

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
MEETING MINUTES - JUNE 13, 2024**

1. CALL TO ORDER

Chair Tappan called the meeting to order at 10:00 a.m. The meeting was held in the Bonnie B. Bryan Boardroom Room of the Richard H. Bryan Building located at 901 S. 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 in Petroleum
Jason Case – Representative of the Independent Dealers in Petroleum
Jennifer Carr – Nevada Division of Environmental Protection
Karen Stoll – Department of Motor Vehicles
Mike Dzyak – State Fire Marshal’s Office

B. OTHERS PRESENT

Katie Armstrong – Legal Counsel, State Attorney General’s Office
Jeff Kinder, Megan Slayden, Don Warner, Greg Johnson, Michael Mazziotta, Chuck Enberg, John Karr, Erin Fragoso, Kim Valdez, Tristin Alishio, Alexa Salls, Jonathan McRae – Nevada Division of Environmental Protection
William Thompson – Southern Nevada Health District
Rex Heppe – Broadbent & Associates
Juan Rivera – Green Valley Grocery
Keith Stewart - Stewart Environmental
Jeremy Holst – Broadbent & Associates

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

2. PUBLIC COMMENT

Megan Slayden announced that Gregory Johnson has joined the NDEP Petroleum Fund team as an Environmental Scientist.

3. APPROVAL OF THE MARCH 7, 2024 MINUTES

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

Rod Smith moved to approve the March 7, 2024 minutes as presented. LeRoy Perks seconded the motion. Motion carried unanimously.

4. STATUS OF THE FUND

Ms. Slayden reviewed the Fund status. The summary of the Fund for Fiscal Year 2024 thus far, includes a balance forward from State Fiscal Year 2023 of \$7,500,000. Approximately \$408,700 has been received for annual tank enrollment fees for enrollment year 2024. Approximately \$9,090,558 has been generated by the \$0.0075 Petroleum Fund fee. The Fund has earned approximately \$201,758 in interest. Total revenue received this fiscal year thus far is \$17,201,015.57. Expenditures for State Fiscal Year 2024 include Board member salaries of approximately \$842. In-state travel costs for Board Members total approximately \$187. Board meeting operating costs total approximately \$815. Money transferred to

NDEP for program administration, staff salaries and ongoing program maintenance totals \$1,160,929. Funding for State-led petrochemical cleanups totals approximately \$136,580. The fee paid to the DMV for collection of the \$0.0075 Petroleum fee totaled \$12,714. The reimbursement of Petroleum Fund claims thus far totals approximately \$3,844,251. Total expenditures thus far for 2024 are \$5,156,317.99. Total funding currently available within the Fund for Fiscal Year 2024 is \$12,044,697.58.

LeRoy Perks inquired about the expected donation to Department of Transportation this year. **Ms. Slayden** stated that the estimated total would be \$9 million, as included under potential liabilities. It may increase or decrease, depending upon the totals received for the \$0.0075 Petroleum fee as well as additional expenditures. In response to an additional question by **Mr. Perks**, **Ms. Slayden** confirmed that the \$7,500,000 will roll to next year.

5. SITE SPECIFIC BOARD DETERMINATION FOR ADDITIONAL CLEANUP ALLOTMENT

Don Warner, NDEP, addressed this agenda item, which includes a request by the operator for an additional allotment of cleanup funding under Board Policy Resolution 2023-01 and Site Specific Board Determination No. C2024-01 for Speedee Mart No. 108 for Petroleum Fund Case 2014000033, Facility ID No. 8-001779. The subject site, located at 4701 West Lake Mead Boulevard, Las Vegas, Nevada, was previously awarded coverage for one release from a storage tank system with a 10 percent copayment. Petroleum Fund staff has reviewed the request and prepared the SSBD to assist the Board in determining eligibility.

Mr. Warner provided a history of events and occurrences at the site over the past year. On April 5th, 2023 the case officer concurred with the Certified Environmental Manager (CEM) terminating remediation and moving on to post-remediation monitoring at the site. On January 9th, 2024, the Nevada Division of Environmental Protection made a preliminary decision to close the case and requested that all monitoring wells be abandoned per Nevada Division of Water Resources regulations and conduct all other site restoration activities. On March 11th, 2024, the case was issued a no further action determination. On April 15th, 2024, the operator submitted a request for an additional allotment of funding in accordance with Policy Resolution 2023-01, which was prepared by their CEM. Also included in the request for additional allotment of funding is an email dated April 3rd, 2024 discussing the schedule and cost estimate for remaining closure activities at the site.

A review of case records indicates that the operator is not liable, pursuant to NRS 445C.390 and has not received money for damages pursuant to NRS 445C.381. In addition, Claim Number 80684 is recommended for payment for this Board meeting, which exhausted all available cleanup funding for this case. Based on the review of the documentation provided with the request for an additional allotment of cleanup funding, staff recommend that the Board approve the allotment of funding in the amount of \$900,000 for Speedee Mart No. 108. 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 Board members.

Rod Smith asked for clarification regarding the requirement that no funds were received prior to 2021, as detailed in Item 6, Section Number 2. **Ms. Slayden** stated that this is in reference to a circumstance whereby the operator was sued by a third party and NDEP paid damages for a third-party lawsuit.

Mr. Smith commented that it was his understanding that the Board is not obligated to approve \$1 million, but may decide to choose a lower amount, based on need. **Mr. Warner** stated that the \$1 million is the amount of the initial coverage for the one leaking tank system. In Policy Resolution 2023-01, staff made the recommendation for \$1 million, as the operator is eligible for this amount. However, the Board retains authority to approve an alternate amount. In this case, all site work is completed. A No Further Action (NFA) determination has been issued. Costs have now exceeded the initial \$1 million by approximately \$50,000. **Ms. Slayden** commented that the Board has authority to approve any value up to, but not exceeding \$1 million.

Mr. Perks noted that the request is for \$48,000. He asked whether the Board has the option to approve

\$100,000 for example, with the operator retaining the option to apply for remaining funding, if required. **Ms. Slayden** confirmed this understanding, noting that the regulations allow the operator to apply for more than one additional allotment.

There being no further discussion **Chair Tappan** invited a motion.

Rod Smith moved to reduce the funding request amount to \$100,000.

Discussion:

Chair Tappan asked for clarification that Mr. Smith is moving to reduce the amount from \$900,000 to \$100,000 with a ten percent copayment. **Mr. Smith** confirmed this understanding, noting that the amount would be \$90,000, in consideration of the 10 percent copayment.

Chair Tappan invited a second on the revised motion by Mr. Smith:

Rod Smith moved to adopt Site Specific Board Determination No. C2024-01 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 Speedee Mart No. 108 for \$90,000. This represents \$100,000 in coverage minus a 10 percent copayment. LeRoy Perks seconded the motion. Motion carried unanimously.

Jennifer Carr commented that she was pleased that the change in law appears to be working. It was well designed and is being smoothly executed. She commended staff and Keith Stewart of Stewart Environmental on the quality of the packet.

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

Mr. Warner presented Site Specific Board Determination No. C2024-02, which proposed to provide reduced coverage for Green Valley Grocery No. 58, identified as Case No. 2024000008 with Facility ID No. 8-001067. The subject site is owned by Midjit Market, Inc. and identified as Green Valley Grocery No. 58 and is located at 3685 North Moapa Valley Boulevard in Logandale, Nevada. It includes three underground storage tanks (USTs), two USTs containing gasoline and one UST containing diesel. The coverage application identified that the release occurred due to a structural failure associated with UST No. 3, a 12,000-gallon tank, containing gasoline at the time of the release. The structural failure was confirmed by a failing tank tightness test performed on December 26th, 2023 and discovery of free product during drilling activities on February 5th, 2024. Currently, UST No. 3 remains in place in temporary closure status and isolated from further refueling events. Prior to the release, the facility had failing monthly monitoring results for UST No. 3 from July 2023 through December 2023, indicating a suspected release in which the implementing agency was not notified.

Southern Nevada Health District conducted an inspection of the facility on August 24th, 2023 and issued a notice of violation letter for failure to report a suspected release. On October 3rd, 2023, Southern Nevada Health District issued a second notice of violation letter for the failure to report a suspected release. On November 21st, 2023 Southern Nevada Health District issued a third notice of a violation letter for failure to report a suspect release. Tank tightness tests were conducted on August 7th, 2023, September 15th, 2023, and November 30th, 2023, resulting in passing results. However, following each passing tank tightness test, the monitoring system produced a failed result from the continuous statistical leak detection, (CSLD), which indicated a suspected release.

On December 26th, 2023, a tank tightness test was performed due to the failing monthly monitoring results associated with UST No. 3. The tank system failed the precision tank tightness testing. Spill Report Number No. 231227-01 was submitted on December 27th, 2023 which reported a suspected release. On December 29th, 2023, all gasoline was removed from UST No. 3 and the tank was placed in temporary closure status to prevent future deliveries. On February 5th, 2024, Broadbent and Associates performed an environmental site assessment in the vicinity of the UST basin. Laboratory results from the soil samples

collected during the investigation indicated contamination had occurred that exceeded NDEP soil reportable concentrations, and groundwater was impacted, confirming a release had occurred. Southern Nevada Health District issued a letter stating that the facility was in compliance on February 6th, 2024.

Title 40 of the Code of Federal Regulations 280.50, Reporting of Suspected Releases, states, *"Owners and operators of underground storage tank systems must report to the implementing agency within 24 hours or another reasonable time period specified by the agency and follow procedures in 280.52 for any of the following conditions: One, monitoring results, including investigation of an alarm from a release detection method required under 280.41 and 280.42 that indicate a release may have occurred, unless the monitoring device is found to be defective and is immediately repaired, recalibrated, replaced and additional monitoring does not confirm the initial result."*

Additionally, 40 CFR 280.52 states, *"Owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under 280.50 within seven days."* Lastly, 40 CFR 280.34(b)(7) requires owners and operators must maintain documentation of compliance with release detection requirements. Board Policy Resolution No. 94-023, Attachment A, states, *"Noncompliance with certain regulations may not necessarily be proximate cause for discharge... but may still result in increased cost for site remediation."* Resolution 94-023 also states, *"When the determination of noncompliance is made, the staff of the Nevada Division of Environmental Protection will recommend to the Board that any reimbursement awarded be reduced in accordance with reimbursement reduction schedules specified in Attachment A."*

In accordance with Board Policy Resolution 94-023, reductions for noncompliance with federal underground storage tank regulations are assessed as follows:

LUST 0.001, Failure to comply with Release Reporting, Investigation and Confirmation, 40 CFR 280.50 through 280.53, 40 percent reduction.

UST.002, Failure to comply with UST General Operating Requirements, 40 CFR 280.30 through 280.34, 10 percent reduction.

Per Board Policy Resolution No. 94-2023, if a site is found to have more than one noncompliance determination, Petroleum Fund staff is directed to recommend to the Board that any reimbursement be reduced by the largest percentage associated with any single item. In this case, a 40 percent coverage reduction is recommended. Therefore, in accordance with Board Policy Resolution No. 94-023, NDEP recommends that the subject facility receive Fund coverage with a 40 percent reduction and a 10 percent copayment, for a total reimbursement cap of \$540,000 in cleanup costs and \$540,000 in third party liability monies. The Board has the authority to provide coverage in an amount different than that recommended by NDEP staff.

Mr. Perks inquired about the type of monitoring system at the site. **Jonathan McRae** stated it is a Veeder Root 350.

Mr. Perks asked for the total estimated loss of fuel. **Mr. McRae** stated that staff has not yet been provided this information.

Mr. Perks asked if the site includes a high water table. **Mr. McRae** confirmed the presence of a high water table.

Mr. Perks inquired as to whether the documentation for A, B and C operator training was in compliance. **Mr. McRae** stated that the operator was in compliance and at the time of inspection.

Mr. Perks noted that the operator was notified in August, and this was followed by a period of six weeks before follow-up and issuance of a second notice of violation. He inquired as to the reason for this delay. **Mr. McRae** stated that in processing violations for facilities, the schedule generally proceeds on a 30, 60, 90-day timeline. During this time, communication is ongoing with the operator regarding intervening steps, additional information, and testing.

Mr. Perks inquired as to whether the Veeder Root showed a catastrophic leak. **Mr. McRae** commented

that it showed a fail for its timed leak test. In previous years at this site, the operator was consistently written up for not having monthly monitoring records. Within the last year, the Veeder Root CSLD was clearly indicating concerns with Tank No. 3.

In response to a question from Mr. Perks, **Mr. McRae** confirmed that the operator was not required to shut down, and continued to rely on the CSLD. When a violation is issued for failure to keep records, the resolution involves a tank tightness test. Upon the first NOV and CSLD fail, a tank tightness test was performed, and the tank passed. This technically returns their paperwork requirements to a clean record. In November, the CSLD showed another fail. This was followed by another passing test. The record of consistent fails was indicative of a larger issue.

Jennifer Carr stated that with the conflicting results, a more conservative approach would have been for the owner to pump the product out of the tank and take it out of service while testing continued. **Mr. McRae** confirmed that the operator could have chosen that route.

Mr. Perks asked whether the NDEP has a regulation that dictates the operator's process for this situation. **Mr. McRae** stated that NDEP operates under the NAC and NRS, which then points to the 40 CFR. Those regulations discuss requirements to notify NDEP of a leak within 24 hours. They also include requirements for site checks and system checks. **Ms. Slayden** added that the 40 CFR directs operators who are experiencing erratic monitoring results, that the tank should be shut down, repaired, recalibrated, and retested. If the tank cannot immediately be tested and pass, the system must be shut down and the suspected release must be reported. The operator did not make this report to NDEP.

Mr. Smith asked for an explanation as to why the operator was issued a letter of compliance. **Mr. McRae** stated that once NDEP received information regarding a release into the environment and the removal of the tank from service, this cleared the violations for the previous UST inspection.

Mr. Smith commented on the difficulty of the situation and inquired as to any avenues available to prevent such an ongoing situation or for NDEP to step in. **Mr. McRae** stated that the operator could have taken the tank out of service in October. The NDEP does not have the authority to force the operator to take such action. Staff must follow through with the violation process and issue a delivery prohibition. This process takes at least 90 days, followed by 14 additional days and upper management approval.

Jeremy Holst, Broadbent & Associates, CEM for this project, was invited to address the Board. He acknowledged that the CSLD system indicated a suspected release. Green Valley Grocery did perform a precision tank tightness test on August 27th, 2023 as well as a pressure decay test, which passed. This indicated that the system was sound. The lines were also tested and no issues were identified. Upon the testing failure, the operator worked with their tank handler and Veeder Root through the process. Throughout this time, the tank tightness testing company and Veeder Root did not indicate that a release was occurring. They identified it as a probe issue, requiring checking of vent caps and correction of probe floats. The operator never received notice that there was a problem with the tank itself. Based on the information available, even with agency involvement, the leak would likely not have been corrected any sooner. There are currently no regulations requiring the operator to handle the issue differently. After failure of the tank tightness test, the operator contacted Broadbent and mitigation began immediately, including confirmation of the release. At this time, seven groundwater monitoring wells have been installed and an ESA report documenting these activities has been submitted. It appears the operator is being penalized with a 40 percent reduction for not making a phone call that would likely not change the course of events at the site. He requested that the Board consider the steps taken by Green Valley Grocery.

Chair Tappen invited questions from the Board.

Mr. Perks noted the three passing tightness tests by a third party, with **Mr. Holst** confirming three separate tests on different dates, the first including a pressure decay test. **Mr. Perks** commented that it appears the operator did everything they could to determine the presence of a leak, which was not identified with three tests. They were relying on the CSLD, which showed failure. **Mr. Holst** agreed that they were relying on CSLD reports. However, after making adjustments, such as the PV vent caps, the corrected probe floats, and working with Veeder Root, the tank passed for a few days following. Subsequently, another

issue would arise, which they would address with the tank handler and Veeder Root. Documentation from Veeder Root did not include a suggestion to pull fuel out of the tanks. The passing tank tightness tests were an indication that the tanks were sound. The operator was also working with the Southern Nevada Health District at that time and was not given a directive from Southern Nevada Health District to pull the fuel from the tanks.

Mr. Perks commented that a \$360,000 fine seems excessive, considering that the operator continually attempted to identify a leak.

Mr. Smith noted the new funding mechanism and asked whether the operator would be eligible to apply for additional funding, even with the 40 percent reduction. **Ms. Slayden** confirmed that the operator is eligible to apply for an additional allotment of funding, even with a coverage reduction.

Chair Tappen noted Mr. Perks' comment regarding the significance of the proposed reduction. She welcomed further discussion.

Mr. Perks asked whether staff considered this to be an issue of negligence and a disregarding of the requirements. **Ms. Slayden** stated that the facts indicate a lack in demonstrating immediate monitoring results after recalibration. After several erratic results, the operator was required to notify NDEP.

Chair Tappan summarized that the Board could choose to authorize the 40 percent reduction and the operator could come back to request a reconsideration in the future. It does appear that the operator is now taking appropriate measures for mitigation.

Mr. Smith asked about the potential for removing the tank. **Ms. Slayden** stated that the tank is in proper temporary closure at this time. **Mr. Holst** stated that the reason the tank is in temporary closure at this time is because Green Valley Grocery is in the process of building a new facility across the street. The entirety of the existing site is scheduled to be decommissioned. The operator has ensured they will not receive fuel deliveries to this tank. This shutdown was performed in coordination with the NDEP compliance branch and Southern Nevada Health District.

Mr. Perks asked about the tank details. **Mr. Holst** stated that it was a 12,000-gallon double-walled fiberglass tank.

Ms. Carr noted the difficulty of the case, considering the conflicting data. She indicated concern that the operator did not choose to engage with the leaking underground storage tank program early in the process. **Mr. Holst** commented that if the operator had called in the suspected release, they would still have been dealing with the Southern Nevada Health District until a release was confirmed. There seems to be a gray area in terms of identifying which agency will handle an issue such as this.

Mr. Perks asked whether it is a brine filled tank or a dry annular space. **Mr. Holst** and **Juan Rivera**, Green Valley Grocery, both stated that they were uncertain as to the answer.

Mr. Perks stated that a dry annular space is intended to collect any leakage of the fuel. Since this didn't occur, there is an indication of a structural failure of the tank. It would have been difficult to prove a leak in this case. **Ms. Slayden** stated that the site check is intended to provide verification of the presence or absence of contamination, and this was not performed until February. **Mr. Perks** commented that the operator completed all tightness testing. **Ms. Slayden** acknowledged this; however, the fact remains that the operator did not report the suspected release, even after 90 days of letters requesting that the operator report the suspected release. **Mr. Perks** stated that the operator likely spent significant funds to attempt to find the leak. **Mr. Rivera** stated that during the process of tank tightness testing, they went so far as to engage a third party to also conduct a tank tightness test, just to confirm that the company they typically used for such services was providing accurate testing results. The third party provided a passing result. Multiple log data dumps were provided to Veeder Root for analysis. The results provided by Veeder Root never mentioned a leak. Veeder Root suggested system resets to reanalyze the CSLD. After that, passing results were received for multiple days. When a failing result was subsequently received, all follow-up actions would begin again.

Mr. Smith commented that the focus of this determination is the failure to report the suspected release within a reasonable timeframe. He inquired about the reporting procedure between Southern Nevada Health District and NDEP. **Mr. McRae** stated that NDEP has a contract with Southern Nevada Health District and the organizations work cooperatively in terms of releases. Southern Nevada Health District handles such events as a UST inspector. They perform an inspection, write up violations and issue the first NOV. **Ms. Slayden** added that spills are to be reported via the state spill report hotline, which will provide the reporter with a spill report number. The operator failed to follow this procedure. **Mr. Holst** commented that Green Valley Grocery followed all required steps and that a 40 percent reduction for not making this one phone call to the hotline is excessive.

Mr. Smith asked whether communication with the Southern Nevada Health District was equivalent to calling in the hotline. **Ms. Slayden** stated the operator is free to communicate with the implementing agency. However, it was Southern Nevada Health District who issued the notices of violation, stating that the report had never been made. Importantly, the operator is free to submit a spill report without calling the hotline. They are free to access the website, type in the data and submit the spill report. Alternatively, the phone hotline number is staffed for reporting 24 hours per day, seven days per week.

Ms. Tappan surmised that the Board members were of the mind that a 40 percent reduction was a little severe. She suggested a lesser percentage, such as 25 percent. **Mr. Smith** concurred. The most critical goal is to avoid spills and that if they occur, they need to be cleaned as quickly as possible. A 40 percent reduction could theoretically prevent the goal of a quick and thorough clean. **Mike Dzyak** asked about the potential for the operator to come back to the Board at a later date, if they require additional funding. He is deeply concerned with failure to report the leak. **Ms. Slayden** confirmed that a reconsideration policy resolution is available. Access is available to the operator as soon as the next Board meeting after coverage is provided.

Ms. Tappan asked about the operator's timeline for cleanup at the spill site, in consideration of their intent to open its new facility across the street. **Mr. Holst** stated that Broadbent has installed seven groundwater monitoring wells around the UST basin and down gradient. They have just submitted the ESA report. He anticipates that there will be installation of additional groundwater wells and potentially weekly or biweekly free product recovery events until a more suitable system is implemented. Green Valley Grocery is anticipating having the facility decommissioned in late fall to early winter of next year.

Mr. Perks commented that there should be a penalty for the operator's failure to report. However, having a double-walled tank with Veeder Root was a significant investment. It appears to have been a structural failure. He recommended a 20 percent reduction.

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

Leroy Perks moved to adopt Site Specific Board Determination No. C2024-02 granting coverage under the State of Nevada Petroleum Fund to Green Valley Grocery No. 58 for UST No. 3 and associated underground piping for \$720,000 which represents \$1,000,000 less a 20 percent reduction and 10 percent copayment. Jason Case seconded the motion. Motion carried. Mike Dzyack opposed.

7. **DRAFT APPENDIX A-2 OF THE COST GUIDELINES**

Ms. Slayden presented an addition to Policy Resolution 2022-02, the Petroleum Fund Cost Guidelines. The Cost Guidelines outline the majority of reimbursement procedures and rates for the program. The appendix would establish allowable time frames and rates for rental of CEM-owned mobile remediation systems. This would not impact the bid requirements or processes for rental of a system through a third-party vendor. It is only for CEM-owned mobile systems. The system types for which this policy would establish rates are listed in the table provided. This would include air sparge with soil vapor extraction, self-powered air sparge with soil vapor extraction (inclusive of the generator), pulse-ox, and ozone sparge systems. These are the most commonly rented systems for which staff receive reimbursement requests at this time. Should additional types of CEM-owned mobile systems begin to be utilized and

requested, this policy would be expanded to accommodate those as well. In order to be considered a mobile system, it must be a complete packaged system, either trailer-mounted or skid-mounted and able to be installed or brought online very quickly, with minimal above ground infrastructure.

The time frames established in the document are intended to allow for pilot testing, extended pilot testing, short-term remediation, or interim remedial actions performed while waiting for a permanent system installation. The appendix proposes up to a 12-month time frame for use, at which point the status of remediation would be evaluated and a determination made regarding whether a permanent system should be installed. It provides a six-month extension period to allow operators and their CEMs to install the permanent system onsite and finalize permitting. This means that at a maximum of 18 months of operation on the site, this system would either be removed and a permanent system installed, or they would move into groundwater monitoring and post remediation monitoring and be ready to move into closure activities.

The rates proposed in the draft correspond to rates that have recently or are currently requested for reimbursement for rental of these systems through third-party vendors. The proposed language and rates contained are subject to change prior to this item being proposed for action on a future agenda. Staff will continue to work with the CEM companies and community throughout the summer to evaluate any adjustments to the language or the rate schedule before the September meeting, when it will be brought for action.

Mr. Perks asked whether these are premade kits from the manufacturer or are made by the cleanup companies. **Ms. Slayden** stated for those seen thus far, the CEM companies have built them themselves. **Mr. Smith** asked whether the project owner feels that the reimbursement is at an acceptable amount. **Ms. Slayden** stated that the CEMs may like to see a higher amount. The rate schedule was established under the only policy the Fund had at the time. That rate schedule was for small hand tools and was not developed for a 24-hour run period. Costs have increased significantly beyond initial discussions. They continue to increase at a pace that does not appear to be financially responsible for the Fund. Staff would like to rein these rates in to more appropriate levels. Additional input from the CEMs will be analyzed towards development of this funding schedule.

8. ADOPTION OF CONSENT ITEMS

The Board may approve all items in the following list as a consent agenda unless a listed item is marked with an asterisk (*). Items may be marked with an asterisk if a member of the public has requested to address the claim before the Board or the item is associated with a Fund Site Specific Board Determination (SSBD). In the case of an item being marked with an asterisk pending a SSBD, the item is considered part of the consent agenda upon approval of that (SSBD). In addition to asterisked items, a Board member may request an item be moved from the list for immediate discussion prior to approval or moved to a discussion agenda item and tabled for the next meeting.

A dagger (†) indicates previously disallowed monies have been successfully appealed (i.e. the requested amount may be 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 - JUNE 13, 2024**

HEATING OIL

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1.	2024000004; 80683	City Of Reno: Residential Heating Oil Tank At 75 Cowan Drive	\$26,509.94	\$26,197.44
			SUB TOTAL:	<u>\$26,509.94</u>	<u>\$26,197.44</u>

NEW CASES

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1.	2023000028; 80698	Anderson Dairy, Inc.: Anderson Dairy INC	\$29,369.50	\$23,480.55
			SUB TOTAL:	<u>\$29,369.50</u>	<u>\$23,480.55</u>

ONGOING CASES

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	1.	1992000126; 80696	Clark County School District: Rc White (arville) Transportation Satellite	\$27,856.10	\$27,856.10
FOR POSSIBLE ACTION	2.	1995000039; 80701	Al Park Petroleum, Inc.: Crescent Valley Market	\$8,762.29	\$7,886.06
FOR POSSIBLE ACTION	3.	1995000042; 80713	Fbf, Inc.: Gas 4 Less	\$858.03	\$858.03

FOR POSSIBLE ACTION	4.	1996000064; 80709	The Esslinger Family Trust: Red Rock Mini Mart	\$16,058.15	\$14,797.59
FOR POSSIBLE ACTION	5.	1999000014; 80703	Al Park Petroleum, Inc.: Pit Stop #7 Conoco	\$3,900.00	\$3,510.00
FOR POSSIBLE ACTION	6.	1999000023; 80689	Nevada Ready Mix Corp: Nevada Ready Mix	\$25,820.64	\$21,663.69
FOR POSSIBLE ACTION	7.	1999000086; 80716	Terrible Herbst, Inc.: Terrible Herbst #126	\$3,250.00	\$2,925.00
FOR POSSIBLE ACTION	8.	1999000114; 80673	City Of Fallon: Fallon Maint. Yard	\$35,302.16	\$34,788.18
FOR POSSIBLE ACTION	9.	2007000014; 80697	Raiders Oz Business, Llc: Former Ace Cab/frias Transportation	\$63,340.93	\$57,006.84
FOR POSSIBLE ACTION	10.	2007000016; 80704	Golden Gate Petroleum Of Nevada Llc: Golden Gate Store #43	\$6,771.06	\$6,093.95
FOR POSSIBLE ACTION	11.	2010000009; 80721	Hpt Ta Properties Trust: Mill City Travel Center	\$28,935.24	\$23,017.82
FOR POSSIBLE ACTION	12.	2011000009; 80707	Cimarron West: Cimarron West	\$9,670.52	\$8,703.47
FOR POSSIBLE ACTION	13.	2013000019; 80708	Hardy Enterprises, Inc.: Elko Sinclair #53	\$29,842.78	\$26,746.00
FOR POSSIBLE ACTION	14.	2014000025; 80719	Superior Campgrounds Of America, Llc: Silver City Rv Resort	\$19,284.51	\$17,356.06
FOR POSSIBLE ACTION	15.	2014000033; 80684	Speedee Mart Inc.: Speedee Mart #108	\$42,321.87	\$38,089.68
FOR POSSIBLE ACTION	16.	2015000009; 80722	Hpt Ta Properties Trust: Las Vegas Travel Center	\$5,591.00	\$5,031.90
FOR POSSIBLE ACTION	17.	2016000009; 80641	7-Eleven, Inc: 7-Eleven #13685	\$22,299.45	\$20,069.51
FOR POSSIBLE ACTION	18.	2016000023; 80702	Al Park Petroleum, Inc.: Pit Stop #1	\$15,339.90	\$11,044.73
FOR POSSIBLE ACTION	19.	2016000027; 80720	Terrible Herbst, Inc.: Terrible Herbst #272	\$14,190.75	\$11,477.42
FOR POSSIBLE ACTION	20.	2017000015; 80544	Ellen 5, Llc: Auto Center (green Valley Grocery #63)	\$211,410.90	\$186,507.14
FOR POSSIBLE ACTION	21.	2018000009; 80723	Reed Incorporated: Pacific Pride	\$74,660.97	\$67,194.87
FOR POSSIBLE ACTION	22.	2018000018; 80685	Primadonna Company, Llc: Whiskey Pete's Stateline Stop	\$58,017.69	\$46,492.87
FOR POSSIBLE ACTION	23.	2019000002; 80695	Rebel Oil Company: Rebel Store #2166	\$41,938.00	\$37,744.20
FOR POSSIBLE ACTION	24.	2020000015; 80710	Canyon Plaza, Llc: Gas 2 Go	\$40,332.06	\$21,779.32
FOR POSSIBLE ACTION	25.	2020000016; 80714	LV Petroleum, Llc: Us Gas #7	\$18,494.05	\$16,644.65
FOR POSSIBLE ACTION	26.	2021000014; 80715	Pilot Travel Centers Llc: Pilot Travel Centers LLC #341	\$14,672.11	\$13,200.40
FOR POSSIBLE ACTION	27.	2022000018; 80718	Pilot Travel Centers Llc: Pilot Travel Centers LLC #341	\$32,805.89	\$23,555.44
FOR POSSIBLE ACTION	28.	2023000018; 80724	Reed Incorporated: R Place #1	\$22,382.12	\$20,143.91
SUBTOTAL:				<u>\$894,109.17</u>	<u>\$772,184.83</u>
RECOMMENDED CLAIMS TOTAL:				<u>\$949,988.61</u>	<u>\$821,862.82</u>

LeRoy Perks moved for approval of the consent items. Rod Smith seconded the motion. Motion carried unanimously. Jason Case recused himself from Item 23.

9. 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 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

HEATING OIL

			<u>REQUESTED</u>	<u>PAID</u>
FOR DISCUSSION	1.	2024000005; 80681 Maria Mederos-Ayala: Residence Of 800 Cordone Avenue	\$26,484.33	\$26,234.33
FOR DISCUSSION	2.	2024000006; 80680 Patrick Andersen: Residential Heating Oil Tank At 515 5th Street	\$31,168.23	\$30,918.23
FOR DISCUSSION	3.	2024000007; 80682 Karen Robinson: Residence Of 2590 Knob Hill Drive	\$26,576.00	\$26,326.00
FOR DISCUSSION	4.	2024000009; 80699 Truckee Meadows Habitat For Humanity: Residence Of 13905 Mount Vida Street	\$32,856.39	\$32,606.39
SUB TOTAL:			<u>\$117,084.95</u>	<u>\$116,084.95</u>

ONGOING CASES

			<u>REQUESTED</u>	<u>PAID</u>
FOR DISCUSSION	1.	1993000102; 80694 Rebel Oil Company: Rebel Store #2008	\$64,647.75	\$64,647.75
FOR DISCUSSION	2.	1995000012; 80552 Model T Casino Resort Llc: Parker's Model T	\$51,026.68	\$45,924.01
FOR DISCUSSION	3.	1999000066; 80690 HP Management, Llc: Former Haycock Petroleum	\$30,593.07	\$27,533.76
FOR DISCUSSION	4.	2017000035; 80693 Rebel Oil Company: Rebel Store #2177	\$10,208.50	\$8,445.15
FOR DISCUSSION	5.	2018000005; 80691 Rebel Oil Company: Rebel Store # 2153	\$9,511.50	\$8,560.35
FOR DISCUSSION	6.	2019000014; 80688 Western Cab Co: Western Cab CO	\$8,780.00	\$7,902.00
FOR DISCUSSION	7.	2022000012; 80687 Neissan Koroghli: City C-Store (7-11)	\$7,157.00	\$6,441.30
FOR DISCUSSION	8.	2022000015; 80692 Rebel Oil Company: Rebel Store #2197	\$20,166.81	\$14,520.11

SUB TOTAL:	<u>\$202,091.31</u>	<u>\$183,974.43</u>
DIRECT PAYMENT CLAIMS TOTAL:	<u>\$319,176.26</u>	<u>\$300,059.38</u>
BOARD MEETING CLAIMS TOTAL:	<u>\$1,269,164.87</u>	<u>\$1,121,922.20</u>

10. EXECUTIVE SUMMARY

Ms. Slayden 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 1,300 facilities have been invoiced as of May 29, 2024. Approximately 1,282 or 98 percent of invoiced facilities have paid the required enrollment fees. Since the Fund was created, a total of 1,832 remediation cases have applied for Fund coverage. Of those applications, 174 have been denied due to ineligibility or other reasons. Of the total cases provided Fund coverage, 1,583 cases have been closed and no longer receive Fund reimbursement. There are currently 74 active Fund cases. Since January 1, 2024, NDEP has received 9 new coverage applications for Fund coverage, with one pending coverage determination at this time. Prior to this Board meeting, the Board to Review Claims has approved a cumulative total of \$261,077,248.18 for reimbursement to Petroleum storage tank operators for cleanup expenses. This includes \$300,059.38 for direct payment claims paid since the last Board meeting. With today's Board approval of claims in the amount of \$821,862.82, the cumulative expenditure will increase to \$261,899,111.00. There were no grants for UST upgrades this quarter.

11. PUBLIC COMMENT

There were no public comments.

12. CONFIRMATION OF NEXT BOARD MEETING DATE

It was confirmed that the next meeting date has been scheduled for Thursday, September 12, 2024 at 10:00 a.m.

13. ADJOURNMENT

The meeting adjourned at 11:27 a.m.