

STATE BOARD TO REVIEW CLAIMS

Meeting of December 10, 2009
Videoconferenced in Carson City and Las Vegas, Nevada
Summary of Resolution

ITEM VI.B

SUBJECT: Resolution to Designate Former Red Rock Mini Mart, 5525 West Charleston Blvd., Las Vegas, NV as a Small Business, State Facility ID No. 8-000161, Petroleum Fund Case ID No. 1996000064.

DISCUSSION: The above-referenced facility was previously recommended for coverage from the State of Nevada Petroleum Fund (Fund) with a 21% reduction in addition to a 10% co-payment for releases from two underground storage tank (UST) systems.

The owner, the Esslinger Family Trust, has requested that the subject facility be classified as a small business. Granting the request would limit the 10% co-payment to \$50,000 as per Nevada Revised Statute 590.890(2).

A small business is defined in Nevada Administrative Code (NAC) 790.710 as “a business which receives less than \$500,000 in gross annual receipts ... the 5 fiscal years immediately preceding the release.” The Esslinger Family Trust has submitted the relevant federal income tax returns to support the request, as per NAC 590.714

RECOMMENDATION: **Adoption** of Resolution No. 2009-09 as proposed, to designate Former Red Rock Mini Mart, Fund Case 1996000064, as a small business.

STATE BOARD TO REVIEW CLAIMS

RESOLUTION NO. 2009-09

Resolution to Designate as a Small Business
Former Red Rock Mini Mart
5525 West Charleston Blvd., Las Vegas, Nevada
Petroleum Fund Case ID No. 1996000064
State Facility ID No. 8-000161

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

1. On August 16, 1996 the Board granted coverage under the State of Nevada Petroleum Fund (Fund) to the Former Red Rock Mini Mart, Fund Case 1996000064, with a 21% reduction in addition to a 10% co-payment for releases from two underground storage tank (UST) systems. In Resolution #96-030, the Board to Review Claims approved the reduced level of coverage because 21% percent of the contamination at the facility was estimated to have resulted from a previous ineligible release.
2. The owner, the Esslinger Family Trust, has requested that the subject facility be classified as a small business. Granting the request would limit the 10% co-payment to \$50,000 regardless of the number of tanks as per Nevada Revised Statute (NRS) 590.890(2), which reads as follows:

NRS 590.890 Allocation of costs resulting from discharge from other storage tanks ...

If the costs resulting from a discharge from any other storage tank exceed \$5,000, the costs must be paid as follows, to the extent applicable:

2. By an operator which is a small business, 10 percent of the first \$1,000,000 for cleaning up each tank and of the first \$1,000,000 of liability for damages from each tank to a person other than this state or the operator of the tank, or both amounts. The total amount paid by an operator pursuant to this subsection must not exceed \$50,000 for cleaning up and \$50,000 for damages regardless of the number of storage tanks involved.
3. The maximum amount reimbursable from the Fund for the two UST systems would increase from \$1,422,000 to \$1,530,000 because the maximum co-payment from the owner would be reduced from \$158,000 to \$50,000.
4. To date, the owner has paid \$71,069.43 in co-payments and the Fund has reimbursed \$639,624.81 of the allowable \$710,694.23 requested.
5. A small business is defined in Nevada Administrative Code (NAC) 790.710 as “a business which receives less than \$500,000 in gross annual receipts... the 5 fiscal years immediately preceding the release.”
6. The owner has submitted the relevant 1991-1995 federal income tax returns to support the request, as per NAC 590.714.

THEREFORE BE IT RESOLVED:

The Board finds that:

1. On August 16, 1996 the Board granted coverage to the Former Red Rock Mini Mart, Fund Case 1996000064, with a 21% reduction in addition to a 10% co-payment for releases from two underground storage tank (UST) systems.
2. The owner, the Esslinger Family Trust, has requested that the subject facility be classified as a small business. Granting the request would limit the 10% co-payment to \$50,000 (NRS 590.890(2)).
3. A small business is defined in Nevada Administrative Code (NAC) 790.710 as “a business which receives less than \$500,000 in gross annual receipts... the 5 fiscal years immediately preceding the release.”
4. The Esslinger Family Trust has submitted the relevant 1991-1995 federal income tax to support the request, as per NAC 590.714.
5. Fund ID 1996000064 is designated a small business with a 10% co-payment not to exceed \$50,000.
6. The maximum reimbursable amount for the subject facility is \$1,530,000 which reflects \$1,000,000 in Fund coverage for two leaking UST minus a 21% reduction, and a 10% co-payment capped at \$50,000.

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 December 10, 2009.

John Haycock, Chairman
State Board to Review Claims