

**RESOLUTION OF THE BOARD TO REVIEW CLAIMS OF THE  
DIVISION OF ENVIRONMENTAL PROTECTION OF THE  
STATE DEPARTMENT OF CONSERVATION  
AND NATURAL RESOURCES**

**Resolution No. 2013-01**

**Adopted on March 8, 2012**

**Authority: NRS 590.830**

STATE BOARD TO REVIEW CLAIMS

MEETING OF MARCH 8, 2012

Videoconferenced in Carson City and Las Vegas, Nevada  
Summary of Site Specific Board Determination

ITEM: VIII.A.

SUBJECT: Amended Resolution #96-001 – Addresses Costs associated with Underground Storage Tank (UST) removals. The amendment removes the requirement that the reimbursement decision is to be based solely on monetary comparisons and refines the overall language.

DISCUSSION: The State Board to Review Claims has on occasion, approved reimbursement costs for the removal of USTs when it could be demonstrated that the UST removal was either required by a regulatory agency, necessitated by a known release from the UST, or was necessary to implement a remediation plan at the facility.

The removal of an UST is not typically necessary for remediation. Remediation of impacted environmental media can typically be achieved in-situ without UST removal. Therefore, UST removal may not always be the least costly option to achieve successful remediation.

The proposed resolution requires that NDEP not recommend to the Board any reimbursement for costs associated with UST removals except in cases where cost effectiveness and/or the imminent protection of human health or the environment can be demonstrated. This applies to cases where a release was detected prior to the UST removal. All other UST owners will have the opportunity to appeal the facts of their specific case to the Board.

RECOMMENDATION: Adoption of Amended Resolution #96-001 as proposed.

STATE BOARD TO REVIEW CLAIMS  
RESOLUTION #96-001, Amended

Resolution to Adopt a Policy Regarding the Reimbursement of Costs Associated with the Removal of Underground Storage Tanks

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Whereas, the State Board to Review Claims (hereinafter referred to as the Board) Finds:

1. The Board has, on occasion, authorized the reimbursement of costs associated with removing Underground Storage Tanks (UST), including non-regulated USTs such as those used to store heating oil, when an assessment was completed prior to UST removal which demonstrated the presence of contamination or concluded the most effective remediation approach required UST removal.
2. 40 CFR 280.72 requires the assessment of a site whenever a permanent UST closure occurs.
3. In many circumstances, assessments demonstrate the presence of contamination and the subsequent need for corrective action. Resulting documentation demonstrating the presence of a release may be used to justify the reimbursement of costs associated with the removal of an UST, especially when an imminent threat exists to human health or to the environment.
4. The removal of an UST is not typically necessary to effectively complete a remediation project. Effective remediation of impacted environmental media can often be achieved in-situ without removing an UST.

THEREFORE BE IT RESOLVED THAT:

1. Recommendation for cost reimbursement will not be provided to the Board for an UST removal if the UST was removed prior to assessment activities.
2. Recommendation for cost reimbursement will not be provided to the Board for an UST removal unless an analysis, which examines no less than three remediation alternatives, is conducted that accurately demonstrates UST removal as the least expensive option or else necessary for the imminent protection of human health and/or the environment.

3. Appeal of a cost reimbursement recommendation must be made to the Board at the meeting the claim is first presented.

I, John Haycock, Chairman, do hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted by the Nevada State Board to Review Claims on March 8, 2012.

/s/

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John Haycock, Chairman  
State Board to Review Claims