

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
March 9, 2023**

1. CALL TO ORDER

Chair Tappan called the meeting to order at 10:00 a.m. The meeting was held in the Tahoe Room of the Richard H. Bryan Building located at 901 S. Stewart Street, Carson City, NV and video-conferenced to the Red Rock Conference Room located at 375 East Warm Springs Road, Suite 200, Las Vegas, NV. Remote participation was also available via Microsoft Teams.

A. 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
Jeffrey Kinder – Nevada Division of Environmental Protection
LeRoy Perks – Representative of the Independent Retailers of Petroleum
Mike Dzyak – State Fire Marshal’s Office
Jason Case – Representative of Independent Petroleum Dealers

OTHERS PRESENT

Greg Ott, Board Legal Counsel, State Attorney General’s Office
Jennifer Carr, Jeff Collins, Michael Cabble, Kim Valdez, Megan Slayden, Don Warner,
Jonathan McRae, Tristin Alishio, Ben Moan, Chuck Enberg, Michael Mazziotta, John
Karr, Grant Busse, and Nicole Whited – Nevada Division of Environmental Protection
(NDEP)
Brian Northam – Southern Nevada Health District
Jeremy Holst – Broadbent & Associates
Rex Hepe – Terracon Consultants
Keith Stewart – Stewart Environmental
Stephanie Holst – Broadbent & Associates
Jeffrey Lowden – Regal Holdings of Nevada LLC
Ray Madole - Madole Construction

2. PUBLIC COMMENT

There were no public comments.

3. APPROVAL OF THE DECEMBER 8, 2022 MINUTES

Vice Chair Rod Smith commented that the agenda indicated the meeting was to be conducted via remote video/phone, however, those in attendance were present in person. **Mike Cabble** stated that he would adjust the language.

Leroy Perks moved to approve the December 8, 2022 minutes. Rod Smith seconded the motion. Motion carried unanimously.

4. **STATUS OF THE FUND**

Mr. Cabbie stated that the balance forward for State Fiscal Year 2023 was \$7,500,000. Approximately \$396,800 has been received from tank system enrollment fees for enrollment year 2023 thus far. Approximately \$6,057,569 has been generated by the \$0.0075 Petroleum Fund fee. The Fund has earned approximately \$73,820 in interest. Total revenue received by the Fund for this fiscal year is \$14,028,188.80. Board member salaries currently total approximately \$812. In-state travel costs for Board members total approximately \$111. Board meeting operating costs total approximately \$733. Money transferred to NDEP for program administration, state-led cleanups, staff salaries, and other program maintenance total \$1,040,633. A Petroleum Fund grant program payment for UST upgrades was made in the last quarter totaling \$90,000. The fee paid to the DMV for the \$0.0075 petroleum fee collection is \$12,714. The reimbursement of Petroleum Fund claims thus far is approximately \$2,611,785. Total expenditures from the Fund total \$3,756,787.98, which leaves a current available balance of \$10,271,400.82.

5. **REQUEST BY REGAL HOLDINGS OF NEVADA LLC TO PETITION THE BOARD TO REIMBURSE HEATING OIL TANK REMOVAL AND CLEANUP EXPENSES**

Mr. Cabbie provided a brief background. Regal Holdings of Nevada, LLC, requested to petition the Board to reimburse costs associated with the remediation of soil following the release of a 500-gallon heating oil storage tank. Regal Holdings of Nevada, LLC is specifically requesting payment of a single invoice for work performed by Madole Construction. This work included removal of the tank, excavation of impacted soil, transportation of the soil to Waste Management's Lockwood Landfill for disposal, as well as backfilling the excavation. Based on the records provided to staff, approximately 47 tons of impacted soil were removed during excavation. The total cost for the invoice was \$20,812.50. Staff are required to follow specific regulations and policy resolutions adopted by the Board when making reimbursement determinations. Recommendations for paying invoices must be in accordance with these regulations and policies.

Mr. Cabbie gave a summary of facts that have prevented the Fund from authorizing payment of the invoice. The cleanup work conducted for the storage tank was not performed as an initial abatement action. The tank was removed in May of 2017 with excavation of impacted soil not occurring until September of 2019. When a heating oil cleanup is not performed as an initial abatement action, other cost control mechanisms are required. Specifically, there is a requirement for the operator to secure three bids for corrective action costs, if such costs will exceed \$6,000 (this \$6,000 threshold has since been increased to \$7,000). The regulations do allow the Division to provide approval to perform tasks for corrective action in lieu of obtaining bids; however, such a request has not been made to date. Staff were informed by the operator that the bids were secured, yet upon request, no bids have been provided.

In addition, staff have not been provided with all documentation required for a complete claim. The case was issued a no further action determination by NDEP, which means that no additional remediation is required. The Petroleum Fund case was closed 12 months after the determination. This means that the operator may no longer submit a claim unless they request a waiver of the 12-month final claim submittal deadline. On July 20, 2022, Mr. Lowden submitted a request to waive the 12-month claim submittal deadline in accordance with Board Policy Resolution 2022-01. The policy does authorize the executive secretary, Mr. Cabbie, to waive the 12-month deadline, if good cause is provided.

In response to the request to waive the 12-month submittal deadline, Mr. Cabble requested additional information from the operator, including documentation of the three bids as well as other invoice documentation. The intent of the document request prior to providing a waiver was to ensure a complete final claim would be received and provide staff the information needed to determine what costs were eligible for payout. To this date, Mr. Cabble had not received the requested documentation and thus, has not found good cause to provide the waiver. He requests that the Board take into consideration the facts of the case, Mr. Lowden's presentation, and decide whether or not to waive the claim submittal deadline as well as the three-bid requirement.

Mr. Perks indicated he would recuse himself from voting on any action for this item but asked whether he would be permitted to participate in the discussion. **Gregg Ott, Attorney General's Office**, cited Nevada Revised Statute (NRS) 281A.420, which prevents voting upon or advocating for passage or failure, but does allow participation in the form of providing information only.

Jeffrey Lowden, representative of Regal Holdings of Nevada LLC, provided a brief background and history of the property, which he purchased with Raymond Pezonella. They subsequently formed Regal Holdings of Nevada, LLC and shared a 50-50 partnership for the property. Mr. Pezonella hired Madole Construction Co., Inc. for remediation of the site and paid approximately \$21,000 from his personal funds. Mr. Pezonella sold his business during the pendency of the development of the property to Nova Geotechnical (another consulting firm). Approximately two years after Mr. Pezonella sold his business, he fell ill, requiring a splenectomy. Mr. Pezonella ultimately deceased, with his estate passing to his widow, Nancy Pezonella. Mr. Lowden was unaware that Mr. Pezonella had not filed the correct paperwork for reimbursement of the cleanup costs and is requesting the costs identified on the Madole Construction invoice to reimburse Nancy Pezonella.

Chair Tappan invited questions from the Board.

Jeffrey Kinder asked Mr. Cabble to clarify what is being asked of the Board, waiving the three-bid process as well as waiving the 12-month claim submittal deadline. **Mr. Cabble** stated that he was not comfortable authorizing the waiver of the 12-month claim deadline. Instead, he thought the Board should hear the appeal presented by Mr. Lowden. The original claim submitted in 2020 included more substantial documentation, including CEM invoices from multiple consulting firms, including Pezonella and Associates, Nova, and a third consulting firm. Due to turnover of CEMs, it has been difficult to identify which costs were eligible for reimbursement. Ultimately, the costs associated with CEM services are not being requested, so today's focus is on the reimbursement of the Madole Construction invoice in the amount of \$20,812.50. Taking into account the circumstances presented by Mr. Lowden for why the claim was not submitted timely, the Board could consider waiving the 12-month claim deadline.

An additional issue to consider is whether the costs of services provided are reasonable. The price for invoiced services does fall in line with the typical cost of cleanup for a tank of this size. The Division has authority to waive the three-bid requirement, however, such a waiver is generally received upfront, prior to performance of the work. Given the facts, Mr. Cabble felt it would be more appropriate for the Board to make the determination regarding both waiver requirements, as the Board has been created within the Division.

In response to a question from **Mr. Perks**, there was confirmation that Mr. Pezonella was the original CEM.

Vice Chair Smith commented that this case appears to have been under state purview the whole time and has not surfaced out of the blue. **Mr. Cabble** confirmed the State was aware of this tank removal and provided a brief historical outline. The case has had two NDEP cleanup case officers, both of which are no longer with the NDEP. The tank came out in May of 2017. Site constraints and limited access prevented immediate remediation. Following tank removal, a limited assessment was performed in September of 2017 to determine contamination depths. Remediation was not performed until 2019. Since that time, a claim has been submitted with some difficulties in obtaining documentation, which further delayed payment. Due to CEM turnover, the requested documents are not available. The facts of the case the Board should consider are as follows:

- The release is from an old heating oil tank, which is eligible for Fund coverage.
- Removal of impacted soils was untimely, but the soil was eventually removed and disposed.
- NDEP did close the case, meaning that no additional cleanup is required.
- Due to the number of entities involved in the ownership and operation of the property, it appears that the required documentation for proof of three bids is no longer available.
- A processed check for payment of the \$20,812.50 Madole Construction invoice has been provided and verified paid by Regal Holdings of Nevada LLC.
- With the exception of Task J.1 of the Petroleum Fund Cost Guidelines, the Fund does not generally pay for removal of the tank itself, which is included on the invoice. If the Board were inclined to pay the invoice, this may be an item for discussion by the Board to consider whether or not to reimburse the invoice in its entirety. Because the assessment did not occur timely and the bids have not been provided, Mr. Cabble contends that removal of the tank should not be eligible for reimbursement.

Mr. Perks asked whether the tank is classified as a residential heating oil tank and what the deductible amount is for residential heating oil tank remediation. **Mr. Cabble** confirmed that it was a residential heating oil tank, and the deductible is \$250.

In response to a question from **Vice Chair Smith**, Mr. Cabble confirmed that in the timeline of the remediation, there were fees associated with lab analyses and CEM oversight. These additional fees have been requested in the claim; however, much of the necessary documentation is missing. **Mr. Smith** followed up by asking if those costs would be sought for reimbursement at a later date. **Mr. Lowden** clarified that the request for reimbursement of the Madole Construction invoice is the only cost being requested. No additional costs would be requested at a later date.

Mr. Cabble confirmed **Chair Tappan's** understanding that no payments have been made by NDEP for the case to date.

Chair Tappan cited the correspondence from Mr. Lowden to Mr. Cabble stating that Mr. Pezonella paid the approximately \$21,000 invoice out of pocket. However, the owner indicates that the check was from Regal Holdings. **Mr. Lowden** clarified that the originating funds were personal to Mr. Pezonella and loaned to Regal Holdings to pay the invoice.

Chair Tappan expressed surprise that Mr. Pezonella failed to timely pursue the reimbursement. **Ray Madole, Madole Construction** surmised that Mr. Pezonella was likely relying on those who worked for him, including Ross Brown, to organize and submit the necessary documentation. Mr. Pezonella was also suffering from health problems at the time. **Mr. Lowden** added that there were a number of factors involved, including the sale of the business to Nova, who owed Mr. Pezonella hundreds of thousands of dollars on the sale. Litigation regarding the purchase was ongoing. In addition, Mr. Pezonella was being audited by the IRS and was suffering with ill health that eventually resulted in his death.

Vice Chair Smith commented that all the factors involved represent issues internal to the companies involved and not necessarily an NDEP issue. **Mr. Madole** noted that Mr. Cabbie previously indicated that this item would have been qualified for reimbursement, had the paperwork been timely submitted. **Mr. Lowden** added that Regal Holdings relied on engineering personnel to do its job in terms of submitting the appropriate paperwork.

Vice Chair Smith questioned which entity the Fund would reimburse the funds to, if anyone. **Mr. Lowden** stated that they could reimburse Regal Holdings of Nevada LLC and he would reimburse Mrs. Pezonella. In the alternative, they could pay Mrs. Pezonella directly.

Mr. Cabbie clarified that the program currently identifies Regal Holdings of Nevada, LLC as the operator. Mr. Lowden is listed as the claimant at the facility. If approved by the Board, the payment would be issued to Regal Holdings of Nevada LLC. To pay Mrs. Pezonella directly, all designations would have to be transferred to her name. In addition, she would have to register as a vendor with the State Controller's Office in order for the Fund to pay her directly. **Mr. Lowden** stated that he has purchased Mrs. Pezonella out of Regal Holdings of Nevada. The contract provides that any funds from the Petroleum Fund will be passed directly to her. The agreement document can be submitted into the record, if requested.

Mr. Cabbie clarified that reimbursement would cover the contractor costs specific to removal of the contaminated soil, disposal and backfilling the excavation. The invoice indicates that a portion of the payment went to removal of the tank and therefore, a reduction would be warranted, as this would not otherwise be paid for by the Fund.

In response to a question from **Jason Case** regarding corrective action costs paid by the operator, **Mr. Cabbie** stated that there is a cost share for the actual cleanup work and based upon the type of tank covered by the Petroleum Fund, there are varying deductibles. This case involves a small residential heating oil tank, and the deductible is \$250. For commercial facilities, there is a 10 percent copayment of the claim amount.

Mr. Perks noted that a couple of heating oil cleanups are included in the approved reimbursements for other cases. **Mr. Cabbie** confirmed that there are five heating oil cases on the direct payment list for agenda item #7, with varying costs.

Chair Tappan acknowledged the lack of proof for the three-bid process and asked whether Mr. Lowden could provide the names of the two other contractors that provided bids and whether written confirmation could be obtained. She expressed concern for setting a precedent that an applicant asserts they have completed the three-bid process, but do not have the necessary documented proof. **Mr. Lowden** and **Mr. Madole** were unable to identify the names of the other bid companies. **Chair Tappan** cited the long periods of delay in the operator's responses to written requests for information from Fund staff. **Mr. Lowden** reiterated that this was during a period of illness and eventually death of Mr. Pezonella and it was difficult for other individuals to gather the necessary documents afterward.

Mr. Kinder noted that the Fund has just completed a multiyear process involving two audits from the Governor's finance office. This request and its potential approval would likely be the subject of a future audit. **Mr. Cabbie** concurred that this was a possibility.

Mr. Case, referring to requested versus paid values for heating oil tanks, asked for clarification as to whether the Fund pays for tank removal and what that value is typically for that task. His

understanding was it may be \$250 line item. **Mr. Cabbie** clarified costs for removal of a heating oil tank may be defrayed and paid by the Fund up to \$2,000 if impacted soil removal is immediately performed following a tank's removal. This provides an incentive for faster cleanup and is called the initial abatement phase of a project. Coverage for initial abatement activities by the Fund is outlined in the J.1 Task of the Cost guidelines. The requested value in a claim is the total cost for cleanup activities requested by the operator. The approved value is the value the Fund agrees to pay based on regulations and policies. The \$250 line item referred to by Mr. Case is the deductible for a small heating oil tank system that is applied to the initial claim's approved value paid by the Fund. The \$250 value is not specific to the tank removal costs.

In response to a question from **Chair Tappan**, **Mr. Cabbie** stated that clarification is required from the contractor to determine whether the excavation hole was backfilled immediately after the tank was removed. This information is not included with the documentation submitted thus far. **Mr. Madole** stated that the proximity of the tank to existing structures precluded soil removal at the time of tank removal. The tank was removed, and the hole was backfilled, due to concerns with stability of the structure. Based on this statement, **Mr. Cabbie** indicated that initial abatement ended once the tank pit was backfilled. **Chair Tappan** asked whether this resulted in increased cost due to the need to re-excavate the soil. She further asked about the changes in stability between 2017 and 2019 that allowed the eventual re-excavation. **Mr. Madole** stated that the soil was later reevaluated and the analysis confirmed that the strength of the soil, the depth of excavation, and proximity to the building were sufficient to allow the excavation and backfill. **Chair Tappan** questioned if that took two years to get done. **Mr. Madole** indicated the analysis shouldn't have taken 2 years, and the delay was more likely due to scheduling around the winter season and weather concerns.

Mr. Perks commented that the costs submitted are in line with typical amounts for this type of work. Therefore, the focus of the discussion should be on the timeline. The delays were largely due to the sale of the company in the midst of the case as well as the unfortunate death of Mr. Pezonella. **Mr. Cabbie** stated that the most significant roadblock to reimbursement beyond establishing good cause for missing the 12-month claim submittal deadline is the lack of the three-bid submission. When a cleanup of a heating oil tank is not performed during initial abatement and the tank pit is backfilled, the bid process ensures future cleanup costs such as mobilization, excavation, transport and disposal of contaminated soil are better controlled when the operator's contractors return to the site. Should the Board lean towards paying costs on the invoice, it would be helpful if Mr. Madole could estimate the costs associated with coming back to the site and digging up soil that was previously backfilled following the tank removal, as these are not included on the invoice. These costs should be excluded since bids have not been provided, however the remainder of costs fall in line with typical expenses routinely submitted. **Mr. Perks** stated that the documents indicate a single mobilization at \$500. **Mr. Cabbie** pointed out that the invoice also lacks the cost for removal of the tank. **Chair Tappan** also noted that the documents cite removal of oil tanks, as in plural. **Mr. Madole** clarified that three tanks were removed from the site and removal of all are included in the application for reimbursement. **Chair Tappan** inquired as to the typical charge for removal of three tanks. **Mr. Madole** estimated the cost to be \$200 per hour for five hours for a total of \$1,000. One tank had a 500-gallon capacity and the other two were smaller. **Mr. Cabbie** commented that the tank removal in question, as estimated by Mr. Madole, combined with the mobilization costs would total approximately \$1,500.

Vice Chair Smith reiterated that the requirement for submission of required paperwork was not followed. **Mr. Cabbie** added that staff must also follow specific requirements for review of bid submissions prior to the performance of work.

Chair Tappan summarized the issues for the Board's consideration is setting aside the three-bid requirement and paying an invoice that was submitted after the 12-month deadline all while considering the amount of time that elapsed between tank removal and cleanup. She inquired as to whether any member of the Board was prepared to make a motion.

Jason Case cited the multiple acquisitions and Mr. Pezonella's untimely death. While there is a lack of submission of all documents, there appears to be good cause, particularly in that the invoice is in line with typical costs of such cleanup actions and no additional cleanup is required.

Jason Case moved to reimburse the \$20,812.50 invoice less the \$1,000 tank removal and \$500 mobilization cost.

Discussion:

Vice Chair Smith voiced support for the motion, however he recommended less specificity with the amounts and recommended a 10 percent reduction.

Chair Tappan recommended that there also be a specific requirement that any reimbursed amount not go to Regal, but directly to Mrs. Pezonella. **Vice Chair Smith** advised against addressing that specific issue and leaving it to the reimbursed parties to address. **Mr. Lowden** said he would be happy to provide legal documentation in this respect, guaranteeing that the funds would pass directly to Mrs. Pezonella.

Motion failed for lack of a second.

Rod Smith moved to pay the reimbursement with a 10 percent reduction.

Mr. Cabbie assisted with clarified language that the motion be to pay the Madole Construction invoice in the amount of \$20,812.50 less a 10 percent reduction and \$250 co-pay. **Rod Smith** concurred with the clarified motion language.

Jason Case seconded the motion.

Discussion:

Mr. Kinder acknowledged the complicated circumstances of the case. There were three tanks removed and delays with soil excavation. However, these actions have been completed and no further remediation actions are required. As such, the State has met its environmental goals.

Motion carried unanimously. Mr. Perks abstained.

6. **ADOPTION OF CONSENT AGENDA**

The Board reviewed all items as a consent agenda item. There was no discussion regarding an individual item.

ONGOING CASES

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1.	1992000126; 80441	Clark County School District: RC White (Arville) Transportation Satellite	\$33,214.82	\$33,214.82
FOR POSSIBLE ACTION	2.	1993000102; 80428	Rebel Oil Company: Rebel Store #2008	\$11,240.25	\$11,240.25
FOR POSSIBLE ACTION	3.	1995000039; 80395	Al Park Petroleum, Inc.: Crescent Valley Market	\$8,423.76	\$7,581.38
FOR POSSIBLE ACTION	4.	1995000042; 80454	FBF INC: Gas 4 Less	\$84,360.00	\$84,360.00
FOR POSSIBLE ACTION	5.	1996000064; 80401	The Esslinger Family Trust: Red Rock Mini Mart	\$13,530.50	\$10,280.39
FOR POSSIBLE ACTION	6.	1998000075; 80448	55 McDermitt Crude, LLC: McDermitt Motel & Convenience Store	\$7,287.00	\$6,474.01
FOR POSSIBLE ACTION	7.	1999000022; 80438	Terrible Herbst Inc: Terrible Herbst #129	\$15,338.25	\$13,777.43
FOR POSSIBLE ACTION	8.	1999000086; 80439	Terrible Herbst Inc: Terrible Herbst #126	\$18,203.81	\$16,356.43
FOR POSSIBLE ACTION	9.	1999000104; 80437	Terrible Herbst Inc: Terrible Herbst #118	\$13,287.75	\$11,958.97
FOR POSSIBLE ACTION	10.	2007000014; 80440	Raiders Oz Business, LLC: Former Ace Cab/Frias Transportation	\$88,626.15	\$79,667.02
FOR POSSIBLE ACTION	11.	2007000016; 80446	Golden Gate Petroleum of Nevada LLC: Golden Gate Sun Valley #43	\$5,591.50	\$4,949.88
FOR POSSIBLE ACTION	12.	2008000009; 79904	Pilot Travel Centers LLC: Flying J Travel Plaza #770	\$182,780.92	\$145,404.38
FOR POSSIBLE ACTION	13.	2009000024; 80431	SIK Investments LLC: Chucks Circle C Market	\$39,345.22	\$35,203.70
FOR POSSIBLE ACTION	14.	2010000009; 80449	HPT Ta Properties Trust: Mill City Travel Center	\$10,582.39	\$8,571.73
FOR POSSIBLE ACTION	15.	2011000009; 80444	Cimarron West: Cimarron West	\$8,886.39	\$7,971.12
FOR POSSIBLE ACTION	16.	2012000012; 80400	Clark County Department of Aviation: Former Smart Mart	\$10,682.40	\$9,477.49
FOR POSSIBLE ACTION	17.	2014000025; 80447	Superior Campgrounds of America, LLC: Silver City RV Resort	\$22,820.13	\$20,425.47
FOR POSSIBLE ACTION	18.	2016000012; 80416	DLF Corporation: Mr. Ds Fastlane	\$742.50	\$668.25
FOR POSSIBLE ACTION	19.	2016000027; 80435	Terrible Herbst Inc: Terrible Herbst #272	\$44,776.42	\$35,684.30
FOR POSSIBLE ACTION	20.	2017000015; 80241	Ellen 5 LLC: Green Valley Grocery #63	\$35,391.29	\$31,664.30
FOR POSSIBLE ACTION	21.	2017000019; 80433	Rebel Oil Company: Rebel Store #2197	\$22,101.72	\$19,891.55
FOR POSSIBLE ACTION	22.	2017000035; 80434	Rebel Oil Company: Rebel Store #2177	\$30,215.06	\$27,193.55
FOR POSSIBLE ACTION	23.	2018000005; 80429	Rebel Oil Company: Rebel Store # 2153	\$11,315.00	\$10,183.50
FOR POSSIBLE ACTION	24.	2018000009; 80394	Reed Incorporated: Pacific Pride	\$24,027.25	\$21,557.03
FOR POSSIBLE ACTION	25.	2019000002; 80430	Rebel Oil Company: Rebel Store #2166	\$34,361.25	\$30,925.13
FOR POSSIBLE ACTION	26.	2019000044; 80361	7-Eleven, Inc: 7-Eleven #15829	\$21,473.37	\$19,326.03

FOR POSSIBLE ACTION	27.	2020000015; 80402	Canyon Plaza, LLC: Gas 2 Go	\$27,392.79	\$14,748.57
FOR POSSIBLE ACTION	28.	2021000014; 80399	Pilot Travel Centers LLC: Pilot Travel Centers LLC #341	\$47,771.52	\$41,244.35
FOR POSSIBLE ACTION	29.	2021000027; 80268	Horizon C Stores, LLC: Horizon Market #5	\$34,645.81	\$30,993.13
			SUB TOTAL	<u>\$908,415.22</u>	<u>\$790,994.16</u>
			RECOMMENDED CLAIMS TOTAL:	<u>\$908,415.22</u>	<u>\$790,994.16</u>

Jeff Kinder moved for approval of the consent agenda. Rod Smith seconded the motion. Motion carried unanimously.

7. **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.

<u>HEATING OIL</u>			<u>REQUESTED</u>	<u>PAID</u>	
FOR DISCUSSION	1.	2022000025; 80403	Hand Up Homes for Youth NV: Hand Up Homes for Youth NV	\$13,221.53	\$12,971.53
FOR DISCUSSION	2.	2022000034; 80398	SBJ Enterprises LLC: 4th Street at Goodsell LLC Residential Heating Oil Tank	\$26,471.65	\$26,221.65
FOR DISCUSSION	3.	2022000036; 80404	Gerald & Gloria Sbriglia: Gerald and Gloria Sbriglia Residential Heating Oil Tank	\$28,624.20	\$28,374.20
FOR DISCUSSION	4.	2023000001; 80421	RMP 7 LLC: RMP 7 LLC	\$21,593.74	\$21,343.74
FOR DISCUSSION	5.	2023000002; 80442	Nicole Commons: 1001 Sonora Drive Residential Heating Oil Tank	\$23,339.21	\$23,089.21
			SUB TOTAL	<u>\$113,250.33</u>	<u>\$112,000.33</u>
<u>ONGOING CASES</u>			<u>REQUESTED</u>	<u>PAID</u>	
FOR DISCUSSION	1.	1994000015; 80420	Pilger Family Holdings: Former D & G Oil Company	\$10,908.94	\$10,908.94
FOR DISCUSSION	2.	1999000023; 80432	Nevada Ready Mix Corp: Nevada Ready Mix	\$27,575.46	\$24,817.91
FOR DISCUSSION	3.	1999000066; 80422	HP Management, LLC: Former Haycock Petroleum	\$37,718.78	\$33,946.90
FOR DISCUSSION	4.	2013000011; 80419	Har Moor Investments, LLC: Village Shop #4	\$20,788.75	\$18,709.87
FOR DISCUSSION	5.	2014000033; 80423	Speedee Mart Inc.: Speedee Mart #108	\$23,861.86	\$21,475.67
FOR DISCUSSION	6.	2018000018; 80345	Primadonna Company, LLC: Whiskey Pete's Stateline Stop	\$150,380.51	\$120,543.40
FOR DISCUSSION	7.	2019000005; 80425	Fairway Chevrolet Company: Fairway Chevrolet CO	\$19,515.00	\$17,563.50
FOR DISCUSSION	8.	2019000014; 80424	Western Cab Co: Western Cab CO	\$7,534.75	\$6,781.27
FOR DISCUSSION	9.	2022000012; 80426	Neissan Koroghli: City C-Store (7-11)	\$1,669.25	\$1,502.33
			SUB TOTAL:	<u>\$299,953.30</u>	<u>\$256,249.79</u>
			DIRECT PAYMENT CLAIMS TOTAL:	<u>\$413,203.63</u>	<u>\$368,250.12</u>
			BOARD MEETING CLAIMS TOTAL:	<u>\$1,321,618.85</u>	<u>\$1,159,244.28</u>

8. **EXECUTIVE SUMMARY**

Mr. Cabbie stated that tank enrollment fees are tracked pursuant to the Federal Fiscal Year (FFY), which runs October 1, 2022 through September 30, 2023. Annual invoices for enrollment year 2023 were issued on August 17, 2022. Total facilities invoiced are 1,284 facilities. Approximately 97 percent of invoices have been paid.

Since the Fund was created, a total of 1,798 remediation cases have applied for Fund coverage. Of those applications, 173 have been denied, due to ineligibility or other reasons. NDEP has closed 1,537 cases, which no longer receive Fund reimbursement. Currently, there are 85 active Fund cases. Since January 1, 2023, NDEP has received 4 new applications for Fund coverage and 3 applications are currently pending. Prior to this Board meeting, the Board to Review Claims has approved a cumulative total of \$254,639,664.06 for reimbursement to Petroleum Fund operators. This includes \$368,250.12 for direct payment claims paid over the last quarter. With today's Board approval of \$790,994.16, the overall expenditure will increase to \$255,430,658.22.

One UST upgrade grant was approved during the last quarter for the full amount of \$90,000. This amount funded three new turbine sumps, four dispenser sumps, and new product piping between the sumps.

Approximately one week after the Board's last meeting, Fund staff attended an Executive Branch Audit Committee (EBAC) meeting. The Division of Internal Audits (DIA) provided an annual report to the EBAC for DIA Report Number 21-04, which noted all audit items have been addressed and recommendations were fully implemented by NDEP. Following the meeting, DIA staff also confirmed that the items in the prior audit Report (#19-05) had also been addressed. As such, no further action is required by NDEP at this time.

Mr. Kinder commended Mr. Cabbie and staff for the extensive work done over the extended audit period.

Mr. Cabbie continued his summary. Per the September 8, 2022 Board meeting, he was required to provide updates on feedback received regarding the newly adopted cost guidelines. There have been a few unanticipated issues, primarily with the online system, but these issues have been addressed. The CEMs have been patient through this process. There were some delays in cost proposals and claim submittals, however, all were ultimately submitted, reviewed, and approved for the March meeting. Other concerns by CEMs have been resolved through discussions, and staff have also created a new user guide for the online system to submit cost proposals. They have also updated the claim submittal user guide to address some of the concerns.

9. **PUBLIC COMMENTS**

There were no public comments.

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

It was confirmed the next meeting date would be Thursday, June 8, 2023.

12. **ADJOURNMENT**

The meeting was adjourned at 11:12 a.m.