

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
MEETING MINUTES - SEPTEMBER 12, 2024**

1. CALL TO ORDER

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

A. BOARD MEMBERS PRESENT

Chair, Maureen Tappan – 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
Karen Stoll – Department of Motor Vehicles
Jennifer Carr – Nevada Division of Environmental Protection
Mike Dzyak – State Fire Marshal’s Office

B. OTHERS PRESENT

Katie Armstrong – Legal Counsel, State of Nevada Attorney General’s Office
Jeff Collins, Jeff Kinder, Megan Slayden, Don Warner, Greg Johnson, Kim Valdez,
Jonathan McRae, Ruby Wood, Dean Peterson, Kandis Harvey, Alexa Salls, Tristin Alishio,
Michael Mazziotta, John Karr, Erin Fragoso, and Charles Enberg – Nevada Division of
Environmental Protection (NDEP)
Matt Grandjean – Stantec
Stephanie Holst – Broadbent & Associates
Keith Stewart – Stewart Environmental
Jason Hoffman – Broadbent & Associates

In addition to the above-named participants, three additional guests 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 13, 2024 MINUTES

Chair Tappan called for changes to the minutes. No changes were requested.

Jennifer Carr moved to approve the June 13, 2024 minutes as presented. Vice-Chair Rod Smith seconded the motion. Motion carried unanimously.

4. **STATUS OF THE FUND**

Ms. Slayden began by clarifying that 2024 amounts had not yet been finalized, which is why the Fiscal Year 24 status still includes a funding availability line. As such, this report was provided for informational purposes only. The final number for Fiscal Year 2024 will be provided at the December 2024 meeting. Fiscal Year 2025 began on July 1, 2024. The summary of the Fund for Fiscal Year 2025 thus far includes a balance forward from State Fiscal Year 2024 of \$7,500,000. Approximately \$69,500 has been received for tank system registration fees for enrollment year 2025 thus far. Total revenue received by the Fund this fiscal year is \$7,569,500. Expenditures for State Fiscal Year 2025 include Board member salaries of approximately \$76 and reimbursement of Petroleum Fund claims totaling approximately \$346,133. All expenditures from the Fund thus far amount to \$346,209.08. Total funding currently available within the Fund for Fiscal Year 2025 is \$7,223,290.92.

Chair Tappan invited questions from the Board. There were none.

5. **SITE SPECIFIC BOARD DETERMINATION C2024-03 FOR ADDITIONAL CLEANUP ALLOTMENT**

Don Warner, NDEP, presented this agenda item, which includes a request for additional allotment of funding per Policy Resolution 2023-01. Site Specific Board Determination (SSBD) Number C2024-03 proposed to provide an additional allotment of funding to Gas 4 Less, Petroleum Fund Case 1995000042, Facility ID 8-000251. The subject site identified as Gas 4 Less is located at 3283 Las Vegas Boulevard North, Las Vegas, Nevada and is designated as a small business under NAC 445C.210(1)(f). It was previously awarded coverage for a release from two underground storage tank systems. The source of the release was identified as a leak from the piping associated with Tank 1 and a tank failure associated with Tank 2. The operator has requested an additional allotment of funding in accordance with Board Policy Resolution 2023-01.

Petroleum Fund staff have reviewed this request and prepared the accompanying SSBD to help the Board determine eligibility. On June 6th, 2024, the Nevada Division Environmental Protection case officer concurred with the plan and schedule proposed by the operator's certified environmental manager (CEM). This correspondence was provided in Appendix B. On July 29th, 2024, the operator submitted a request for an additional allotment of funding in accordance with Board Policy Resolution 2023-01, which was prepared by their CEM. The request is provided in Appendix C. The most recent UST program letter dated May 24th, 2024, indicating site compliance, was an attachment in the request. On August 7th, 2024, the NDEP case officer concurred that the operator was in compliance with the requirements from the Division concerning cleanup directives. A copy of this correspondence was provided in Appendix D. 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.380(1). In addition, claim number 80713 was approved for payment at the June 13th, 2024, Board meeting, which exhausted all available cleanup funding for this case.

Based on review of the documentation provided with the request for an additional allotment of cleanup funding, staff recommend that the Board approve an allotment of funding in the amount of \$950,000 for Gas 4 Less. This represents \$1 million of funding minus a 5 percent copayment. The Board has the authority to approve a value of not greater than \$1 million for this allotment. Mr. Warner stated that he was available for Board questions, as was the Fund supervisor, the case officer, the operator, and the CEM.

Chair Tappan invited questions from the Board. There being no questions, **Chair Tappan** asked for a motion.

LeRoy Perks moved to adopt Site Specific Board Determination No. C2024-03 as proposed, granting additional cleanup funding in accordance with Board Policy Resolution 2023-01, under the State of Nevada Petroleum Fund to Gas 4 Less for \$950,000. This represents \$1,000,000 coverage minus a 5 percent copayment. Mike Dzyak seconded the motion. Motion carried unanimously.

6. SITE SPECIFIC BOARD DETERMINATION C2024-04 FOR PETROLEUM FUND COVERAGE WITH REDUCTION

Greg Johnson, NDEP, presented this agenda item, which included a recommendation to provide reduced petroleum fund coverage for Las Vegas Cardlock, owned by Dats Trucking, Inc., under Site Specific Board Determination Number C2024-04. NDEP reviewed Las Vegas Cardlock's coverage application and related documentation and determined that the information contained therein meets the criteria for the coverage by the Petroleum Fund. NDEP has determined that coverage should be provided at a reduction of 40 percent, per Board Policy Resolution 94-023.

Mr. Johnson provided a summary of factors for the Petroleum Fund's request that the Board provide coverage with a 40 percent reduction rate. On September 7th, 2022, Tank 2, a 12,000-gallon single-walled underground storage tank (UST) failed a tightness test. On September 8th, 2022, the UST was drained of gasoline to less than one inch and taken out of service. Southern Nevada Health District (SNHD) conducted a site inspection of the UST system on September 9th, 2022. Upon inspection, a letter from SNHD, dated September 13, 2022, was sent to the facility operator, requesting an investigation for environmental release, a report documenting the findings, and a timeline indicating future intentions for the tank. Further, the letter stipulated that the items were to be completed and received by SNHD no later than October 9, 2022. On March 14, 2023, a Nevada Certified Tank Handler repaired a crack and certified that the material used to line the tank interior met performance requirements per National Leak Prevention Association standards. On March 28, 2023, Tank Number 2 passed a tank tightness test and was returned to service.

On January 30, 2024, Stewart Environmental collected one subsurface sample from the pea gravel located in the bottom of a manway on top of Tank 2. It was reported that no contamination was present above laboratory detection levels. In March 2024, SNHD requested an additional investigation be conducted to further evaluate if a gasoline release to the environment had occurred. Stewart Environmental, based on available data that groundwater flow was in a southeast direction, selected the south side of Tank 2 to advance one boring to collect two soil samples and a groundwater sample. Laboratory test results from the soil sample at 16.5 feet below ground surface (ft bgs) and the groundwater sample collected from 20 ft bgs confirmed a release to the environment.

The January and March 2024 investigations were conducted 15 and 17 months, respectively, after SNHD's initial letter was sent requiring investigation to determine a potential release to the environment. 40 CFR 280.52(a)(2) requires that "*if the system test confirms a leak into the interstice or a release, owners and operators must repair, replace, upgrade, close the UST system. In addition, owners/operators must begin corrective action according to Subpart F of this part if the test results for the system tank or delivery piping indicate the leak exists*". 40 CFR 280.62(a) states, "*Owners and operators must perform the following initial abatement measures.*" Under Number 5, "*Measure for the presence of release where contamination is most likely to be present*

at the UST site, unless the presence and source have already been confirmed at the site check required by 40 CFR 280.52(b). 40 CFR 280.62(b) states, "Within 20 days after release confirmation or within another reasonable period of time determined by the implementing agency, owners and operators must submit a report to the implementing agency summarizing the initial abatement steps taken under Paragraph (a) of this section and any resulting information or data."

Board Policy Resolution 94-023 states, *"When a determination of noncompliance is made, the staff of the Nevada Division of Environmental Protection will recommend to the Board that any reimbursement be reduced in accordance with the reimbursement reduction schedule specified in Attachment A."* In accordance with Board Policy Resolution 94-023, a reduction for noncompliance with the LUST regulations for preventing petroleum releases is proposed as follows:

- LUST.001 – Failure to comply with release reporting, investigation, and confirmation 40 CFR 280.50 – 280.53: 40 percent reduction
- LUST.002 – Failure to comply with the release response and corrective action 40 CFR 280.60-280.65: 40 percent reduction

Therefore, in accordance with Board Policy Resolution Number 94-023, staff recommend the subject facility receive Fund coverage with a 40 percent reduction. The Board has the authority to provide coverage for this case at a level other than that recommended by Fund staff.

Chair Tappan thanked Mr. Johnson for the presentation and welcomed him aboard. She invited questions from the Board.

Mr. Perks asked for an approximation of the leaked fuel volume. **Ms. Slayden** clarified that the application received by Fund staff does not contain this information. **Mr. Perks** commented that there is no knowledge regarding potential expansion of the plume over the 15-month period. **Ms. Slayden** surmised the amount of fuel should not have changed during this period, as the tank was emptied the day after the discovery. However, they waited 17 months to determine the levels of contamination released into the environment from a single-walled tank. With a single-walled tank, there is a "confirmed release" upon confirmation of a failed tank tightness test, as there is no interstice or secondary containment.

Mr. Perks inquired whether the water table is stagnant or has moved significantly. **Ms. Slayden** stated that the case officer could be asked for this information. **Mr. Perks** said he would like to know if there has been a smearing effect during the time period that they were waiting for the investigation to be conducted. **Ms. Slayden** noted that it would have been especially helpful if there had been indication of the water table at the time of the release, so that a comparative measure could be done. Unfortunately, this investigation was not performed.

Keith Stewart, CEM, Stewart Environmental, noted that Las Vegas Cardlock representative, Travis Hafen had a previously scheduled family trip and was unavailable at this time. **Mr. Stewart** noted that upon the failed Veeder-Root, the operator quickly scheduled a tank tightness test and the next day, they drained the fuel. The possibility of ongoing release was mitigated at that point. In response to Mr. Perk's earlier question, they have installed four groundwater monitoring wells at the site. The benzene concentration ranges between 100 and 800 parts per billion and there are no indications of any free product. Concentrations less than 1,000 parts per billion are not considered a significant release. In terms of the time delay, the SNHD sent the letter on September 13, 2022, asking for drainage of the tank, accompanying documentation and completion of investigation. On September 30th, 2022, Mr. Hafen submitted a response to the SNHD, which provided a majority

of the requested information. Unfortunately, they did not do an investigation, however they provided a statement indicating that do not have any loss of product on their inventory. There was no written response received from SNHD until early 2024, representing a 14-month gap. Once the letter containing the request for investigation was received, the operator immediately notified Stewart Environmental, who took samples, boreholes and installed four monitoring wells. The operator does not have a history of overlooking important matters and are of the opinion that this is a misunderstanding. The operator spent more than \$50,000 to repair the tank. There is acknowledgement that a reduction is appropriate; however, 40 percent is too excessive, and 10 percent would be appropriate.

Mr. Perks noted the comment that the Veeder-Root indicated no substantial loss of the product. **Mr. Stewart** concurred, adding the operator performed an inventory on product loss. **Mr. Perks** commented that the operator responded to SNHD and received no response for 14 months. **Mr. Stewart** stated that the operator also did not have a clear understanding of what “investigation” meant. The operator did not contact Stewart Environmental until they received the second request to do the work in January of 2024. There seems to be no additional correspondence from NDEP or SNHD between September 13th, 2022, and January of 2024. **Ms. Slayden** stated that the original letter sent by SNHD requested the investigation. The second letter requesting an investigation was issued in 2024. The operator never completed the requirements contained in the first letter, requesting the investigation in 2022.

Mr. Perks commented that the operator sent a return letter on September 30th, with an explanation of progress and that they never received a response. **Ms. Slayden** reiterated that the operator failed to complete the investigation as is required by Federal regulations. **Mr. Perks** asked whether the operator’s September 30th letter included a request for additional guidance based on the operator’s investigation results. **Ms. Slayden** stated that the operator’s actions were not an investigation. They were required to do borehole testing and onsite sampling. The first letter contained the details for this required investigation.

Vice-Chair Rod Smith noted that the documentation states that the tank was repaired. This implies that a hole was dug to pull the tank, and this would have been the best opportunity to investigate the extent of the release. **Mr. Perks** stated that they will typically manually cut a hole in the top of the tank, crawl inside and build a new tank inside. **Ms. Slayden** added that the operator completed a repair to the crack at the side wall, which was completed internal to the tank without excavation. In response to a question from **Mr. Perks**, **Ms. Slayden** confirmed that it is a fiberglass tank.

Jennifer Carr expressed concern that the owner/operator felt unclear as to the regulation requirements in September 2022. However, it is incumbent upon owners/operators to know the rules under which they are operating. If release was confirmed in a single-wall tank with a failed tightness test, the owner/operator had a duty to understand the seriousness of the situation and to take appropriate action based on the request for investigation by the SNHD. It is unclear why an initial sample was taken in January of 2024 from the top of the tank. It appears that the true investigation did not occur until the passage of 17 months in March of 2024. There is groundwater contamination, and the delay allows for water fluctuations to occur, which may result in smearing of soil interface as well as horizontal migration. These factors will lead to increased costs to the Fund due to the delayed response. **Mr. Dzyak** stated that he was in support of all the comments provided by Ms. Carr.

Mr. Perks posed a question to attorney, Katie Armstrong. He stated that on June 27th, the Supreme Court ruled on a case, SEC v. Jarkey, ruling that agencies subject to civil penalties would have

the right to have the case decided via jury trial. He asked about the implications of the ruling. **Ms. Armstrong** said she was not familiar with the case and would need to review it in order to provide a response. **Ms. Slayden** stated that based on her understanding, the Board would continue to vote and make funding decisions and that if an owner/operator disagrees, they may choose to take the NDEP to court. **Ms. Carr** asked whether the decision is what is known as the Chevron defense. **Mr. Perks** stated that was an earlier decision, and the SEC v. Jarkesy decision was just issued in June 2024 from the Fifth Circuit Court of Appeals. **Ms. Carr** commented that it would also be helpful to understand the difference between fines, penalties and coverage reductions. The Board's determinations are not necessarily civil penalties.

Ms. Slayden stated that the Board is free to table this matter until the December meeting, noting that this would delay reimbursement for the operator. Despite the inability to attend this meeting, the owner/operator requested that the item be on this agenda and not postponed to December. In either case, staff can work with legal counsel after the meeting to determine the implications of the new court decision. **Mr. Stewart** stated that the operator was amenable to tabling a decision until the December meeting.

Vice-Chair Smith commented that specific to this project, the Board's role is to protect the environment by requiring operators to take the required actions and imposing reductions when operators fail to act accordingly. The question is how these two factors come together. For example, what if the Board imposes a 40 percent reduction and the operator then fails to follow through with cleanup requirements? **Ms. Slayden** noted that the operator is still liable for the cleanup, regardless of the level of Fund reimbursement provided. **Vice-Chair Smith** inquired as to the extent of liability and what action can be taken to ensure compliance. **Ms. Slayden** stated that it was up to the remediation case officer to work with the Leaking Underground Storage Tank Compliance Branch to ensure that remediation is completed. The Fund simply operates the reimbursement program. Remediation actions fall within the Remediation Program or the Leaking Underground Storage Tank Program. **Vice-Chair Smith** asked whether the goal is to have the site cleaned up or to impose high burdens on operators to complete this work. **Ms. Slayden** confirmed that the goal of the NDEP is site cleanup.

Ms. Armstrong informed attendees that while the meeting was in progress, she briefly looked up the case previously mentioned. It is a Fifth Circuit case that refers to penalties invoked by the Security and Exchange Commission and does not appear to have applicability to this Board. **Mr. Perks** commented that implications go much further, upon greater case review. **Ms. Armstrong** affirmed that she would research the matter further to provide a more detailed response.

Mr. Perks asked for an estimated cost of the site cleanup. **Mr. Slayden** stated that due to the 17-month delay in the investigation and lack of specific details about the size of the plume, the total costs have not yet been determined.

Chair Tappan inquired about the proposed reimbursement amounts. **Mr. Slayden** stated that the 40 percent reduction makes the maximum reimbursable value \$540,000. For clarity, the owner/operator can request up to \$1 million. There would then be a 40 percent reduction and a 10 percent copayment. The maximum amount the owner/operator would receive after spending \$1 million would be \$540,000. **Chair Tappan** asked whether the owner/operator has requested funds at this time. **Ms. Slayden** clarified that the owner/operator may not submit a claim until they have obtained coverage. The Board may choose to inquire from Mr. Stewart as to invoices for cleanup thus far. **Mr. Stewart** stated that they have spent \$30,000 to install the four wells and perform assessment. They are in full compliance at this time.

Ms. Carr referred to the four groundwater monitoring wells installed and asked whether full delineation of the plume has been ascertained. **Mr. Stewart** stated that they do not have full delineation at this time. They will have to go offsite, as the tanks are located on the southern edge of the property. A number of utilities exist in the area. Drilling a borehole was not easy at the location. Next steps include additional onsite wells followed by offsite wells to the property south of Cheyenne Avenue. NDEP is in the process of reviewing the CEM's last report and this will be followed by a request for work plan.

Chair Tappan asked the Board whether they wished to continue towards a final decision on this item at this time or whether they wished to defer until December, at which time they would have a better understanding of any potential legal questions. If the Board wishes to decide today, they should consider whether a 40 percent reduction is appropriate. **Mr. Perks** commented that 40 percent was a steep reduction. **Ms. Slayden** confirmed **Chair Tappan's** statement that if a 40 percent reduction was affirmed at this meeting, the owner/operator is free to return to the Board and request a lesser reduction as the cleanup process proceeds. She added that the owner/operator is free to request a reconsideration as soon as the next Board meeting. There are three avenues for reconsideration: 1) Expedited plan and schedule; 2) Five years of compliance; 3) Provide NDEP with new information not previously submitted with the original coverage.

Mr. Dzyak advised against delaying a decision, noting that legal counsel has not expressed significant concerns with the recent legal decision. He suggested moving forward with a 40 percent reduction, allowing the owner/operator to request an adjustment at a later date. **Vice-Chair Smith** concurred.

Charles Enberg, NDEP, stated that he has dealt with cases such as this before, where there have been large reductions for a variety of reasons. Sometimes there can be miscommunication between SNHD and the NDEP. In this case, there was a significant delay from the time SNHD was notified and performed its compliance. He received a reply to the issued 45-day letter prior to the deadline. He has been receiving all requested documentation prior to the deadlines. In his experience, imposing significant penalties makes completion of cleanup and delineation more difficult. As such, he requested that the Board reconsider the 40 percent and apply a penalty of 10 percent. The owner/operator has taken necessary steps to address the problem, which prevented additional release.

Mr. Dzyak commented that it is frustrating to have one member of NDEP staff make a recommendation and then to have another staff member step forward and urge the Board to not take that recommendation. **Mr. Enberg** clarified that as a staff member of NDEP, he is a case manager whose main concerns are completing remediation. Petroleum Fund staff specifically administer the Petroleum Fund itself. **Mr. Dzyak** stated that of all his time serving on the Board, he has never witnessed a circumstance such as this and voiced his intent to follow the recommendation provided by Fund staff.

Jeff Collins, Chief, NDEP Bureau of Corrective Actions, stated that the work done by Mr. Enberg is representative of the work that happens behind the scenes on an ongoing basis. The case officer works with the CEM and the owner to ensure that the investigations move forward. It is true that with a 40 percent reduction, there may be limited funding. However, policy resolutions are in place to allow the owner/operator to regroup and draft a plan and schedule, and it is the Board's function to make decisions based upon these policy resolutions and Petroleum Fund staff recommendations. The information provided by Mr. Enberg is good information to have; however, the Board should not necessarily utilize his comments to make decisions regarding funding. **Chair**

Tappan concurred that the Board's review is guided by established policies. The owner/operator is welcome to return in December for any updated requests. She concurs with a 40 percent reduction at this time as a form of motivation to move remediation efforts moving forward.

Mike Dzyak moved to adopt Site Specific Board Determination No. C2024-04 as proposed, granting coverage under the State of Nevada Petroleum Fund to Las Vegas Cardlock for \$540,000.00. This represents \$1,000,000.00 in coverage for one gasoline UST system with a 40 percent reduction and a 10 percent copayment. Jennifer Carr seconded the motion. Motion carried. LeRoy Perks opposed.

7. **ADDITION OF APPENDIX A-2 TO THE COST GUIDELINES**

Ms. Slayden stated that the appendix establishes timelines and rates for the rental CEM-owned mobile remediation systems and does not impact the bid requirements or processes for rental of a system for a third-party vendor. The system types that this establishes rates for are: air sparge with soil vapor extraction, self-powered air sparge with soil vapor extraction with built-in generator, pulse-ox, and ozone sparge systems. In order to be considered a mobile system, it must be a complete packaged system, either trailer- or skid-mounted and would require minimal aboveground infrastructure and/or time in order to bring the system online and begin remediation. The timeframes established in this appendix are intended to allow for pilot testing, extended pilot testing, short-term remediation or interim remedial actions performed while waiting for permanent system installation.

The appendix includes a 12-month time frame for use, at which point, the status of remediation must be evaluated and a determination made regarding whether a permanent system should be installed. It also provides a six-month extension period to allow operators and their CEMs to install the system or complete the transitional period. The appendix was provided to CEMs over the summer. Comments received were generally positive, with minor clarifications sought. There were no requested adjustments to the language or the pricing. Fund staff proposed adoption of Appendix A-2 to the CEM Cost Guidelines with an effective date of December 12th, 2024, to enable any case that is currently utilizing this mechanism to work with their case officers to align their case with the new policy and continue reimbursement. The goal is to avoid lapses during the new policy implementation.

Chair Tappan invited questions from the Board.

Vice-Chair Smith noted that those who will be subject to the conditions of the appendix seem to have expressed support for its adoption. **Ms. Slayden** confirmed that the comments were amenable to adoption.

Vice-Chair Smith moved to approve the addition of Appendix A-2 to the Petroleum Fund Cost Guidelines, which establishes guidelines, timelines, and rates for rental of CEM-owned mobile remediation systems. LeRoy Perks seconded the motion. Motion carried unanimously.

Chair Tappan commended staff for the work on the appendix as well as their efforts in reaching out to, and gathering input from, the CEMs.

8. ADOPTION OF CONSENT ITEMS

The Board reviewed all items 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; 80717	Churchill County School District: Old High School	\$11,871.36	\$11,871.36
FOR POSSIBLE ACTION	2	2024000017; 80778	Emil Yankov: Residence Of 2090 Carter Drive	\$18,931.25	\$18,680.25
			SUB TOTAL	<u>\$30,802.61</u>	<u>\$30,551.61</u>

NEW CASES

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	2023000013; 80620	Terrible Herbst, Inc.: Terrible Herbst #3	\$97,680.00	\$84,719.47
FOR POSSIBLE ACTION	2	2024000008; 80711	Midjit Market, Inc.: Green Valley Grocery #58	\$73,145.77	\$52,664.96
			SUB TOTAL	<u>\$170,825.77</u>	<u>\$137,384.43</u>

ONGOING CASES

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1	1992000126; 80770	Clark County School District: RC White (Arville) Transportation Satellite	\$19,062.56	\$19,026.31
FOR POSSIBLE ACTION	2	1993000102; 80763	Rebel Oil Company: Rebel Store #2008	\$100,229.06	\$94,609.06
FOR POSSIBLE ACTION	3	1994000027; 80732	7-Eleven, Inc: 7-Eleven #19653	\$34,921.09	\$34,886.07
FOR POSSIBLE ACTION	4	1995000039; 80765	Al Park Petroleum, Inc.: Crescent Valley Market	\$8,740.60	\$7,866.54
FOR POSSIBLE ACTION	5	1996000064; 80760	The Esslinger Family Trust: Red Rock Mini Mart	\$33,166.60	\$30,516.94
FOR POSSIBLE ACTION	6	1999000014; 80766	Al Park Petroleum, Inc.: Pit Stop #7 Conoco	\$2,000.00	\$1,800.00
FOR POSSIBLE ACTION	7	1999000086; 80739	Terrible Herbst, Inc.: Terrible Herbst #126	\$5,287.50	\$4,758.75
FOR POSSIBLE ACTION	8	1999000243; 80733	7-Eleven, Inc: 7-Eleven #27607	\$16,618.57	\$13,768.25
FOR POSSIBLE ACTION	9	2007000014; 80773	Raiders Oz Business, LLC: Former Ace Cab/Frias Transportation Golden Gate Petroleum of Nevada LLC: Golden Gate Petroleum #43 - Sun Valley	\$45,583.89	\$40,992.34
FOR POSSIBLE ACTION	10	2007000016; 80767		\$10,316.66	\$9,284.99
FOR POSSIBLE ACTION	11	2008000019; 80614	One Panou, LLC: Golden Market #3	\$115,221.23	\$94,942.73
FOR POSSIBLE ACTION	12	2009000024; 80686	SJK Investments, LLC: Chuck's Circle C	\$37,957.80	\$31,653.49
FOR POSSIBLE ACTION	13	2010000009; 80769	HPT TA Properties Trust: Mill City Travel Center	\$30,476.28	\$24,685.79
FOR POSSIBLE ACTION	14	2011000009; 80771	Cimarron West: Cimarron West	\$10,455.44	\$9,409.90
FOR POSSIBLE ACTION	15	2012000005; 80742	Travel Systems, LLC: Zephyr Cove Resort	\$75,249.29	\$58,530.42
FOR POSSIBLE ACTION	16	2013000004; 80757	7-Eleven, Inc: 7-Eleven #29665	\$50,399.36	\$45,336.92

FOR POSSIBLE ACTION	17	2013000019; 80772	Hardy Enterprises, Inc.: Elko Sinclair #53	\$37,255.87	\$33,417.78
FOR POSSIBLE ACTION	18	2014000004; 80705	Alsaker Corporation: Broadway Colt Service Center	\$40,247.89	\$36,223.10
FOR POSSIBLE ACTION	19	2014000007; 80741	7-Eleven, Inc: 7-Eleven #29658	\$11,533.17	\$10,379.85
FOR POSSIBLE ACTION	20	2014000025; 80776	Superior Campgrounds of America, LLC: Silver City RV Resort	\$12,611.33	\$11,231.12
FOR POSSIBLE ACTION	21	2016000023; 80775	Al Park Petroleum, Inc.: Pit Stop #1	\$15,203.60	\$10,865.59
FOR POSSIBLE ACTION	22	2016000027; 80728	Terrible Herbst, Inc.: Terrible Herbst #272	\$18,586.66	\$15,048.97
FOR POSSIBLE ACTION	23	2017000015; 80759	Ellen 5, LLC: Auto Center (green Valley Grocery #63)	\$28,346.55	\$24,693.32
FOR POSSIBLE ACTION	24	2018000009; 80777	Reed Incorporated: Pacific Pride	\$44,883.28	\$40,385.95
FOR POSSIBLE ACTION	25	2019000008; 80734	Circle K Stores, Inc.: Circle K Store #2701354	\$18,691.97	\$9,990.49
FOR POSSIBLE ACTION	26	2019000044; 80745	7-Eleven, Inc: 7-Eleven #15829	\$29,602.11	\$26,590.06
FOR POSSIBLE ACTION	27	2020000015; 80761	Canyon Plaza, LLC: Gas 2 Go	\$30,893.81	\$16,682.66
FOR POSSIBLE ACTION	28	2021000014; 80727	Pilot Travel Centers LLC: Pilot Travel Centers LLC #341	\$11,559.77	\$10,403.79
FOR POSSIBLE ACTION	29	2021000026; 80747	7-Eleven, Inc: 7-Eleven #25578	\$10,988.15	\$9,889.33
FOR POSSIBLE ACTION	30	2022000018; 80726	Pilot Travel Centers LLC: Pilot Travel Centers LLC #341	\$8,651.79	\$6,229.29
FOR POSSIBLE ACTION	31	2022000035; 80746	7-Eleven, Inc: 7-Eleven #29407	\$54,066.25	\$48,641.63

SUB TOTAL: \$968,808.13 \$832,741.43

RECOMMENDED CLAIMS TOTAL: \$1,170,436.51 \$1,000,677.47

Jason Case recused himself from Item Number 8. LeRoy Perks moved for approval of the consent items. Vice-Chair Smith seconded the motion. Motion carried unanimously.

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.

HEATING OIL

				<u>REQUESTED</u>	<u>PAID</u>
FOR POSSIBLE ACTION	1	2024000010; 80725	Keegan Low: Residence Of 655 Canyon Circle	\$24,506.48	\$24,256.48
FOR POSSIBLE ACTION	2	2024000011; 80731	Stephen Dangberg: Residence Of 835 Daniel Drive	\$50,768.28	\$50,268.28
FOR POSSIBLE ACTION	3	2024000012; 80730	Shane Sykes: Residence Of 150 Old Washoe Drive	\$33,150.13	\$32,900.13
FOR POSSIBLE ACTION	4	2024000012; 80744	Shane Sykes: Residence Of 150 Old Washoe Drive	\$26,719.34	\$26,719.34
FOR POSSIBLE ACTION	5	2024000014; 80743	Carolyn Basta: Residence Of 7275 Lakeside Drive	\$30,450.44	\$30,200.44
FOR POSSIBLE ACTION	6	2024000015; 80748	Aaron Foster: Residence Of 1480 Romero Way	\$35,512.94	\$35,262.94
FOR POSSIBLE ACTION	7	2024000016; 80756	Robert Selwood: Residence Of 2635 Lakeside Drive	\$23,594.02	\$23,344.02
SUB TOTAL				<u>\$224,701.63</u>	<u>\$222,951.63</u>

ONGOING CASES

				<u>REQUESTED</u>	<u>PAID</u>
FOR POSSIBLE ACTION	1	1995000012; 80740	Model T Casino Resort LLC: Parker's Model T	\$10,925.22	\$9,832.70
FOR POSSIBLE ACTION	2	1999000023; 80752	Nevada Ready Mix Corp: Nevada Ready Mix	\$25,971.29	\$23,374.16
FOR POSSIBLE ACTION	3	1999000066; 80751	HP Management, LLC: Former Haycock Petroleum	\$35,042.96	\$31,538.66
FOR POSSIBLE ACTION	4	2014000033; 80758	Speedee Mart Inc.: Speedee Mart #108	\$43,938.48	\$39,544.63
FOR POSSIBLE ACTION	5	2017000035; 80754	Rebel Oil Company: Rebel Store #2177	\$12,498.50	\$11,248.65
FOR POSSIBLE ACTION	6	2018000005; 80753	Rebel Oil Company: Rebel Store # 2153	\$16,826.50	\$15,143.85
FOR POSSIBLE ACTION	7	2019000014; 80749	Western Cab Co: Western Cab CO	\$8,080.00	\$7,272.00
FOR POSSIBLE ACTION	8	2022000015; 80755	Rebel Oil Company: Rebel Store #2197	\$20,606.66	\$14,836.80
FOR POSSIBLE ACTION	9	2023000028; 80762	Anderson Dairy, Inc.: Anderson Dairy INC	\$9,416.00	\$8,474.40
SUB TOTAL				<u>\$183,305.61</u>	<u>\$161,265.85</u>
DIRECT PAYMENT CLAIMS TOTAL:				<u>\$408,007.24</u>	<u>\$384,217.48</u>

BOARD MEETING CLAIMS TOTAL: \$1,578,443.75 \$1,384,894.95

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 1,306 facilities have been invoiced as of August 29, 2024. Approximately 1,295 or approximately 99 percent of invoiced facilities have submitted the required tank fees. Staff has issued enrollment year 2025 invoices, which were generated on August 14th, 2024. Since the Fund was created, a total of 1,841 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, 1,596 cases have been closed and no longer receive Fund reimbursement. There are currently 70 active Fund cases. Since January 1, 2024, NDEP has received 18 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 \$262,283,328.48 for reimbursement to petroleum storage tank operators throughout Nevada for cleanup expenses. This includes \$384,217.48 for direct payment claims paid since the last Board meeting. With today's Board approval of claims in the amount of \$1,000,677.47, the cumulative expenditure will increase to \$263,284,005.95. There were no grants for UST upgrades this quarter.

Vice-Chair Smith inquired about monies not fully spent upon case closure. **Ms. Slayden** stated that for cases where the total coverage amounts are not expended, the money is reserved so that in the event that additional funding must be accessed in the future, those funds remain available. **Vice-Chair Smith** commented that it would be helpful to have a reconciliation detail at the end of a remediation project, which reflected the total funding utilized and any amount remaining.

11. **PUBLIC COMMENTS**

Chair Tappan recognized Mike Dzyak and the Fire Department for their excellent work. She was included in the population under evacuation preparedness.

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

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

13. **ADJOURNMENT**

The meeting adjourned at 11:11 a.m.