

**STATE OF NEVADA BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
DECEMBER 6, 2018**

1. CALL TO ORDER

Chair Tappan called the meeting to order at 10:00 a.m. from Carson City at the Laxalt Building, 401 North Carson Street, 2nd Floor Chambers. The meeting was also conducted via videoconference with Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Governor's Conference Room 5100.

A. BOARD MEMBERS PRESENT

Chair Maureen Tappan - Representative of the General Public
Vice-Chair Dawn Lietz – Department of Motor Vehicles
Greg Lovato – Nevada Division of Environmental Protection
Mike Dzyak – State Fire Marshal's Office
Rod Smith – Representative of Petroleum Refiners
LeRoy Perks – Representative of the Independent Retailers of Petroleum

BOARD MEMBERS NOT PRESENT

John Saxon - Representative of Independent Petroleum Dealers

OTHERS PRESENT

Greg Ott, State Attorney General's Office – Carson City
Jeff Kinder, Michael Cabble, Victoria Joncas, Kim Valdez, Don Warner, Megan Slayden,
Jonathan McRae, Michael Friend, Chuck Enberg, Diondrae White, Ben Moan,
and Karen Kovacs – Nevada Division of Environmental Protection (NDEP)
Joe McGinley – McGinley & Associates
Richard Channel – Reno Drain Oil
Peter Krueger – NPM&CSA–Nevada Petroleum Marketers & Convenience Store
Association
Rex Heppe – Terracon
Kathleen Johnson-Henson – The Westmark Group
Oladojm Margaret Oluaderaunmu – The Westmark Group
Keith Stewart – Stewart Environmental

2. PUBLIC COMMENT

There were no requests to speak.

3. APPROVAL OF THE SEPTEMBER 6, 2018 MINUTES

Mr. Lovato informed the Board he had a correction to item number 2 on page 2, second paragraph. Mr. Lovato said he meant to say the American Recovery and Reinvestment Act.

Vice-Chair Lietz moved to approve the September 6, 2018 minutes as amended. Mr. Lovato seconded the motion. Motion carried unanimously with changes.

4. STATUS OF THE FUND

Mr. Cabble provided a status of the State of Nevada Petroleum Fund (Fund) for Fiscal Year 2019. The balance forward was \$7,500,000. Approximately \$372,300 has been received from tank enrollment fees to date. Approximately \$2,595,070 has been generated from the \$0.0075 petroleum fee. The Fund has earned approximately \$41,131 in interest. This brings the total revenue for the fiscal year to \$10,508,502.

In terms of expenditures, board member salaries totaled approximately \$338. Board member in-state travel totaled approximately \$57. Board meeting operating costs total approximately \$645. Funds used for operating the program under NDEP for State-led cleanups, staff salaries, and ongoing database/software maintenance total \$340,570. Total reimbursement for paid claims was approximately \$2,629,433. Total cumulative expenditures are \$2,970,399. Available operating balance is \$7,538,103.05.

5. AMEND POLICY RESOLUTION 2001-05 CEM COST GUIDELINES

Mr. Cabble, NDEP, stated that the CEM Cost Guidelines (Guidelines) is a document that staff, certified environmental managers, and operators adhere to for State Petroleum Fund reimbursement. The Guidelines provide the basis for the preparation and review of Not-to-Exceed Cost Proposals (NTEPs), claims for reimbursement, and proof of payment documentation. The Resolution was initially adopted by the Board on August 16th, 1996 and has evolved over time with the program.

In drafting the amended Guidelines, there were four objectives:

- Incorporate revised online practices used in the office today
- State Petroleum Fund statutes and regulations adopted in recent years were codified in a new chapter in October, 2018 (NRS/NAC Chapter 445C)
- Revision of task hours to reflect the level of effort requested by NDEP case officers of CEMs to carry out corrective action activities at cleanup projects
- Addition of a new task to outline expectations during initial abatement activities at regulated underground storage tank facilities

NDEP solicited input from the regulated community via workshops on two separate occasions regarding proposed amendments to the Guidelines in October, 2018. In response to received comments, the draft Guidelines were further amended. On November 5th, notice was provided for today's hearing to provide a final opportunity for additional input from the regulated community. Comments were predominantly received from CEMs as well as NDEP staff (case officers). There were multiple requests to increase hours in the task tables. Most comments regarding the revised Guidelines referenced changes to the task tables. Fund staff focused on the task tables where there was general consensus for change, and made adjustments per the comments. Many of the changes resulted in increased task table hours.

It was emphasized during the workshops that although hours were increased for many tasks, if the hours are ultimately claimed, there should be a corresponding increase in quality of task deliverables. Fund staff will continue to defer to the case officer's discretion in whether or not the hours requested are prudent and appropriate for a given project.

Summary of Guidelines changes:

Mr. Cabbie stated that the Proof of Payment section was moved from 1.8 to 2.3.6. Detail has been added to the section in terms of what will be required and accepted following adoption. A new Section, 2.3.5 was added to address Petroleum Fund payments in terms of timelines for payment once a claim is approved. Section 2.3.6 has new language clarifying the two payment methods that are used by the Fund: Standard payments are approved as a consent item during Board meetings, and approval for the direct payment claim process is implemented online by Fund staff. For the standard payment, a 60-day time frame is allowed to provide documentation showing proof of payment to the appropriate entities. For direct payments, the document submittal timeline is shortened to 30-days.

Mr. Cabbie provided a review of various task table updates:

Task A.15 Fate & Transport Modeling

A Mann-Kendall trend analysis has been included. While it is not necessarily a Fate & Transport Model, it does aid in making decisions, particularly in terms of plume stability. Hours have been increased for the task not only to include the trend analysis, but also to allow better data and report submittals.

NDEP has been requesting additional modeling, particularly around the time of case closure, and specifically for groundwater exemption closures. In addition to BioScreen modeling, case officers are requesting trend analysis using the Mann-Kendall test. Mann-Kendall has not been previously included under other tasks and would otherwise have to be included under a miscellaneous task.

Task A.18 Preparation of 2-Dimensional Geologic Cross-Section(s)

This task was approached in a similar manner to Fate & Transport. Many felt that hours for this task were lacking, particularly regarding drafting and report preparation; thus, hours were increased.

Task A.19 Conceptual Site Model (CSM)

Hours for this task were not changed, however, language was provided which speaks to when this task should be used. There were differences in interpretation among case officers and Fund staff in determining whether this task was meant to be all-inclusive of work performed for a CSM or just providing a CSM after site work had been carried out under other Guidelines tasks. The workshops revealed an overwhelming consensus that they understood the CSM task to be a summary of previous tasks. Their comments further indicated the hours needed to be increased substantially to allow all the work to be done under this task, or it could be left as is and allow hours for other tasks such as Fate & Transport modeling and sensitive receptor surveys in addition to the CEM task. Fund staff decided the task would be a summary of work performed onsite, and the CSM should be updated periodically.

Task B.1 Work Plan Preparation Aquifer or Pilot Testing/Task B.5 Soil Vapor Extraction and Air Sparge Pilot Test/Task B.7 Aquifer or Pilot Test Report Preparation

These tasks center around pilot testing, which is work to be done at a site before installation of a full-size remediation system. There were many requests from CEMs and case officers to increase hours to allow for accurate testing and better explanations within the reports themselves.

Task D.1 Single-System Technology Design/Task D.2 System Design Remediation of Soil and Groundwater

These tasks deal with the follow-up to the pilot testing. Remediation systems have a cost upwards of \$250,000. It makes sense to have a robust design to allow the case officer to understand how the system will aid site cleanup. Hours were increased fairly substantially to allow for more robust designs.

Task F.2 CEM-Conducted Monthly Remediation System Maintenance/Task F.4 Groundwater Monitoring Well Sampling

These tasks address routine remediation system maintenance as well as groundwater well sampling. What was missing in both tasks was language addressing light non-aqueous phase liquids (LNAPL) or free product (petroleum floating on the surface of the water), which can be removed through various means. Language to allow oversight of LNAPL recovery was added to each task. Task F.2 centers around automated free product recovery systems and the maintenance associated with those systems.

For Task F.4, typically when monitoring a groundwater well, if there is free product, the well is not sampled. Rather, bailing or other techniques are used to remove the free product from the well after measuring its thickness. The hours that would have been spent sampling the well (if there were no free product) should instead be used for removal of product from the well.

Task F.5 Groundwater Monitoring/Remediation Status Report Preparation

This is essentially a task to prepare reports that are provided to a case officer, generally on a quarterly basis, for a project. The reports explain what is happening at the project, the status of the plume, concentrations within wells, and how the remediation system is operating. When looking at data for this task, it was common to see additional hours asked for and approved by the case officer. As such, the hours were increased commensurate with the findings.

Task G.4 Coordination of Permanent Well Closure/ Task G.5 Remediation System Decommissioning and Site Restoration

These tasks generally come at the time of case closure. When a project is coming to an end and remediation is no longer necessary, steps are taken to remove the remediation system from the site, decommission it, and abandon any wells that have been put in place at that time. Previously, no hours were included for field oversight. Eight hours were provided to be used at the consultant's discretion. Additional hours, at a technician level, may be requested for occasions when a case officer feels it is necessary for a technician to be onsite during the full scope of activities (i.e. more than 8 hours).

Task I.1 Preparation of Application for Petroleum Fund Coverage

This task pertains to the application for Petroleum Fund coverage. Fund staff make a determination as to whether or not to award coverage to a facility following identification of a release from their enrolled UST system(s) based in this application. NDEP has begun to ask for more information on these applications, and consultants have asked that they be compensated with additional hours. Hours were increased slightly to allow for a more thorough application.

Task I.2 Preparation of Petroleum Fund Reimbursement Claim

The hours added are intended to allow additional time for administrative staff to prepare proof of payment documentation and upload it through the online system. Fund staff also provided some additional time for review of these proof of payment documents at a senior level. Staff want payment documentation to be thorough and complete upon submittal.

Task J.1 Initial Abatement for Heating Oil Tank Cleanup Activity

This task allows for initial abatement of heating oil tank systems. It was well vetted prior to adoption. Hours were increased to address larger commercial-sized tanks not considered under the original J.1 Task. With larger sites, NDEP would like to see a more comprehensive report, addressing whether the initial abatement activities removed all the contamination or further characterize the site (requires NTEPs). Site maps, drafting, and sensitive receptors are components NDEP would like to see for larger sites, which are not generally required for a residential heating oil tank project. The additional hours are not intended to be claimed on a residential heating oil tank site. An additional amendment was approval for rapid turnaround for sampling results. Rapid turnaround times expedite the initial abatement process to get conditions rectified more quickly.

Task J.2 Initial Abatement for Regulated Underground Storage Tank Cleanup Activities

Task J.1 was used as a basis for creating J.2, which is the initial abatement for regulated underground storage tank systems. All parties recognize that there is a benefit to removing secondary source materials when the tanks are removed from the ground. If these secondary source soils are removed during the initial abatement phase of the project, the costs for removal of the soils are lower and there is less of a leaching component during remediation activities. The task provides a mechanism under which the CEM can remove the saturated soils and be reimbursed by the Fund prior to a Fund case being established.

It is important to note that these activities will occur prior to a Fund coverage determination and often before a remediation case would be assigned. There is a transition from the regulatory underground compliance program for an active system to the leaking underground storage tank compliance program when a release occurs. Because this transition takes time, this task allows a CEM to do what they need to do without delaying the project. The CEM will be asked to demonstrate that the release did occur from the removed system, that the system was enrolled at the time the release was discovered, and that the soil contamination removed under the task is in fact contaminated above NDEP action levels. If the CEM cannot demonstrate these items in their initial claim after the activities have been performed, NDEP may deny or reduce the claim amount. When NDEP performs a coverage application review for the site and the Board concurs with a coverage reduction, the reduction would be applied to the initial abatement costs as well.

Mr. Smith asked for clarification of task items in J.1 as compared to J.2; specifically, why does J.1 allow drafting and J.2 does not.

Mr. Cabbie stated that the J.2. task addresses covering expenses not previously covered. During the transition from the UST compliance program to the leaking UST compliance program following a release, there are actions required by UST regulations that the Fund has not covered in the past. These include taking samples when the tank(s) come out of the ground to see if there has been a release as well as providing a UST closure report to the UST Compliance program. The report speaks to when the tanks came out of the ground, what leaks were observed, if any, and what the initial closure sample results were. There is overlap when transitioning between programs. NDEP is not looking to cover all costs associated with the tank removal under the task; the focus is on just the excavation of the saturated soils beneath the tank system. That said, there are hours available

under the J.2 task to include a short section on abatement activities within a UST closure report. However, the full closure report is not being paid for under the J.2 task, which means drafting hours are not necessary. What is being paid for is initial closure sampling if contamination is evident, expedition of those closure samples, removal of the impacted soil, and confirmation sampling to determine whether or not remaining soils are below action levels or warrant additional corrective action.

Mr. Lovato asked Mr. Cabble to summarize the main comments received from the CEM community and case officers and how those were addressed in creation of Task J.2.

Mr. Cabble stated that the new task was sent out as an amendment to the Guidelines to the regulated community. Prior to that, a draft went out to case officers and other NDEP staff before being added to the CEM Cost Guidelines. The language was rewritten multiple times based on input from case officers and the regulated community. In general, the comments received during the workshops were positive. Minor questions such as how did NDEP arrive at the maximum tonnage or cubic yard thresholds were asked. In answering the question, Mr. Cabble looked at the typical gas station containing three underground storage tanks generally between 8,000 and 12,000 gallons in capacity. That footprint was used and it was determined that approximately five feet of excavation would be allowed over the entire footprint from the bottom of the tank pit. This generates a lot of soil for potential disposal. However, it also allows for a scenario where if only one of the three tanks leaks, perhaps they could dig a little bit deeper. If there are piping issues, those can be addressed. The task is not specific to the tank, but the system as a whole.

Mr. Lovato inquired whether there was a sense that this is likely to increase excavation at tank removal and whether consultants indicated that if they had previously had the ability to do so, they would have done this at other sites.

Mr. Cabble said there is definitely this sentiment present. People were generally excited about this, as they could perform some activities that they may have held back on or paused previously, as they did not know whether they would be reimbursed. It is likely that soils were left in place at sites that NDEP is still paying for or cleaning up because new tanks were installed over impacted soils, or the previous tank excavation was backfilled at the time of the removal and there is still a leaching component.

Mr. Cabble continued by addressing the appendices.

Appendices

Appendix B: CEM Travel and Per Diem Rates

Fund staff removed per diem rates and travel rates from a table format. It makes little sense to include a table, as rates change annually, some at the beginning and some on the federal fiscal year. In place of a table, the website will be referenced and kept up to date.

Appendix F: Remediation Pursuant to Initial/Emergency Abatement

The language of this appendix was updated to provide more description as to initial or emergency abatement for release associated to a storage tank system.

In addition to the updates in the final draft before the Board, Mr. Cabble requested an additional minor language change during the meeting, which was noted as not substantive in nature. A term used in Appendix F is a “confirmed release”. It addresses a scenario where a leak has been identified as coming from the storage tank system and impacting the environment. Unfortunately,

between the Petroleum Fund Program and remediation program and even UST programs, this is not a term that is universally defined among all three programs. Rather than fixate and focusing on this term, the Fund requested the Board approve using the more general term of “release,” which is defined by all three programs. Language in Appendix F already specified initial/emergency abatement must be associated to a “release to the environment from the tank system”. This language is also consistent with what is contained in the J.2. Task for regulated UST systems.

Mr. Lovato stated that in the past, there have been cases where the fund staff, case officer, and consultant may have not reached agreement on whether the source of the leak has been identified and stopped. He asked whether such uncertainty could affect reimbursement in these cases.

Mr. Cabble said that under this particular appendix and initial abatement in general, he did not feel this is as much of a concern, because typically the entire system is being removed.

Mr. Lovato voiced his understanding that the main goal of the evaluation in the past was just to make sure the Fund was not paying for abating a condition that was continuing to cause a problem rather than pinpointing the exact cause of the release. Based on Mr. Cabble’s explanation, this will not necessarily be a focus of debate in the future.

Mr. Cabble clarified that they will still be asking for documentation and demonstration that the release did actually occur from the system. However, there is still a path to coverage when the entire system comes out. In identifying a component, they would be able to say without a doubt that the leak came specifically from the system being removed versus a historical release from a previous system.

General questions about the CEM Cost Guidelines

Mr. Dzyak asked about the total hours increased and the expected additional costs.

Mr. Cabble stated that where the task tables have red strikethrough of the original hours with adjacent blue bolded numbers, that reflects an increase. The changes will be applied to any claim moving forward. The costs may increase. This something for which the case officers are relied on to control through the NTEP process. An actual percentage is not known, as each task is independent and not all projects will request all tasks.

Mr. Lovato surmised that the biggest potential increase to the Fund costs are by adding new Task J.2. It seems as though the reason for increased hours in other tasks was because they were found to be requesting additional hours for the tasks anyway.

Mr. Cabble said in looking at the available data, they can see which tasks are requested, how often they are requested, when a CEM is asking for additional hours above and beyond what was specified for that task, and whether or not those hours are approved by a case officer. In the instance where task hours were increased, the additional hours are being routinely justified by CEMs and approved by case officers.

Mr. Smith stated his understanding that this is also tied to wage rates. He asked how they control what can be charged for the items.

Mr. Cabble said that at this time, CEMs are allowed to set their own rates. Rates are set through skill level and the costs are controlled through the allowable hours.

Vice-Chair Lietz voiced her understanding that the hours and cases were reviewed on all the various cases. On the tasks where additional hours are routinely asked, rather than having the CEM

make the request, the policy is being changed to automatically authorize the maximum number of allowable hours.

Mr. Cabble agreed that this is generally correct. However, they do not like to use the term, “maximum” because none of the tasks can be designed for every project scenario. The hours reflect the average anticipated workload. The case officer can adjust the hours up or down when they approve an NTEP.

Mr. Channel of Reno Drain Oil asked if Fund staff had made a decision in defining when the initial abatement period ends for a project.

Mr. Cabble responded that Fund staff will use the updated language in the J.1 task, which states the initial abatement period ends when equipment used to remove the tank systems is removed from the site and/or the excavation is backfilled. The idea behind this language is not to pay for multiple mobilization and demobilization of equipment to and from a project. Initial abatement activities should be carried out with the equipment used to remove the tank system while it is available.

Mr. Channel requested further clarification by asking if equipment is used to remove a tank system and taken offsite to do another job, has the initial abatement period ended, or can work be done at a later date if the excavation has not been backfilled.

Mr. Cabble responded by saying the “and/or” language used allows the Fund flexibility to cover initial abatement activities for various projects. In the scenario provided by Mr. Channel, if the excavation is left open and equipment was removed from the site to perform work elsewhere, initial abatement activities could still be carried out at a later date because the excavation was not backfilled and work would occur shortly after closure sampling results were received. However, the Fund is only going to pay for the second trip when the abatement activities were performed. The initial mobilization/demobilization associated with the tank removal would not be covered.

Mr. Channel finished by stating he is very active in the industry and has been doing this work since the mid-1980s (prior to establishment of the Fund). The money from the Fund for homeowners overtime has helped substantially with residential heating oil tank projects. He expressed his appreciation for the Fund, particularly the direct payment process.

Peter Krueger, representing the Nevada Petroleum Marketers & Convenience Store Association, stated that their association is the trade association that represents homeowners, commercial and residential tank owners and operators. He commended staff on the revisions, which will be good for tank owners and operators. It recognizes things have changed over time, cleanups have changed, and technology has changed.

Chair Tappan called for a motion.

Vice-Chair Lietz also commended staff for the significant work and thoughtfulness in making the changes.

Vice-Chair Lietz moved to adopt C2001-05, as proposed, including the change in language on page 126 and 127 (Appendix F). Mr. Perks seconded the motion. Motion carried unanimously.

6. **ADOPTION OF CONSENT ITEMS**

The Board will review all items as a consent calendar item, unless the item is marked by an asterisk (*), or a member of the public wishes to speak in regards to the item.

A dagger (†) indicates previously disallowed monies have been 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.

**STATE BOARD TO REVIEW CLAIMS
REQUESTED/RECOMMENDED AMOUNTS – DECEMBER 6, 2018**

HEATING OIL

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1.†	1993000020	University Of Nevada Reno: Albert Fragione Property	\$4,750.25	\$5,000.25
FOR POSSIBLE ACTION	2.	2007000013	Churchill County School District: Churc. Co. S.d. Bus Barn	\$1,154.00	\$1,154.00
FOR POSSIBLE ACTION	3.	2012000017	Churchill County School District: Old High School	\$7,918.93	\$7,918.93
FOR POSSIBLE ACTION	4.	2013000012	Roger & Gemma Mateossian: Mateossian Residence	\$4,862.50	\$4,862.50
FOR POSSIBLE ACTION	5.	2018000004	Laura Scott: Laura A. Scott Residence	\$746.00	\$746.00
FOR POSSIBLE ACTION	6.	2018000024	Jacobs Entertainment: 339 Ralston Street, LLC	\$8,347.13	\$8,097.13
FOR POSSIBLE ACTION	7.	2018000038	Sherri Long: Christopher A. Long Residence	\$11,961.36	\$11,711.36
FOR POSSIBLE ACTION	8.	2018000039	Humberto Aguilar-Chavez: Humberto A. Chavez Residence	\$13,201.26	\$12,951.26
SUB TOTAL:				<u>\$52,941.43</u>	<u>\$52,441.43</u>

NEW CASES

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1.	2018000005	Rebel Oil Company: Rebel Store # 2153	\$16,519.87	\$14,867.88
SUB TOTAL:				<u>\$16,519.87</u>	<u>\$14,867.88</u>

ONGOING CASES

				<u>REQUESTED</u>	<u>RECOMMENDED</u>
FOR POSSIBLE ACTION	1.	1992000126	Clark County School Dist.: Rc White (Arville) Transport. Satellite	\$25,155.75	\$24,839.01
FOR POSSIBLE ACTION	2.	1993000102	Rebel Oil Company: Rebel Store #2008	\$23,455.09	\$23,455.09
FOR POSSIBLE ACTION	3.	1993000103	Charlie Brown Construction: Charlie Brown Const.	\$5,499.00	\$5,364.52

ONGOING CASES: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	4.	1994000029	7-Eleven INC: 7-Eleven #20826	\$41,025.28	\$36,922.75
FOR POSSIBLE ACTION	5.	1994000037	Param Investments LLC: Go-Fer Supermarket	\$21,708.73	\$21,708.73
FOR POSSIBLE ACTION	6.	1994000067	Peppermill Casinos INC: Frmr Peppermill Truckstop	\$3,320.50	\$3,320.50
FOR POSSIBLE ACTION	7.	1995000039	Al Park Petroleum Inc: Crescent Valley Market	\$36,366.78	\$32,730.10
FOR POSSIBLE ACTION	8.	1995000042	FBF INC: Gas 4 Less	\$22,750.73	\$19,494.66
FOR POSSIBLE ACTION	9.	1996000063	Joan Pennachio: V & V Automotive	\$8,024.31	\$8,024.31
FOR POSSIBLE ACTION	10.	1996000064	H & A Esslinger, LLC: Red Rock Mini Mart	\$81,112.85	\$71,184.27
FOR POSSIBLE ACTION	11.	1996000101	Phillips 66 Company: Circle K #695	\$20,411.45	\$15,427.13
FOR POSSIBLE ACTION	12.	1998000068	Phillips 66 Company: Conoco #28003	\$22,942.29	\$20,634.71
FOR POSSIBLE ACTION	13.	1998000079	The Carrington Company: Texaco	\$57,581.58	\$51,823.42
FOR POSSIBLE ACTION	14.	1999000014	Al Park Petroleum Inc: Pit Stop #7 Conoco	\$6,970.76	\$6,157.82
FOR POSSIBLE ACTION	15.	1999000052	Estate Of Martin T. Wessel: Ted's Chevron	\$11,993.02	\$10,793.72
FOR POSSIBLE ACTION	16.	1999000064	Al Park Petroleum Inc: Pit Stop #4 (Conoco)	\$9,681.99	\$8,713.79
FOR POSSIBLE ACTION	17.	1999000114	City Of Fallon: Fallon Maint. Yard	\$12,836.46	\$11,552.81
FOR POSSIBLE ACTION	18.	1999000199	Village Springs, LLC: Lakeshore Orbit Station	\$6,691.55	\$6,691.55
FOR POSSIBLE ACTION	19.	1999000244	7-Eleven INC: 7-Eleven #22070	\$98,564.74	\$88,708.27
FOR POSSIBLE ACTION	20.	2004000011	Travel Centers Of America: Wells Petro Truck Service	\$30,517.98	\$27,089.80
FOR POSSIBLE ACTION	21.	2005000002	Carson Valley Oil Co Inc: Carson Valley Oil CO	\$13,015.93	\$11,714.34
FOR POSSIBLE ACTION	22.	2005000036	Phillips 66 Company: Circle K #1791	\$3,139.17	\$2,260.21
FOR POSSIBLE ACTION	23.	2007000014	Ace Cab Company: Ace Cab Company	\$32,281.44	\$29,053.30
FOR POSSIBLE ACTION	24.	2008000005	Avis Rent A Car System LLC: Avis Rent A Car	\$35,308.24	\$29,603.24
FOR POSSIBLE ACTION	25.	2008000019	One Panou LLC: Golden Market #3	\$14,488.81	\$13,039.93
FOR POSSIBLE ACTION	26.	2009000017	D & J Holdings, LLC: Convenience Corner Shell	\$3,981.50	\$3,398.85
FOR POSSIBLE ACTION	27.	2009000024	Parampreet Investment LLC: Chucks Circle C Market	\$18,083.44	\$16,275.09
FOR POSSIBLE ACTION	28.	2010000003	Sira Truck Holdings, Lllp: Big Wheel Truck Center	\$2,294.25	\$2,064.83
FOR POSSIBLE ACTION	29.	2010000005	7-Eleven INC: 7-Eleven #27071	\$10,814.16	\$9,732.74
FOR POSSIBLE ACTION	30.	2010000007	Pecos Express: Pecos Station	\$10,964.92	\$9,868.43
FOR POSSIBLE ACTION	31.	2010000009	Travel Centers Of America: Mill City Travel Center	\$18,408.84	\$14,911.16
FOR POSSIBLE ACTION	32.	2011000009	Cimarron West: Cimarron West	\$52,728.51	\$47,455.66
FOR POSSIBLE ACTION	33.	2012000003	7-Eleven INC: 7-Eleven #26627	\$22,355.59	\$16,096.02
FOR POSSIBLE ACTION	34.	2012000012	Dewey Has Gas, INC: Smart Mart	\$37,514.90	\$32,920.22
FOR POSSIBLE ACTION	35.	2013000019	Hardy Enterprises INC: Elko Sinclair #53	\$135,181.53	\$85,810.12
FOR POSSIBLE ACTION	36.	2013000020	7-Eleven INC: 7-Eleven #26395	\$7,589.20	\$6,830.28
FOR POSSIBLE ACTION	37.	2014000004	Alsaker Corp: Broadway Colt Service Center	\$29,305.96	\$26,329.46
FOR POSSIBLE ACTION	38.	2014000010	7-Eleven INC: 7-Eleven #29667	\$24,158.60	\$21,742.74

ONGOING CASES: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR POSSIBLE ACTION	39.	2014000025	Superior Campgrounds Of America LLC: Silver City Rv Resort	\$121,797.62	\$109,617.86
FOR POSSIBLE ACTION	40.	2015000005	Elko Acquisitions LLC dba Red Lion Chevron: Red Lion Chevron	\$13,390.34	\$12,051.31
FOR POSSIBLE ACTION	41.	2015000009	Travel Centers Of America: Las Vegas Travel Center	\$3,347.35	\$3,012.61
FOR POSSIBLE ACTION	42.	2015000013	7-Eleven INC: 7-Eleven #16896	\$49,355.31	\$44,419.78
FOR POSSIBLE ACTION	43.	2016000005	Golden Gate S.e.t. Retail of NV LLC: Golden Gate Fac. #65-Fallon	\$8,195.10	\$7,375.59
FOR POSSIBLE ACTION	44.	2016000009	7-Eleven INC: 7-Eleven #13685	\$10,031.83	\$9,028.65
FOR POSSIBLE ACTION	45.	2016000011	Reno Seven Seas INC: Arco Am/pm	\$605.00	\$517.27
FOR POSSIBLE ACTION	46.	2016000012	DLF Corporation: Mr Ds Fastlane	\$7,197.47	\$6,477.72
FOR POSSIBLE ACTION	47.	2016000021	7-Eleven INC: 7-Eleven #29647	\$6,358.55	\$5,722.69
FOR POSSIBLE ACTION	48.	2016000023	Al Park Petroleum Inc: Pit Stop #1	\$27,505.56	\$19,804.01
FOR POSSIBLE ACTION	49.	2017000015	Gmr National A Nevada General Partnership: 24x7 Mini Mart	\$27,962.72	\$20,133.16
FOR POSSIBLE ACTION	50.	2017000035	Rebel Oil Company: Rebel Store #2177	\$26,132.80	\$23,499.41
FOR POSSIBLE ACTION	51.	2018000009	Reed Incorporated: Pacific Pride	\$4,882.75	\$4,394.47

SUB TOTAL: \$1,324,988.23 \$1,139,798.11

RECOMMENDED CLAIMS TOTAL: \$1,394,449.53 \$1,207,107.42

Mr. Lovato moved for approval of the consent items, Heating Oil, 1 through 8, New Cases, 1, and Ongoing Cases 1 through 51.
Mr. Dzyak seconded the motion. Motion carried unanimously.

7. **DIRECT PAYMENT OF UNCONTESTED CLAIMS MADE PER POLICY RESOLUTION 2017-02**

The Board to Review Claims authorizes NDEP to make claim payments prior to a Board meeting when the recommended payment value is uncontested. This authorized delegation is consistent with the findings in the memorandum from the Attorney General's Office dated August 3, 2017 (Attachment A of Policy Resolution 2017-02). Below is a list of all quarterly claim payments made on the Board's behalf in accordance with Policy Resolution No. 2017-02.

A dagger (†) indicates previously disallowed monies have been 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.

**STATE BOARD TO REVIEW CLAIMS
REQUESTED/RECOMMENDED AMOUNTS – DECEMBER 6, 2018**

HEATING OIL – DIRECT PAYMENT

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR DISCUSSION	1.	2018000026	Ggg Real Estate Holdings LLC.: Ggg Real Estate Holdings, LLC	\$14,052.48	\$13,802.48
FOR DISCUSSION	2.	2018000027	Ksenia Timonina: Ksenia Timonina Residence	\$14,820.62	\$14,570.62
FOR DISCUSSION	3.	2018000028	Mintage Investment LLC: Mintage Investment, LLC	\$19,964.63	\$19,714.63
FOR DISCUSSION	4.	2018000030	Maribel Nicholson: Maribel Nicholson Residence	\$14,434.45	\$14,184.45
FOR DISCUSSION	5.	2018000031	Stephanie Ball Living Trust: Stephanie J. Ball Residence	\$13,210.07	\$12,710.07
FOR DISCUSSION	6.	2018000036	Pearl Ormsby: Pearl S. Ormsby Residence	\$18,412.83	\$18,162.83
			SUB TOTAL:	<u>\$94,895.08</u>	<u>\$93,145.08</u>

OTHER CASES – DIRECT PAYMENT

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR DISCUSSION	1.	1994000015	Pilger Family Holdings: Former D & G Oil Company	\$37,178.43	\$37,178.43
FOR DISCUSSION	2.	1994000122	Michelsen's Gas A Mart, Inc: Mike's Chevron	\$10,503.11	\$10,503.11
FOR DISCUSSION	3.	1997000008	Ewing Bros Inc: Ewing Bros INC	\$11,892.50	\$10,703.25
FOR DISCUSSION	4.	1998000034	Chevron Usa Products CO.: Chevron #9-4116	\$128,100.05	\$114,683.57
FOR DISCUSSION	5.	1999000022	Terrible Herbst, INC.: Terrible Herbst #129 (Chevron)	\$10,320.78	\$9,288.70
FOR DISCUSSION	6.	1999000022	Terrible Herbst, INC.: Terrible Herbst #129 (Chevron)	\$9,830.75	\$8,847.67
FOR DISCUSSION	7.	1999000023	Nevada Ready Mix Corp: Nevada Ready Mix	\$23,703.95	\$21,333.55
FOR DISCUSSION	8.	1999000029	Terrible Herbst, INC.: Terrible Herbst #136 (Arco)	\$29,961.79	\$26,965.61
FOR DISCUSSION	9.	1999000029	Terrible Herbst, INC.: Terrible Herbst #136 (Arco)	\$16,167.33	\$14,550.60

OTHER CASES – DIRECT PAYMENT: CONTINUED

			<u>REQUESTED</u>	<u>RECOMMENDED</u>	
FOR DISCUSSION	10.	1999000066	HP Management, LLC: Former Haycock Petroleum	\$44,304.31	\$39,828.88
FOR DISCUSSION	11.	1999000086	Terrible Herbst, INC.: Terrible Herbst #126 (Arco)	\$5,013.75	\$4,512.37
FOR DISCUSSION	12.	1999000086	Terrible Herbst, INC.: Terrible Herbst #126 (Arco)	\$3,177.50	\$2,859.75
FOR DISCUSSION	13.	1999000104	Terrible Herbst, INC.: Terrible Herbst #118 (Arco)	\$12,426.94	\$11,184.25
FOR DISCUSSION	14.	1999000135	Terrible Herbst, INC.: Terrible Herbst #106 (Gas) & #108 (Lube)	\$11,094.54	\$9,985.09
FOR DISCUSSION	15.	1999000137	Terrible Herbst, INC.: Terrible Herbst #152 (Gas) & #155 (Lube)	\$17,595.48	\$15,835.93
FOR DISCUSSION	16.	1999000137	Terrible Herbst, INC.: Terrible Herbst #152 (Gas) & #155 (Lube)	\$7,670.28	\$6,903.25
FOR DISCUSSION	17.	2005000044	Ewing Bros Inc: Ewing Bros INC	\$18,275.48	\$16,447.93
FOR DISCUSSION	18.	2009000017	D & J Holdings, LLC: Convenience Corner Shell	\$7,005.75	\$6,305.17
FOR DISCUSSION	19.	2013000009	Western Petroleum: Western Petroleum	\$20,808.30	\$18,727.47
FOR DISCUSSION	20.	2013000011	Har Moor Investments, LLC: Village Shop #4	\$16,565.00	\$14,908.50
FOR DISCUSSION	21.	2014000016	Smitten Oil And Tire Co Inc: Former Smitten Oil	\$7,159.47	\$6,430.02
FOR DISCUSSION	22.	2014000033	Speedee Mart Inc: Speedee Mart #108	\$26,664.60	\$23,998.14
FOR DISCUSSION	23.	2014000041	Forever Resorts: Callville Bay Resort Marina	\$4,935.00	\$4,441.50
FOR DISCUSSION	24.†	2016000027	Terrible Herbst, INC.: Terrible Herbst #272	\$16,548.60	\$37,915.86
FOR DISCUSSION	25.	2016000027	Terrible Herbst, INC.: Terrible Herbst #272	\$812.27	\$657.94
FOR DISCUSSION	26.	2017000027	John Edmond: Mlk Gas Mart	\$3,735.00	\$3,361.50
			SUB TOTAL:	<u>\$501,450.96</u>	<u>\$478,358.04</u>
			DIRECT PAYMENT CLAIMS TOTAL:	<u>\$596,346.04</u>	<u>\$571,503.12</u>
			BOARD MEETING CLAIMS TOTAL:	<u>\$1,990,795.57</u>	<u>\$1,778,610.54</u>

Mr. Smith asked if this was the first time the Board is seeing this report. Is the process working well?

Mr. Cabble said it was introduced two quarters ago. Per Direct Payment Policy Resolution 2017-02 staff is required to provide a list of claims approved on the Board’s behalf and which have been uncontested by an owner or CEM. This item is for informational purposes. There were 32 claims for the quarter, representing approximately three times as many claims submitted as the last quarter. It is expected that this list will become much larger than the consent item list. Direct payment is well received with predominantly positive feedback.

8. **EXECUTIVE SUMMARY**

Mr. Cabbie presented the Executive Summary. He stated that since the inception of the Fund in 1989, a total of 1,613 remediation cases have applied for Fund coverage. Of those, approximately 173 cases were denied coverage for ineligibility or other reasons. Of the cases provided coverage, 1,293 cases have closed. Currently 145 cases are active under the Fund. Since January 1, 2018, NDEP has received 37 new applications, including both commercial and residential heating oil sites. Two new applications are currently under review and pending determination.

Mr. Cabbie stated that prior to this Board meeting, funds approved to date total \$227,535,880.89 for reimbursement of petroleum claims. The above total includes the 32 direct payment claims processed during the past quarter (\$571,503.12). With today's approval of the consent item list, an additional \$1,207,107.42 will be added to the total, bringing the cumulative total to \$228,742,988.31. The enrollment year runs October 1st, 2018 through September 30th, 2019. For the year, approximately 1,266 facilities have been invoiced with receipt of approximately 95.6 percent of payments to date.

In terms of the 1099 Form, it still sits with the USDA. A determination has not yet been received. NDEP will reach out before tax season for an update.

In terms of the Eagle Gas update, NDEP has spent Petroleum Fund money to clean up the site. On October 22, 2018, they received a request for no further action. It was submitted in conjunction with an updated conceptual site model for the project. NDEP has not granted a no further action determination at this time. The project still needs to remove the remediation system from the site and abandon the monitoring wells. NDEP will then reevaluate the no further action determination. They will be taking into consideration the fact that the responsible party has yet to pay an injunction levied against the property owner.

Mr. Lovato suggested consideration for sending a letter from the director of the Department of Conservation and Natural Resources and Chair of the Board to the Department of Agriculture to prioritize the 1099 tax deferral determination.

Mr. Cabbie acknowledged that this needs to be done very soon.

9. **PUBLIC COMMENTS**

There were no requests to speak.

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

Chair Tappan stated that the next Board meeting is tentatively scheduled for on Thursday, March 14th, 2019 at 10:00 a.m.

Mr. Lovato commented that he will have difficulty being present at meetings on Tuesdays or Thursdays during legislative session.

Chair Tappan asked Mr. Cabbie to adjust the meeting schedule as appropriate to allow Mr. Lovato to attend.

11. **ADJOURNMENT**

The meeting adjourned at 11:16 am.