for making any necessary changes in the rate schedule. **Mr. Cabbie** stated that staff will evaluate input in-house. If there is universal consensus for the change among CEMs, the change can be made with an update to the Board at its next quarterly meeting. Proposed changes without universal support or those with some level of controversy would need to be reviewed and approved by the Board. **Mr. Krueger** sought clarification regarding instances where Board approval is required, what is the timeline and process for public input on modifications. For example, if the public

comments during a meeting public comment period, no action can be taken until the following meeting. **Mr. Cabbie** stated his understanding that if there is an established agenda item to make amendments, public comments can be taken into consideration by the Board prior to the action item. If there is no action item to amend the cost guidelines at that time, the Board could not take action, as the item is not agendaized. **Ian Carr**, Legal Counsel for State of Nevada, Attorney General's Office, confirmed Mr. Cabbie's understanding. Topics subsumed with an agenda item already noticed could be acted upon by the Board at that particular meeting. However, a newly raised topic must be agendaized for a subsequent meeting. **Mr. Cabbie** followed up that staff will generally add an item to a meeting agenda upon request of the public if that request is made timely and prior to the agenda being posted. The Fund does not actively discourage the public from participating in any open meeting. **Mr. Krueger** indicated his understanding and concluded with a statement that it is incumbent on the CEM community to advance their thoughts and ideas by approaching Board members as representatives of the public.

Mr. Perks suggested that there be a standing agenda item to receive feedback on the cost guidelines. **Mr. Cabbie** stated that the Board is free to add any standing agenda items it deems appropriate. **Mr. Smith** questioned whether the Board would be able to act on agenda items that do not have specific language. **Mr. Carr** agreed that there should be specific language agendaized in each meeting, which would encapsulate the topics to be discussed and acted upon. There should be a guiding principle or predicate to take action. A standing item would be in accordance with Nevada's open meeting law. If specific action is to be taken, that action should be described in the notice promulgated before the meeting. **Mr. Cabbie** reaffirmed that while an item can be added, he must be provided, prior to the meeting, with specific language regarding what is requested to be acted upon. His suggestion was to refrain from making it a standing item. If over time, it becomes apparent that action must be taken at every meeting, having a standing item could be revisited at that time. **Mr. Lovato** suggested that within the executive summary, which is a discussion item, Mr. Cabbie could specifically add updates related to implementation of CEM cost guidelines. If issues come up that require action, they could be separately agendaized. There was general consensus in agreement of this suggestion. **Chair Tappan** concurred with the suggestion of adding the topic as part of the executive summary with the potential to add it as a standing agenda item in the future, if needed. **Mr. Cabbie** stated his understanding that he could add it to his executive summary as an administrative function. It can also be added to the policy, if desired. **Chair Tappan** then voiced a retraction to add it as an amendment to the policy and instead institute it in the executive summary. There was Board agreement with this approach.

Mr. Cabbie continued with a few additional revisions to be included in the Cost Guidelines proposed for adoption. The proposed changes were presented to the Board and the public using visual aids. He discussed Task A.10, whereby the CEM had identified that the amounts were too low and a discussion ensued with staff as to the reasons the CEM had deemed the amounts to be too low. Questions for the CEM involved the level of effort to carry out the task. This includes necessary staff levels, hours of work performed, etc. When the answers to the questions were submitted to Fund staff and deemed reasonable, changes to the costs were updated. A similar process was followed for Task G.5, resulting in additional compensation for a daily rate. Appendix G, governing reimbursable CEM

markup, proposed to increase the rate from 8 percent to 10 percent, as previously discussed. **Mr. Cabbie** provided recommended language for a potential motion on this item, including rounding up to the nearest.

Greg Lovato moved to adopt Policy Resolution No. 2022-02, Petroleum Fund Cost Guidelines, to replace Board Policy Resolution No. 2001-05, with the following revisions as proposed by Executive Secretary Cabbie for Tasks A.10, G.5, and Appendix G. The Board further requires, as part of this resolution, rounding up to the nearest \$100 on lump sum task amounts. LeRoy Perks seconded the motion. Motion carried unanimously.

6. **ADOPTION OF EQUIPMENT COST SCHEDULE FOR GRANT PAID UNDERGROUND STORAGE TANK (UST) SYSTEM UPGRADES**

Mr. Cabbie stated that the Board approved cost schedule is required under NAC 445 C Section 350, Subsection 3 and can be used to serve two purposes. The first is to identify equipment eligible for UST upgrades under the grant. It should also establish a cost control mechanism for equipment paid by the Petroleum Fund grant. The latter is the greater concern, which is why it is included in the regulation. Establishing a new cost control mechanism is necessary, as the previous mechanism of requiring three bids was removed from the regulation. There is general agreement that requiring bids discouraged tank handlers from participating in the program and as a result, fewer upgrades were being done.

The cost schedule provides flexibility to contractors upgrading listed equipment, while ensuring the Fund is not being taken advantage of by paying for the installation of overpriced equipment. Prior to establishing equipment maximums, staff reached out to all NDEP certified tank handlers. Staff also reviewed available pricing catalogs for this equipment and had discussions with a couple of major equipment manufacturers. The maximum rates represent various material types, with favor given to the upper end pricing range, given current economic conditions. There are two listings of equipment identified in the schedule. The first of which is listed in a table and includes equipment most often subject to federal and state UST periodic test requirements. **Mr. Cabbie** noted the grant program was created to offset costs associated with installing or upgrading equipment required to be periodically tested. The applicable equipment must be tested at the time of installation and every three years thereafter. The second list of equipment is not necessarily subject to the periodic testing requirements, but it is equipment that may need to be disturbed, installed, repaired, or replaced to facilitate upgrading one of the other equipment items in the table. The costs paid for installing this equipment should be secondary to the equipment listed in the table.

Mr. Cabbie described the process for establishing the equipment caps. There was outreach to various entities in the industry. A range was created for each listed equipment component, with the highest threshold chosen in some cases, in order to account for current economic conditions. Concerns regarding continual increases in equipment costs can be addressed and updated by the Board as often as quarterly. For now, staff and the Board are tasked with approving a starting cost control mechanism.

Mr. Cabbie noted that the maximum costs identified are specific to the equipment itself. They are not meant to include shipping, contractor mobilization, install labor, etc. Any grant funding available after the initial equipment purchase can be used for installation or replacement costs. For example, if three spill buckets were replaced and used the \$1,200 maximum allowed under the cost schedule, this would total \$3,600 that the Fund would pay for the equipment itself. The remaining balance, up to \$90,000, is available for the actual mobilization, installation, and everything else. The Fund believes operators will upgrade more equipment when using the full \$90,000 allowed for a site, so a second example given was upgrading three spill buckets, three overfill prevention devices, three turbine sumps, and up to four dispenser sumps. All of this equipment could cost approximately \$28,600, leaving \$61,400 available for contractor costs. This equates to 1/3 of grant funding going to equipment and 2/3 going to installation or replacement contractor costs.

Mr. Perks identified the asterisk, which requires sensors in the double-wall sumps, however, nothing was listed for the cost of the sensors. **Mr. Cabbie** clarified that the Fund is paying for the periodic testing portion required by regulation. The Fund's objective is to ensure that the sump is tight and will prevent a release to the environment.

Mr. Perks asked whether there has been consideration to raise the \$90,000 threshold. **Mr. Cabbie** stated that these amounts need to be adopted and put into practice before increases are proposed.

Mr. Cabbie addressed replacement of containment sump penetration boots. This has been allowed for a few years, but has not been well-tested; however, there have not been a significant number of complaints regarding premature failure. As such, staff added language allowing installation of sump penetration boots as an acceptable upgrade but failed to include it in the last paragraph regarding prioritization of grant funds. As such, a minor update was requested by staff in addition to adoption. The recommended adoption language is as follows: *“Adoption of the grant equipment and cost schedule, including the amendment to language in the last paragraph as proposed by staff.”* **Mr. Carr** stated that such verbiage would be appropriate, as long as it is a procedural change and does not substantively modify the assumptions or the fundamental nature of the agenda item.

Mr. Cabbie identified the specification language change: *“Grant funding will be prioritized for purchase and installation of equipment listed in the table above, and alternative overfill devices or double-walled piping will be funded secondary to the UST upgrade equipment.”* The clarification with regard to the sump penetration boots is as follows: *“Grant funding will be prioritized for the purchase and installation of equipment listed in the table above, and alternative overfill devices, double-walled piping, or replacement containment sump penetration boots will be funded secondary to the listed UST upgrade equipment.”*

Mr. Lovato addressed staff discussions with tank handlers in terms of the potential for more grant applications coming in as a result of the changes. **Mr. Cabbie** stated that feedback was definitely positive with increased willingness to engage in the program. In the past month, he has had three to four calls from operators regarding the program.

Mr. McRae stated that whenever his staff and contractors in Washoe County and Clark County through the Washoe County Health District and Southern Nevada Health District go to inspections and find significant equipment issues, they provide a pamphlet to onsite staff regarding available funding for upgrades.

Greg Lovato moved to adopt the grant equipment cost schedule for UST upgrades as proposed in agenda item #6 with revisions to language in the last paragraph as proposed by staff. Jason Case seconded the motion. Motion carried unanimously.

7. ADOPTION OF CONSENT AGENDA ITEMS

The board reviewed listed claims as a consent agenda item. There was no discussion regarding an individual item.

HEATING OIL

			<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1. 2012000017; 80304	Churchill County School District: Old High School	\$8,802.48	\$8,802.48
FOR POSSIBLE ACTION	2. 2021000028; 80328	Jonathon King: Jonathan H & Eve M King Family Trust Residential Heating Oil Tank	\$2,276.40	\$2,276.40
FOR POSSIBLE ACTION	3. 2021000040; 80176	Glendale Ave Properties, LLC: Glendale Ave. Properties, LLC	\$18,259.12	\$16,611.62
		SUB TOTAL:	<u>\$29,338.00</u>	<u>\$27,690.50</u>

ONGOING CASES

			<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1. 1992000126; 80322	Clark County School District: RC White (Arville) Transportation Satellite	\$26,212.92	\$26,212.92
FOR POSSIBLE ACTION	2. 1994000027; 80330	7-Eleven Inc: 7-Eleven #19653	\$61,212.97	\$61,212.97
FOR POSSIBLE ACTION	3. 1995000039; 80303	Al Park Petroleum Inc: Crescent Valley Market	\$4,503.85	\$3,867.14
FOR POSSIBLE ACTION	4. 1996000064; 80323	The Esslinger Family Trust: Red Rock Mini Mart	\$6,574.68	\$2,872.39
FOR POSSIBLE ACTION	5. 1998000075; 80221	55 McDermitt Crude, LLC: McDermitt Motel & Convenience Store	\$17,823.88	\$16,041.49
FOR POSSIBLE ACTION	6. 1999000014; 80306	Al Park Petroleum Inc: Pit Stop #7 Conoco	\$7,790.76	\$7,011.68
FOR POSSIBLE ACTION	7. 2004000039; 80157	Clark County Department Of Aviation: Frmr National Car Rental	\$47,809.94	\$47,809.94
FOR POSSIBLE ACTION	8. 2007000016; 80308	Golden Gate Petroleum Of Nevada, LLC: Golden Gate Sun Valley #43	\$6,379.25	\$5,741.33
FOR POSSIBLE ACTION	9. 2008000019; 80266	One Panou LLC: Golden Market #3	\$21,213.52	\$19,092.17
FOR POSSIBLE ACTION	10. 2009000024; 80066	Parampreet Investment LLC: Chucks Circle C Market	\$142,702.12	\$126,693.25
FOR POSSIBLE ACTION	11. 2010000009; 80309	HPT Ta Properties Trust: Mill City Travel Center	\$26,208.52	\$21,228.90
FOR POSSIBLE ACTION	12. 2011000009; 80278	Cimarron West: Cimarron West	\$18,237.92	\$16,414.13
FOR POSSIBLE ACTION	13. 2012000012; 80319	Clark County Department Of Aviation: Former Smart Mart	\$8,922.83	\$8,030.55
FOR POSSIBLE ACTION	14. 2013000004; 80331	7-Eleven Inc: 7-Eleven #29665	\$9,813.87	\$8,832.48
FOR POSSIBLE ACTION	15. 2013000019; 80312	Hardy Enterprises INC: Elko Sinclair #53	\$30,799.18	\$27,708.35
FOR POSSIBLE ACTION	16. 2013000021; 80300	7-Eleven Inc: 7-Eleven #27700	\$26,541.06	\$23,886.95
FOR POSSIBLE ACTION	17. 2014000004; 80305	Alsaker Corp: Broadway Colt Service Center	\$11,462.95	\$10,316.65
FOR POSSIBLE ACTION	18. 2014000007; 80284	7-Eleven Inc: 7-Eleven #29658	\$11,987.50	\$10,788.75
FOR POSSIBLE ACTION	19. 2014000025; 80313	Superior Campgrounds Of America, LLC: Silver City RV Resort	\$28,238.56	\$25,414.70
FOR POSSIBLE ACTION	20. 2016000009; 80329	7-Eleven Inc: 7-Eleven #13685	\$7,798.83	\$7,018.95
FOR POSSIBLE ACTION	21. 2016000012; 80320	DLF Corporation: Mr. Ds Fastlane	\$17,390.99	\$15,651.89
FOR POSSIBLE ACTION	22. 2016000023; 80315	Al Park Petroleum Inc: Pit Stop #1	\$10,229.83	\$7,365.47
FOR POSSIBLE ACTION	23. 2018000009; 80316	Reed Incorporated: Pacific Pride	\$6,175.72	\$5,461.38

FOR POSSIBLE ACTION	24.	2020000015; 80324	Canyon Plaza, LLC: Gas 2 Go	\$13,736.70	\$7,417.82	
FOR POSSIBLE ACTION	25.	2021000026; 80285	7-Eleven Inc: 7-Eleven #25578	\$30,264.77	\$27,238.29	
				SUB TOTAL:	<u>\$600,033.12</u>	<u>\$539,330.54</u>
				RECOMMENDED CLAIMS TOTAL:	<u>\$629,371.12</u>	<u>\$567,021.04</u>

LeRoy Perks moved for approval of the consent items as listed. Vice Chair Rod Smith seconded the motion. Motion carried unanimously.

8. DIRECT PAYMENT OF UNCONTESTED CLAIMS MADE PER BOARD 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.

HEATING OIL

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1.	2022000013; 80282	Equity Trust Company: 960 Keystone Avenue Residential Heating Oil Tank	\$26,363.19	\$25,863.19
FOR POSSIBLE ACTION	2.	2022000014; 80283	Sachidevi Lake: Sachidevi Lake	\$30,104.59	\$29,854.59
FOR POSSIBLE ACTION	3.	2022000016; 80287	David Fernandes: Coffee Cup Investments LLC	\$33,001.80	\$32,501.80
FOR POSSIBLE ACTION	4.	2022000017; 80286	Whitney Stodtmeister: Rw Stodtmeister Living Trust	\$21,327.70	\$21,077.70
			SUB TOTAL:	<u>\$110,797.28</u>	<u>\$109,297.28</u>

ONGOING CASES

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1.	1993000102; 80295	Rebel Oil Company: Rebel Store #2008	\$10,103.25	\$10,103.25
FOR POSSIBLE ACTION	2.	1994000015; 80290	Pilger Family Holdings: Terrible Herbst #225	\$12,112.33	\$12,112.33
FOR POSSIBLE ACTION	3.	1999000023; 80293	Nevada Ready Mix Corp: Nevada Ready Mix	\$21,084.23	\$18,280.56
FOR POSSIBLE ACTION	4.	1999000066; 80294	HP Management, LLC: Former Haycock Petroleum	\$25,686.17	\$23,077.05
FOR POSSIBLE ACTION	5.	2013000011; 80291	Har Moor Investments, LLC: Village Shop #4	\$18,768.25	\$16,891.43
FOR POSSIBLE ACTION	6.	2014000033; 80292	Speedee Mart Inc.: Terrible Herbst #377	\$18,880.47	\$16,992.42
FOR POSSIBLE ACTION	7.	2017000019; 80297	Rebel Oil Company: Rebel Store #2197	\$15,835.86	\$14,252.27
FOR POSSIBLE ACTION	8.	2017000035; 80299	Rebel Oil Company: Rebel Store #2177	\$38,999.43	\$35,099.49
FOR POSSIBLE ACTION	9.	2018000005; 80296	Rebel Oil Company: Rebel Store # 2153	\$5,137.00	\$4,623.30
FOR POSSIBLE ACTION	10.	2019000002; 80298	Rebel Oil Company: Rebel Store #2166	\$5,734.50	\$5,161.05
FOR POSSIBLE ACTION	11.	2019000005; 80248	Fairway Chevrolet Co: Fairway Chevrolet CO	\$14,133.50	\$12,720.15
FOR POSSIBLE ACTION	12.	2019000014; 80289	Western Cab Co: Western Cab CO	\$5,053.00	\$4,547.70
FOR POSSIBLE ACTION	13.	2019000044; 80281	7-Eleven Inc: 7-Eleven #15829	\$29,365.91	\$26,429.32
			SUB TOTAL:	<u>\$220,893.90</u>	<u>\$200,290.32</u>
			DIRECT PAYMENT CLAIMS TOTAL:	<u>\$331,691.18</u>	<u>\$309,587.60</u>
			<u>BOARD MEETING CLAIMS TOTAL:</u>	<u>\$961,062.30</u>	<u>\$876,608.64</u>

Mr. Smith asked why more people do not submit the documentation that states they do not contest the claim to be paid sooner. **Mr. Cabbie** stated that part of the reason may be based upon when the claim comes in. Many of the claims tend to come in towards the quarterly claims' submittal deadline. It then takes staff time to review claims in the queue which occurs on a first come, first served basis. This means many of the later claims submitted are close to meeting date and operators opt not request direct payment since the time savings is minimal. Also, if there are costs in the claim not approved by staff initially and the operator declares the claim is uncontested, they cannot request the disallowed costs at a later date.

9. EXECUTIVE SUMMARY

Mr. Cabble stated that tank enrollment fees are tracked pursuant to the Federal Fiscal Year (FFY), which runs October 1, 2021 through September 30, 2022. This report contains numbers for the current year, which ends at the end of the month. Annual invoices for enrollment year 2022 were issued on August 19, 2021. Total facilities invoiced as of August 23, 2022 is 1,299 facilities. Approximately 1,277, or 98 percent, of facilities have made their enrollment payments. Mr. Cabble also noted that annual invoices for the upcoming 2023 enrollment year were generated on August 17, 2022 and recently sent out in accordance with state regulation.

Since the Fund was created, a total of 1,781 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, 1,513 cases have since been closed and no longer receive Fund reimbursement. Currently, there are 90 active Fund cases. Since January 1, 2022, NDEP has received 24 new coverage applications for Fund coverage with 5 applications currently pending. Prior to this Board meeting, the Board to Review Claims has approved a cumulative total of \$252,228,079.11 for reimbursement of petroleum cleanup cases. This includes \$309,587.60 for direct payment claims paid since the last Board meeting. With today's approval of \$567,021.04 in pending claims, the cumulative Fund expenditure will increase to \$252,795,100.15. There were no UST upgrade grants this quarter, however, applications have been received.

Mr. Cabble reported that all items included in Audit Report No. 19-05 have been implemented by staff. An Executive Branch Audit Committee meeting has been scheduled for November 30th. For the second annual update to the second audit report, DIA No. 21-04, staff has submitted a response stating that with the adoption of the cost guidelines today, they will have fully implemented all of the recommendations from that report. **Mr. Lovato** commended staff and the team for their strong performance in carrying out their day jobs as well as responding to the audits and expressed his appreciation of the Board's support. The audit report update indicating full implementation has been submitted under his signature. A written report was submitted to the audit group on August 31, 2022. **Chair Tappan** stated that the entire Board is in agreement with the commendation.

Mr. Cabble provided an update on Eagle Gas. During the last Board meeting, he reported that a court order was granted to NDEP to proceed with debt collection of Eagle Gas assets. On April 21, 2022, the NDEP, the Carson City Sheriff's office, and NDEP's debt collection contractor proceeded to collect on that debt owed. This included seizure of both the Eagle Gas North property as well as an operating Sinclair station in south Carson City. The two properties are currently in escrow with two separate buyers. A total sales amount will be calculated once escrow closes, which is anticipated to occur at the end of this month. The amounts received from the property sales in addition to fund seized from the bank account for the operator as well as cash recovered from the premises of each property will be used to pay the approximately \$1.6 million judgment. There will be a collection contractor's fee. In addition, NDEP has some operating costs for both properties.

In response to a question from **Mr. Smith, Mr. Cabble** stated that the total for the final sales will determine whether enough has been received to cover the total costs.

10. PUBLIC COMMENT

There were no public comments.

11. CONFIRMATION OF NEXT BOARD MEETING DATE

The next meeting is scheduled to occur on December 8, 2022 at 10:00 a.m.

12. ADJOURNMENT

The meeting adjourned at 11:37 a.m.