

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
MEETING MINUTES – December 14, 2023**

1. CALL TO ORDER

Chair Tappan called the meeting to order at 10:00 a.m. The meeting was held in the Bonnie Room of the Richard H. Bryan Building located at 901 South Stewart Street, Carson City, NV and video conferenced to the NDEP Las Vegas Office 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 Refiners of Petroleum
LeRoy Perks – Representative of the Independent Retailers of Petroleum
Jason Case – Representative of Independent Dealers in Petroleum
Jennifer Carr – Nevada Division of Environmental Protection
Karen Stoll – Department of Motor Vehicles
Mike Dzyak – State Fire Marshal’s Office

OTHERS PRESENT

Katie Armstrong – Legal Counsel, State Attorney General’s Office
Jeff Collins, Michael Cabble, Megan Slayden, Don Warner, Ben Moan, Ruby Wood, Tristin Alishio, Michael Mazziotta, Chuck Enberg, and John Karr – Nevada Division of Environmental Protection
Keith Stewart – Stewart Environmental
Rex Heppe – Broadbent & Associates
Stephanie Holst – Broadbent & Associates
Matt Grandjean – Stantec Consulting Services
Jeremy Holst - Broadbent & Associates
Caitlyn Jelle – Universal Engineering Science
Kathleen Johnson – Westmark Group

No additional participants called into the meeting using the teleconference number.

2. PUBLIC COMMENT

There were no public comments.

3. APPROVAL OF THE SEPTEMBER 14, 2023 MINUTES

Chair Tappan called for changes to the minutes. There were no changes requested.

LeRoy Perks moved to approve the September 14, 2023 minutes. Mike Dzyak seconded the motion. Motion carried unanimously.

4. **STATUS OF THE FUND**

Mr. Cable reviewed the Fund status. The summary of revenues into the Fund for Fiscal Year 2024 thus far, includes a balance forward from State Fiscal Year 2023 of \$7,500,000. Approximately \$397,900 has been received for annual tank enrollment fees. Approximately \$2,462,800 has been generated by the \$0.0075 Petroleum Fund fee. Total revenue received thus far is \$10,360,700.23. Expenditures for State Fiscal Year 2024 include Board member salaries of approximately \$345. In-state travel costs for Board Members total approximately \$54. Board meeting operating costs total \$450. Money transferred to NDEP for program administration, staff salaries and ongoing program maintenance totals \$415,754. Funding for State-led petrochemical cleanups was approximately \$17,327. The reimbursement of Petroleum Fund claims paid equal approximately \$1,647,316. All expenditures thus far total \$2,081,246.66. The balance in the Fund available for cleanup funding is \$8,279,453.57.

5. **SITE SPECIFIC BOARD DETERMINATION FOR ADDITIONAL CLEANUP ALLOTMENT BOARD POLICY RESOLUTION 2023-01**

Megan Slayden presented Site Specific Board Determination No. C2023-03, which proposes to provide an additional allotment of cleanup funding to Rebel Oil Company, Inc., for Petroleum Fund Case 2017000035, Facility ID No. 8-001928. The subject case is identified as Rebel Store No. 2177 located at 6400 West Lake Mead Boulevard in Las Vegas, which was previously awarded Fund coverage for one release from a storage tank with a 10 percent copayment. The operator has requested an additional allotment of funding in accordance with NRS 445C.380 and Policy Resolution 2023-01. The Resolution includes the statute and has been provided as Appendix A in the Board packet. Appendix B includes the operator's request prepared by the Certified Environmental Manager (CEM). Appendix C includes documentation received after the initial request, which further supports Fund staff's recommendation. Petroleum Fund staff has reviewed this request and prepared this SSBD to assist the Board with determining eligibility.

On July 11, 2023, the operator submitted an initial request for an additional allotment of funding in accordance with Subsection 4 of NRS 445C.380. The request was not presented to the Board at the September meeting because the underground storage tanks (USTs) on site were not compliant with UST requirements at that time. It is noted the operators of the USTs on site are unaffiliated with Rebel Oil Company, who is the claimant for this cleanup case. The facility has since come into compliance with UST requirements and a revised request was submitted on September 19, 2023. The revised request is provided in Appendix B and the most recent UST program letter indicating facility compliance is included in Appendix C.

The request includes an April 25, 2023 letter in which the NDEP case officer requested continued remediation activities occur at that site. More recently, the case officer concurred with terminating remediation and moving on to post-remediation monitoring, which occurred on October 13, 2023. A copy of the October letter is included in Appendix C with the NDEP information. Also included in the request is email correspondence from the Nevada Division of Environmental Protection case officer, indicating the operator is in compliance with the requirements of the Division concerning cleanup directives. The case officer further supported the plan and schedule proposed by the operator's CEM. This correspondence is in Appendix B, included with the revised request. The operator is not liable, pursuant to NRS 445C.390 and has not received money for damages, pursuant to Subsection 1 of NRS 445C.380.

Lastly, Claim Number 80495 was approved for payment during the June 8, 2023 Board meeting, which exhausted all available cleanup funding for this case at that time. Based on a review of the documentation provided with the request and the additional documentation available in the NDEP file,

staff recommends the Board approve the allotment of funding in the amount of \$900,000 for Rebel Store No. 2177. This represents \$1 million in funding minus a 10 percent copayment. The Board has the authority to approve a value of not greater than \$1 million for this allotment.

Chair Tappan invited questions from the Board.

In response to a question from **Rod Smith**, **Ms. Slayden** confirmed the understanding that this involves the issue discussed in the previous Board meeting regarding situations where entities who own and operate the tanks are not always those cleaning up a release at the same site. In this instance, the tank operators have addressed violations to bring the facility into compliance, which makes the entity performing the cleanup eligible for the additional funding. **Mr. Cabbie** further clarified that two different entities are associated with this property. Rebel Oil Company is performing cleanup and is requesting an additional allotment to continue the cleanup process. Another entity is operating the storage tanks onsite. This entity was previously not in compliance with UST rules. Because UST facility compliance is required per statute, this delayed the request for funding.

Mr. Smith asked about the specific issue of noncompliance. **Mr. Cabbie** stated that there were missing leak detection records and as a result of that, there were requirements for tank system tightness testing. It was taking the operator time to accomplish the required testing. There were also concerns with the spill buckets on the property. Until these issues were resolved, recommendations for further allotments could not proceed. Despite the delays, the process worked as intended. Multiple programs are involved. The Petroleum Fund is the funding source. The cleanup program oversees remediation. The UST program oversees compliance in cases where there are active USTs onsite. Until all programs are in alignment, related requests cannot be presented to the Board.

Jennifer Carr added that despite the delays, the claimant is eligible to be reimbursed for items on this project retroactively.

There being no further questions, **Chair Tappan** invited a motion.

LeRoy Perks moved to adopt Site Specific Board Determination No. C2023-03 as proposed, granting additional cleanup funding in accordance with Subsections 4 and 6 of NRS 445C.380 and Board Policy Resolution 2023-01 under the State of Nevada Petroleum Fund to Rebel Store #2177 for \$900,000.00. This represents \$1,000,000.00 in coverage minus a 10% copayment. Vice-Chair Smith seconded the motion. Motion carried unanimously. Jason Case recused himself from the vote.

6. **ADOPTION OF CONSENT ITEMS**

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

**STATE BOARD TO REVIEW CLAIMS
REQUESTED/RECOMMENDED AMOUNTS - DECEMBER 14, 2023**

NEW CASES

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1.	2021000032; 80522	Circle K Stores, Inc.: Circle K Store #2700755	\$87,977.07	\$77,612.28
FOR POSSIBLE ACTION	2.	2022000030; 80539	Mountain View Hospital: Mountain View Hospital	\$11,220.00	\$8,078.40
			SUB TOTAL:	<u>\$99,197.07</u>	<u>\$85,690.68</u>

ONGOING CASES

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1.	1992000126; 80628	Clark County School District: RC White (Arville) Transportation Satellite	\$20,010.60	\$19,945.60
FOR POSSIBLE ACTION	2.	1994000027; 80632	7-Eleven, Inc: 7-Eleven #19653	\$75,094.51	\$74,541.07
FOR POSSIBLE ACTION	3.	1995000042; 80583	FBF Inc.: Gas 4 Less	\$20,860.87	\$20,853.59
FOR POSSIBLE ACTION	4.	1996000064; 80616	The Esslinger Family Trust: Red Rock Mini Mart	\$3,037.50	\$2,799.06
FOR POSSIBLE ACTION	5.	1996000101; 80598	Phillips 66 Company: Circle K Store #2700695	\$71,886.25	\$62,912.11
FOR POSSIBLE ACTION	6.	1999000014; 80619	Al Park Petroleum, Inc.: Pit Stop #7 Conoco	\$7,412.48	\$6,671.23
FOR POSSIBLE ACTION	7.	1999000243; 80635	7-Eleven, Inc: 7-Eleven #27607	\$30,524.44	\$26,946.68
FOR POSSIBLE ACTION	8.	2007000014; 80621	Raiders Oz Business, LLC: Former Ace Cab/Frias Transportation	\$46,749.72	\$38,436.49
FOR POSSIBLE ACTION	9.	2007000016; 80607	Golden Gate Petroleum Of Nevada LLC: Golden Gate Sun Valley #43	\$8,030.44	\$7,227.40
FOR POSSIBLE ACTION	10.	2008000009; 80581	Pilot Travel Centers LLC: Flying J Travel Plaza #770	\$45,546.71	\$36,892.84
FOR POSSIBLE ACTION	11.	2008000019; 80550	One Panou, LLC: Golden Market #3	\$15,013.72	\$13,422.35
FOR POSSIBLE ACTION	12.	2009000024; 80545	SJK Investments LLC: Chuck's Circle C	\$16,942.33	\$14,781.54
FOR POSSIBLE ACTION	13.	2010000009; 80615	HPT Ta Properties Trust: Mill City Travel Center	\$10,364.60	\$8,357.02
FOR POSSIBLE ACTION	14.	2011000009; 80622	Cimarron West: Cimarron West	\$9,626.17	\$8,663.55
FOR POSSIBLE ACTION	15.	2012000005; 80610	Travel Systems, LLC: Zephyr Cove Resort	\$46,950.72	\$42,255.65
FOR POSSIBLE ACTION	16.	2012000012; 80617	Clark County Department Of Aviation: Former Smart Mart	\$21,649.73	\$19,484.76
FOR POSSIBLE ACTION	17.	2013000019; 80623	Hardy Enterprises, Inc.: Elko Sinclair #53	\$34,346.49	\$30,911.84
FOR POSSIBLE ACTION	18.	2014000004; 80609	Alsaker Corporation: Broadway Colt Service Center	\$4,623.82	\$4,161.44
FOR POSSIBLE ACTION	19.	2014000007; 80634	7-Eleven, Inc: 7-Eleven #29658	\$22,061.75	\$19,855.57
FOR POSSIBLE ACTION	20.	2014000025; 80626	Superior Campgrounds Of America, LLC: Silver City RV Resort	\$15,591.41	\$14,032.27
FOR POSSIBLE ACTION	21.	2017000019; 80596	Rebel Oil Company: Rebel Store #2197	\$6,627.50	\$5,964.75

FOR POSSIBLE ACTION	22.	2018000005; 80594	Rebel Oil Company: Rebel Store # 2153	\$12,833.50	\$11,550.15	
FOR POSSIBLE ACTION	23.	2018000009; 80630	Reed Incorporated: Pacific Pride	\$80,205.35	\$72,184.81	
FOR POSSIBLE ACTION	24.	2019000002; 80595	Rebel Oil Company: Rebel Store #2166	\$13,389.50	\$12,050.55	
FOR POSSIBLE ACTION	25.	2019000044; 80631	7-Eleven, Inc: 7-Eleven #15829	\$35,205.61	\$31,685.05	
FOR POSSIBLE ACTION	26.	2020000015; 80618	Canyon Plaza, LLC: Gas 2 Go	\$10,207.40	\$5,512.00	
FOR POSSIBLE ACTION	27.	2020000016; 80481	LV Petroleum, LLC: Us Gas #7	\$24,759.44	\$22,283.50	
FOR POSSIBLE ACTION	28.	2021000026; 80633	7-Eleven, Inc: 7-Eleven #25578	\$13,247.80	\$11,923.02	
FOR POSSIBLE ACTION	29.	2022000015; 80597	Rebel Oil Company: Rebel Store #2197	\$24,006.61	\$17,219.96	
FOR POSSIBLE ACTION	30.	2022000035; 80611	7-Eleven, Inc: 7-Eleven #29407	\$59,986.85	\$53,988.17	
				SUB TOTAL:	<u>\$806,793.82</u>	<u>\$717,514.02</u>
				RECOMMENDED CLAIMS TOTAL:	<u>\$905,990.89</u>	<u>\$803,204.70</u>

Vice-Chair Smith moved for approval of the consent agenda items. Jennifer Carr seconded the motion. Motion carried unanimously. Jason Case recused himself from the four Rebel Oil Company claims included in the consent agenda.

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 201702).

Below is a list of all quarterly claim payments made on the Board’s behalf in accordance with Policy Resolution No. 201702.

A dagger (†) indicates previously disallowed monies have been successfully appealed where the requested amount is less than the recommended amount.

An omega (ω) indicates Board approved reimbursement monies have been subtracted from the amount requested due to new information.

<u>HEATING OIL</u>			<u>REQUESTED</u>	<u>PAID</u>
FOR DISCUSSION	1.	2023000011; 80573 James Hardesty: Residential Heating Oil Tank At 5300 Valley Vista Drive	\$8,159.25	\$8,159.25
FOR DISCUSSION	2.	2023000014; 80576 Danielle Saenz: Residential Heating Oil Tank At 551 Claremont St	\$30,494.84	\$30,244.84
FOR DISCUSSION	3.	2023000015; 80578 Kimberly Martinez: Residential Heating Oil Tank At 1386 Marlette Circle	\$21,508.93	\$21,258.93
FOR DISCUSSION	4.	2023000017; 80580 John Steinmetz: Residential Heating Oil Tank At 14465 Virginia Foothills Drive	\$26,106.69	\$25,856.69
FOR DISCUSSION	5.	2023000017; 80582 John Steinmetz: Residential Heating Oil Tank At 14465 Virginia Foothills Drive	\$10,083.75	\$10,083.75
FOR DISCUSSION	6.	2023000019; 80584 Janice Kozma: 580 & 590 Genoa Ave Residential Heating Oil Tanks	\$55,773.05	\$55,273.05
FOR DISCUSSION	7.	2023000020; 80585 Janice Kozma: Residential Heating Oil Tanks At 1560 & 1562 W 6th Street	\$46,913.13	\$46,413.13
FOR DISCUSSION	8.	2023000021; 80586 Denise Nunley: Residential Heating Oil Tank At 4000 Jasper Lane	\$33,052.13	\$32,802.13
FOR DISCUSSION	9.	2023000022; 80600 James Kress: Residential Heating Oil Tank At 50 Sonora Circle	\$23,868.21	\$23,618.21
			SUB TOTAL:	
			<u>\$255,959.98</u>	<u>\$253,709.98</u>

<u>ONGOING CASES</u>			<u>REQUESTED</u>	<u>PAID</u>
FOR DISCUSSION	1.	1995000039; 80553 Al Park Petroleum, Inc.: Crescent Valley Market	\$8,308.01	\$7,477.21
FOR DISCUSSION	2.	1999000023; 80601 Nevada Ready Mix Corp: Nevada Ready Mix	\$22,716.16	\$20,444.54
FOR DISCUSSION	3.	1999000066; 80592 HP Management, LLC: Former Haycock Petroleum	\$33,585.54	\$30,226.99
FOR DISCUSSION	4.	1999000086; 80591 Terrible Herbst, Inc.: Terrible Herbst #126	\$3,476.25	\$3,128.63
FOR DISCUSSION	5.	1999000186; 80588 Pilger Family Holdings: Former D & G Oil Company	\$85,770.00	\$77,193.00
FOR DISCUSSION	6.	2011000009; 80559 Cimarron West: Cimarron West	\$29,171.62	\$26,081.74

FOR DISCUSSION	7.	2013000011; 80587	Har Moor Investments, LLC: Village Shop #4	\$7,706.00	\$6,935.40	
FOR DISCUSSION	8.	2013000019; 80560	Hardy Enterprises, Inc.: Elko Sinclair #53	\$44,957.76	\$40,461.98	
FOR DISCUSSION	9.	2014000033; 80593	Speedee Mart Inc.: Speedee Mart #108	\$11,378.45	\$10,240.61	
FOR DISCUSSION	10.	2016000023; 80556	Al Park Petroleum, Inc.: Pit Stop #1	\$18,780.64	\$13,522.06	
FOR DISCUSSION	11.	2016000027; 80541	Terrible Herbst, Inc.: Terrible Herbst #272	\$12,137.90	\$9,768.29	
FOR DISCUSSION	12.	2018000018; 80508	Primadonna Company, LLC: Whiskey Pete's Stateline Stop	\$110,383.55	\$88,287.34	
FOR DISCUSSION	13.	2019000014; 80590	Western Cab Co: Western Cab CO	\$7,168.50	\$6,451.65	
FOR DISCUSSION	14.	2022000012; 80589	Neissan Koroghli: City C-Store (7-11)	\$6,086.50	\$5,477.85	
				SUB TOTAL:	<u>\$401,626.88</u>	<u>\$345,697.29</u>
				DIRECT PAYMENT CLAIMS TOTAL:	<u>\$657,586.86</u>	<u>\$599,407.27</u>
				BOARD MEETING CLAIMS TOTAL:	<u>\$1,563,577.75</u>	<u>\$1,402,611.97</u>

8. EXECUTIVE SUMMARY

Mr. Cabbie stated that tank enrollment fees are tracked pursuant to the Federal fiscal year, which runs from October 1 through September 30. Annual invoices for enrollment year 2024 were issued on August 23, 2023. A total of 1,277 facilities have been invoiced as of December 4th. Approximately 97 percent of invoiced facilities have paid the required enrollment fees. Since the Fund was created, a total of 1,821 remediation cases have applied for Fund coverage. Of those applications, 174 have been denied due to ineligibility or other reasons. NDEP has closed 1,562 cases; these no longer receive Fund reimbursement. Currently, 85 Fund cases are active. Since January 1, 2023, NDEP has received 27 new coverage applications for Fund coverage. All applications have been reviewed; none are pending at this time.

Prior to this Board meeting, the Board to Review Claims has approved a cumulative total of \$258,880,313.41 for reimbursement to Petroleum Fund operators. This includes \$599,407.27 for direct payment claims paid since the last meeting. With today's Board approval of claims in the amount of \$803,204.70, the overall expenditure will increase to \$259,683,518.11. There were no grants for UST upgrades this quarter.

Mr. Cabbie announced that he has recently accepted another position within the Nevada Division of Environmental Protection and this will likely be his last meeting as Executive Secretary to this Board. His official transfer date is January 8th. He thanked the Board for the opportunity to work with them.

Chair Tappan thanked Mr. Cabbie for his tremendous service.

9. PUBLIC COMMENT

Mike Dzyak thanked Mr. Cabbie for his hard work as Executive Secretary to the Board and in the various capacities he has served during his tenure.

10. CONFIRMATION OF NEXT BOARD MEETING DATE

The next meeting date had been tentatively scheduled for March 14th at 10 a.m., however, Chair Tappan requested to change the date to March 7th. There was consensus that the date change is acceptable.

11. ADJOURNMENT

The meeting adjourned at 10:28 a.m.