

PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
January 27, 2020
Lee Metcalf Building, Room 111, 1520 E 6th Avenue
Helena, MT

Board Members in attendance were Greg Taylor, Jason Rorabaugh, Keith Schnider, Ed Thamke, Mark Johnson, and Gretchen Rupp. Also, in attendance in Room 111 were Terry Wadsworth, Executive Director; Kyle Chenoweth, Attorney for the Board; and Ann Root and Garnet Pirre, Board staff. Ms. Smith was absent.

Presiding Officer Schnider called the meeting to order at 10:03 a.m.

Approval of Minutes August 26, 2019 and November 4, 2019

Mr. Thamke motioned to approve the August 26, 2019 and November 4, 2019 meeting minutes as presented in the packet. Ms. Rupp seconded. The motion was unanimously approved by voice vote.

Approval of Executive Session Minutes from June 10, 2019, August 26, 2019, and November 4, 2019

These minutes were presented for approval by Mr. Kyle Chenoweth, Board Attorney, at the end of the meeting, but this item has been moved to this section for reading clarity.

Mr. Taylor recused himself from voting on the June 10, 2019 and August 26, 2019 minutes. Mr. Rorabaugh recused himself from voting on the August 26, 2019 minutes.

Mr. Thamke motioned to approve the minutes as presented. Ms. Rupp seconded. The motion was unanimously approved by voice vote, with abstentions as noted.

Denied Claim Dispute, Pelican Oil, Claim #20191016A and #20191016B, Facility #5605861, Releases #3799 and #1270, Billings

Mr. Wadsworth presented the Board with the staff recommendation for denial of Claims #20191016A, Rel #3799 and #20191016B, Rel #1270, Pelican Oil in Billings. He stated that the law requires an owner/operator that is seeking reimbursement for eligible costs to comply with the procedures outlined in the law. The law requires that the work plan, among other things, must receive proper government review, and must have department approval before the work is done.

Mr. Wadsworth cited §75-11-309(1)(g) and (3), MCA that require owners to implement work from a Department (DEQ)-approved corrective action plan (work plan), and that claims are processed and reviewed for compliance with the law. Mr. Wadsworth stated, in this case the work done and claimed on Claims #20191016A and #20191016B was done prior to Department approval of the work plan.

Mr. Wadsworth noted that a work plan was created on April 17, 2019, but the Department did not receive it until November 8, 2019. The work was implemented in August of 2019, and the claims were submitted in October of 2019. In November of 2019, the claims were denied due to the lack of a Department-approved corrective action plan, as required by law.

Mr. Wadsworth stated that the Board staff did not recommend reimbursement of these activities, because the owner failed to comply with the legal requirements for obtaining reimbursement from this public fund, the Petroleum Tank Release Compensation Fund. He stated that the Board is required to look at claims for actual, reasonable, and necessary costs. He stated that the actual, reasonable, and necessary review has not been done, because the claims were considered statutorily ineligible for reimbursement, due to the work being done without a Department approved work plan. Mr. Wadsworth noted that the actual reimbursable amounts for these claims have not been calculated with co-pay requirements, or any adjustments.

Mr. Thamke asked if the work was done without a WP. Mr. Wadsworth stated that there was communication in the files that indicated that the case manager was not expecting to see this work plan.

Mr. Schnider asked if there had been any claims submitted by the owner before. Mr. Wadsworth stated that they had, as there had been some reimbursement in the past. Mr. Wadsworth subsequently stated, that there had been \$12,610.11 claimed against Release #1270, which was discovered in 1992. Release #3799 was discovered in 1999 and has had \$10,990.61 claimed. He also stated that there were no work plan prep costs associated within the two claims.

Mr. Paul Lemire, Environmental Consultant, Tetra Tech, addressed the Board on behalf of the owner, Ms. Connie Pelican. He stated that Tetra Tech had been requested by the Department to produce a work plan, due to some work that was being conducted by the City of Billings, which required the owner to do additional work. This kicked off the request for this particular work plan. He stated that there was a failure on their side to get the work plan uploaded to Mr. Reed Miner, PTCS, Site Manager. Mr. Lemire requested that the claims be reimbursed.

Mr. Johnson asked if the work that was done by Tetra Tech was required by the Department, and if there was communication with Mr. Miner about it. Mr. Lemire stated that the work was required, and that it was separate from the investigation that was already ongoing. There was coordination with the City of Billings that impacted this additional separate work. The city was installing a sewer line through the impacted site, and the Department wanted Tetra Tech to sample the trench and document their findings. Tetra Tech did this work, and there was a problem getting this separate work plan uploaded to Mr. Miner.

Mr. Lemire stated that there were several delays in working with the City of Billings as they trenched the sewer line through the contaminated soils of the release. Tetra Tech was at the mercy of the City's schedule. Mr. Lemire stated that Mr. Miner coordinated with all the parties involved, but that Tetra Tech had to work within the City's time table, and the City redid the whole sewer plan during the process.

Mr. Rorabaugh asked Mr. Lemire when he discovered that the work plan had not been submitted to Mr. Miner. Mr. Lemire stated that he discovered that when the claims were submitted, and Board staff raised the issue that there was no approved work plan. He then spoke with Mr. Miner and submitted the work plan then.

Mr. Thamke asked if Mr. Miner provided any paper trail that gave Tetra Tech approval, separate from the work plan. Mr. Lemire stated that he had no proof of that, but that the work was done through Mr. Miner.

Mr. Johnson motioned to reject the Board staff recommendation and reimburse 100% on both Claim #20191016A and #20191016B, Facility #560581, Releases #3799 and #1270, Billings. Mr. Rorabaugh seconded.

Mr. Johnson stated that he made the motion in order to further the discussion. He noted that many releases were the result of human error. He stated that the work that was done was legitimate, and that the Department was aware the work was needed and was going to use the information from the work that was done. He stated that the work plan was for a fairly low cost, and that much of the work that the consultants do is based on a phone call. He stated there are many instances in which it costs more to do the work plan than it does to do the work. Mr. Johnson concluded that because the consultant did the work as requested by the Department, the Department stated that they were going to use the information provided from the work done, and because there were factor's outside of the consultant's control, he recommended reimbursement at 100%.

Mr. Wadsworth restated that the claims in question had not been reviewed for reasonable, actual and necessary costs, and that they would also be subject to co-pay requirements. He stated that the current motion did not recognize the normal business process for claims processing as stated, because full 100% reimbursement would not account for that process.

Mr. Johnson stated that he would include that in an amendment.

Mr. Thamke clarified that there were no work plan prep costs included in the claims. It was affirmed that there were not.

Mr. Thamke asked Ms. Steinmetz if she had any record of communications between Mr. Lemire, Ms. Pelican, and Mr. Miner wherein the Department provided approval for Tetra Tech to proceed without written approval of the work. Ms. Steinmetz stated that there was no approval prior to the work being done. Mr. Miner stated that he had requested the work. Ms. Steinmetz read an email from Mr. Miner that stated that the work requested had been done

as requested, but DEQ did not have a report yet. He stated that the sampling and disposal of contaminated soil was required. Ms. Steinmetz stated that, although the work was conducted out of the typical order of work plan approval, the work was later approved by the Department.

Mr. Thamke asked if the Board staff was copied on the communication so that they would know it was a process error. Ms. Steinmetz stated that the approval letter was sent to Board staff. Mr. Wadsworth stated that the approval letter was received on November 21, 2019.

Mr. Johnson discussed the possibilities for work like this being done with a phone call approval for a Form 8 (change of scope). He suggested that when there is small budget, maybe the work could be done without a work plan. Ms. Steinmetz stated that would be unusual, and the usual process is to have the documents first. Mr. Taylor asked if the Department knew ahead of time that the sewer project was going to impact the release site. Ms. Steinmetz stated that she was unsure how Mr. Miner was made aware that the City project was going to take place, where there was a utility corridor going to be exposed within a contaminated zone. She stated that upon notification, the Department operates proactively to make sure there is the correct separation of soil, appropriate piping used, and contingencies thought through. Ms. Steinmetz stated that most of the time the Department is aware that these types of projects are happening.

Mr. Schnider stated that he would recommend that the claims go back through the normal claim process as if the consultant had received work plan approval.

Mr. Johnson restated that the Board would then reject the Board staff's recommendation of claim denial, and it would be remanded back to the staff. He stated that he felt there was a rationale provided for the costs associated with the disputed claims and felt that it was appropriate to have the discussion before the Board. He stated that he understood why the Board staff would not be able to approve this, and that coming before the Board was the proper sequence to have the Board exercise their responsibility and make this type of decision.

Mr. Johnson amended his prior motion and motioned to reject the Board staff's recommendation of claim denial, and remand Claims #20191016A and #20191016B back to Board staff for usual claim processing of all eligible costs. Mr. Taylor seconded. The motion was unanimously approved by roll call vote.

Reimbursement Adjustment Dispute, Cenex General Store, Facility #908212, Releases #471 and #5247, Miles City

Mr. Wadsworth stated that any owner seeking reimbursement from the Fund is required to remain in compliance as stated in §75-11-309(1), MCA. He indicated that lack of compliance results in the suspension of all present and future claims, which will then be reimbursed according to the effect and duration of the noncompliance. In this case, the period of noncompliance appears to be greater than 180 days. Mr. Wadsworth stated that, consistent with ARM 17.58.336(7)(a), all suspended and future claims for Facility #09-08212 would be recommended for 0% reimbursement.

Mr. Wadsworth noted that Release #471 was discovered in 1990 and from that time until 2009, there were several inspections at the facility that had violations for missing months of inventory tank records. Release #5247 was discovered in 2017, and in 2018 a routine inspection documented a violation for failure to conduct monthly tank leak detection monitoring. The violation was based on a failure to have 12 months of records, but missing less than 4 months of sampling, testing or monitoring records for the latest 12 months, in violation of ARM 17.56.402.

Mr. Wadsworth explained that there have been several times that the Board has dealt with compliance issues regarding missing months of inventory tank records, and the Board have had to wrestle with the impact that noncompliance will have on reimbursement. He noted that this is a reimbursement fund and as such, the program doesn't collect additional funding when there is a violation, all the program can do is adjust reimbursement in accordance with noncompliance. He stated that the tables provided to the Board contained examples of previous situations where the missing months of inventory tank records was recorded to help assist in determining reimbursement percentage based on what happened in the past under similar circumstances.

Mr. Wadsworth provided an example where a facility was inspected, and the inspection showed that the facility was missing some leak detection records and how it would take the facility nearly a year to return to compliance. He explained that the example was a situation where the table contained in the rule was not equitable. He indicated that

this circumstance was something the board spent time wrestling with and looked at ways to change their rule to try to address the problem. That effort resulted in what is referred to as tank months.

Mr. Wadsworth stated that the tank months table looks at the number of tanks, the number of months out of compliance and the recommended percent reimbursement based on those two factors. What the Board has done in the past is look at the tank months violations, as well as other violations at the facility, and try to make an equitable reimbursement decision. He stated that the Board had imposed more severe sanctions on sites that didn't conduct leak detection or have inventory records and had experienced a large release that could have been avoided had they complied. He noted that the number of months that the records were missing was not a direct correlation to the severity of a release, or days out of compliance. There were circumstances where there were many missing tank month records and no release had happened within that time. There were other circumstances where there were fewer missing tank month records, but the severity of the release was great, and the release would have been caught had proper leak detection been conducted.

Mr. Wadsworth stated that the inspection just looks at the twelve-month period prior to the inspection date. The inspection cycle is a three-year cycle, so there is no way to tell from the inspection report if there are more missing records from the previous two years, which are not captured on the inspection report.

Mr. Wadsworth cited ARM 17.58.336(7)(e), which states factors that may be considered by the Board regarding reimbursement adjustment. These include whether the noncompliance presented a significant increased threat to public health or the environment, and whether there had been any significant additional cost to the Fund. He stated that Michaels and Miles City Short Stop both resulted in significant environmental impact due to their noncompliance which is why they had higher reductions to reimbursement.

Mr. Wadsworth reiterated that this is an area the Board has historically wrestled with, because the table for violations is demonstrably unjust when the only consideration is the days out of compliance, when considering missing tank month records or incorrectly anchored shear valves. The tank months table was created to provide a way for Board members to see what had been done in the past when considering this issue.

Mr. Thamke noted that this has been a longstanding issue not only for the Board, but also the Leak Prevention Program. He stated this was a good start and urged perseverance in continuing to try and make something that helps the Board maintain their charge to be fair and consistent in determinations.

Mr. Johnson noted that the table was a good starting point to provide a basic framework for Board discussion. Mr. Wadsworth agreed and indicated that it was furnished to try and provide as much information as possible about prior Board decisions, because the issue was not cut and dry. He noted that there was not a specific rule addressing this issue, so the Board has historically relied on prior decisions.

Mr. Wadsworth noted that the missing tank month records does not equate to a minor, moderate or major violation, as categorized by the Underground Storage Tank Section (UST). If there is no release during the time that the records are missing, it is hard to say that it was a severe violation just based on the amount of time the records were missing. The severity has been related more to the environmental impact that the missing tank month records has had at specific sites. The idea that there could be additional impact resulting from continued noncompliance, has also been considered by the Board. Mr. Wadsworth noted that the Board has had difficulty promulgating a rule, based on missing tank months, because a rule also has to correlate with risk to the environment, as well as impact to the Fund, not just the amount of time the records are missing.

Mr. Johnson stated that there has always been a requirement to be in compliance. He noted that in the past, there was a problem with owners reporting releases in a timely manner. Previously, a sanction was applied due to days out of compliance without regard to the impact on the environment or the Fund. He said that this sanction the Board would impose can't be looked at as punishment for noncompliance, because that function already exists within the UST's Enforcement Section. He asked if that section could levy fines for lack of compliance. They can, however Mr. Wadsworth indicated that most of the missing records violations aren't fined unless the noncompliance rises to the level of an Administrative Order.

Mr. Steve Hasse, General Manager, Cenex Zip Trip addressed the Board. He introduced Jim Alford, Environmental Health and Safety Manager, Cenex Zip Trip, and Cathy Laughner, Attorney, Browning, Kaleczyc, Berry & Hoven. Mr. Hasse thanked the Board for the opportunity to speak before them and stated that his company received letters

from Board staff on November 1, 2019 which suspended reimbursement from PTRCB for the Cenex Zip Trip store in Miles City.

Mr. Hasse respectfully requested the Board to not make a determination under §75-11-309(b)(ii), MCA that Cenex Zip Trip at Miles City had not complied with that section or the rules. He stated that, following DEQ's inspection, the site had completed what DEQ required in a timely manner.

Mr. Hasse also requested 100% reimbursement as adjusted by ARM 17.58.336(7)(e), because there had been no significant additional cost to the Fund, and that there was no significant increased threat to public health or the environment. He explained that Release #5247, was historical contamination discovered on August 19, 2017 as a result of proactively coordinating site work with a local Montana Department of Transportation (MDT) project regarding the installation of roundabouts on both sides of the intersection.

Ms. Hasse stated that DEQ inspected the Miles City Facility on January 22, 2018, and two violations were noted in a corrective action plan. DEQ considered one violation to be major, and one to be minor. Mr. Hasse stated that the shear valve violation was corrected within six (6) days, when Energy Systems was on site on February 5, 2018 to ensure the pipes were properly anchored. On February 28, 2018, a reinspection was conducted by Northwest Tank and noted that the shear valves were properly anchored, and DEQ subsequently closed this violation. Cenex Zip Trip was back into compliance before their deadline, and DEQ's letter, dated November 1, 2019, acknowledged that this violation was closed on February 28, 2018. The facility had been given until March 11, 2018 to bring this issue back into compliance, and they did, the period of noncompliance was shown to be 21 days. Mr. Hasse stated that the rule, ARM 17.58.336(7), would allow for 90% reimbursement for this length of non-compliance. He requested that the Board consider the lack of significant increased threat to public health and the environment, and that the leak from the shear valve did not cause any additional cost to the Fund. The leakage entered into a containment system and not the environment.

Mr. Hasse stated that the second violation was a failure to conduct monthly leak detection monitoring. He noted that the January 31, 2018 Correction Action Plan noted this as a minor violation with a correction deadline of December 25, 2020. Mr. Hasse stated that Cenex did not believe there was a failure to conduct monitoring. He stated that ongoing leak detection monitoring had been monthly, as required by rule, ARM 17.56.402, and that there was only one missing month of detection records, for August 2017. He stated that Cenex did not believe this to be a violation because leak detection testing was done as required by ARM 17.56.402, so there was no failure to conduct monitoring. He stated that at the time of the inspection, the record for August 2017 was not in the book where the inspector looked.

Mr. Hasse stated that Cenex Zip Trip monitored the store's tank reading each month following the inspection to ensure there were no issues. He noted that they did not know why the Board staff's report stated that Board staff did not have information to show the violation was corrected.

Mr. Hasse stated that on December 13, 2019, Mr. Alford called DEQ, and after consulting with DEQ to clarify the needed documents, Cenex Zip Trip sent 12 consecutive months of leak detection records to NWestCo, who then submitted a re-inspection document to DEQ, which closed this violation. Mr. Hasse noted that the store was compliant prior to DEQ's deadline for this violation. Although Mr. Wally Jemmings, Leak Prevention Section Supervisor, Underground Storage Tanks (UST), advised Cenex that minor violations usually were corrected during the next scheduled facility inspection, which occurs every three years, Cenex was proactively in compliance before then. This was a paperwork issue.

Mr. Hasse stated that Cenex Zip Trip had not been issued an Administrative Order under §75-11-309(2), MCA, there had been no 180-day period of noncompliance, and that there were no facts to support the recommended reimbursement at 0%. He noted that, consistent with ARM 17.58.336(7) (c), the language of the law stated that the Board would determine that the owner or operator was out of compliance and he stated that the Board had not made that determination.

Mr. Hasse addressed the violations associated with inspections conducted at the site before 2010. He noted that Cenex Zip Trip could not have been in violation before 2010, because they were not the owner of this site at that time. Because of that, they had not received any notice of violations and the violations are not applicable because they were not operating this site prior to 2010.

Because ongoing leak detection was performed as required, Ms. Hasse stated that Cenex did not believe there was a violation for missing tank records. He further stated that no Administrative Order had been issued regarding this violation and due to ongoing leak detection, the site was in compliance. Mr. Hasse stated that Cenex submitted twelve months of leak detection records to DEQ prior to that three-year inspection, which closed the violation. The site was in compliance before DEQ's deadline.

Mr. Hasse concluded by requesting that the Board reject the Board staff's recommendation and provide 100% reimbursement for this facility, because they had proactively addressed violations, was not responsible for violations issued before their ownership, and there had been no significant cost to the Fund and no significant increased threat to public health or the environment, as cited in ARM 17.58.336(7)(e).

Mr. Hasse noted that, according to ARM 17.58.336(7)(c), for claims subject to provision of §75-11-309(b)(ii), the period of noncompliance must begin on the date upon which the Board determines that the owner or operator has not complied with the laws stated. He noted that it is the Board's determination, not the Board staff's, and that he felt the Board has not made that determination.

Mr. Hasse thanked the Board for their consideration. He expressed Cenex Zip Trip's method of operations as a cooperation with regulatory authority.

Mr. Johnson stated that the staff was right and proper to bring this issue to the Board for their discretionary decision.

Mr. Thamke asked Mr. Jemmings if the UST program had received a notification of the transfer of ownership of Facility 09-08212 from the previous owner of the site in 2010. Mr. Jemmings stated that he didn't know and was not part of the UST program at that time. Mr. Thamke asked Mr. Jemmings to check and let him know, just for Mr. Thamke's own edification.

Mr. Thamke asked Mr. Jemmings if he agreed with the compliance timelines presented to the Board. Mr. Jemmings stated that he believed them to be correct.

Mr. Rorabaugh asked Mr. Jemmings for his general perception of his dealings with the company. Mr. Jemmings stated that in a word, he would describe CHS as proactive.

Mr. Thamke introduced Mr. Wally Jemmings as the new Leak Prevention Section Supervisor in the UST Program.

Mr. Jay Shearer, Site Manager, Petroleum Tank Cleanup Section, was on the telephone and added that he did not know of any impact that the shear valves, or other violations mentioned during the discussion, had on this site. He stated that the violations were not related to the releases at the site.

Mr. Thamke stated that there was a big swing between 0% reimbursement and the 100% being motioned. He asked for the rationale for the Board staff's recommendation. Mr. Schneider made the point that, while the situations were handled quickly, they were still out of compliance for a period of time, and that should be taken into consideration. As indicated above, it takes nearly a year to obtain a missing monitoring record. Mr. Wadsworth indicated that there was new information presented in the discussion before the Board which the Board staff didn't have prior to today. Board staff didn't know that there was a different owner in 2010, and that there was no transfer of eligibility documentation in either the Leak Prevention Program files or PTRCB files.

Mr. Johnson motioned to grant 100% eligibility for both eligible releases, Release #417 and #5247 at Facility #098212. Ms. Rupp seconded. Mr. Rorabaugh recused himself from voting because of this facilities association with his employer, Rocky Mountain Supply. The motion was unanimously approved by roll call vote.

Reimbursement Adjustment Dispute, Cenex Zip Trip, Facility #4808910, Release #1120, #1250 and #5102, Park City

Mr. Wadsworth addressed the Board and stated that at this Facility (#4808910), Releases #1120 and #1250 were both resolved. He stated that Release #5102 is the only one open at this time, and it had also been one of the releases to which the Board just granted eligibility during the eligibility ratification process. He noted that there have

been times that releases have been reopened by DEQ. Therefore, any adjustments to reimbursement at this site may need to consider if the percentage reimbursement will be for all releases at the site or just active Release #5120. He also noted that there were violations listed in the Board staff's chronology that were subsequent to the discovery of Releases #1120 and #1250, but those violations predated the discovery of Release #5102.

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Mr. Wadsworth stated that the conditions at this Cenex facility are very similar to the ones just discussed for Cenex Zip Trip in Miles City. He noted that there were also missing tank months at this Park City facility and the violations that predated the discovery of Release #5102.

Mr. Wadsworth noted that the violations for Release #5102 were found during an oversight inspection conducted by DEQ. There were missing tank month records and a failure of the pipe leak detection equipment. There was a violation issued on June 26, 2019 that had to be corrected by November 20, 2019. The Board staff found that the period of noncompliance was greater than 180 days and, as a result, it was recommended by Board staff that the facility receive 0% reimbursement on all future and suspended claims for the releases at the facility.

Mr. Jim Alford, Environmental Health and Safety Manager, Cenex Zip Trip, addressed the Board on behalf of the owner. He requested the Board make a determination that Cenex Zip Trip at Park City was in compliance or had returned to compliance. He asked the Board for no adjustment to reimbursement, and that reimbursement be granted at 100%, per ARM 17.58.336(7)(e), because there has been no significant additional cost to the Fund and there was no significant increased threat to public health or the environment.

Mr. Alford stated that following DEQ's August 2019 inspection, Cenex had NWestco come and conduct a follow-up investigation. The statistical inventory reports show no loss of fuel into the environment.

Mr. Alford stated that Cenex had plans to redo the Park City facility, and they tore out the piping and tanks, and installed new, per their corrective action plan. DEQ had a deadline of November 20, 2019 to submit a reinspection. As of December 2019, the tanks were out of the ground and analytical testing confirmed there was no contamination in the area of the tanks.

Mr. Alford stated that there had been no enforcement, formal action, or administrative order issued by DEQ for this facility, which was similar to the situation with the Miles City facility. He further stated that Cenex's position was that there were no days out of compliance, because it had not been determined by the Board per ARM 17-58-336(7)(c). He also noted that Cenex did not own the facility before 2010, so any violations that happened prior to their ownership could not be attributed to them, Cenex did not receive any written notice of those violations, and it would be unjust to penalize Zip Trip for that noncompliance.

Mr. Alford thanked the Board for their time and stated that they have and will continue to maintain a positive relationship with DEQ.

Mr. Schnider asked how many days the site was out of compliance. Mr. Alford stated that the violations were not resolved because they were putting in new tanks and piping, but they did additional monitoring and statistical inventory reconciliation during that time with their vendors onsite multiple times.

Mr. Thamke asked if this was another situation where there were more facts had been provided after the staff's determination. Mr. Wadsworth stated that he would agree. It was noted that the prior violations found during earlier inspections predated ownership and the discovery of Release #5102. Mr. Wadsworth also mentioned that some of the violations listed were for the other releases at the site that are closed and stated that if those releases are not reopened, then those noncompliance issues may not impact the current discussion.

Mr. Wadsworth stated that after the discovery of Release #5102, there were three (3) violations listed during an oversight inspection conducted in June of 2019. The Board's decision to adjust reimbursement could be based on those violations for the remaining open and active release. The violations concerned two different issues: leak detection monitoring and associated records, and a piping leak detection equipment failed leak test.

Mr. Johnson asked Mr. Wadsworth if Board staff would be comfortable with making adjustments under ARM 17.58.336(7)(e), or would he prefer not to go there. Mr. Wadsworth stated that the Board has asked that these issues come before them. He stated that he wouldn't have a problem with the Board staff exercising that discretion, but the Board has not granted that authority to them yet. He provided some history on the subject. In the past, if the owner

went into noncompliance, they lost 100% of their eligibility. The Board worked with the Legislature to change that somewhere around 2007-09, because they wanted to encourage better compliance. DEQ's UST program was reluctant to send an owner an Administrative Owner, because that removed them from the Fund. Since that change has occurred, the Board is trying to use reimbursement adjustments due to noncompliance as a way to get the owner's attention to focus on the compliance requirements. He stated that he believed the Board had not granted the authority to the staff, yet, due to the complexity of the issues.

Mr. Thamke addressed Mr. Jemmings and stated that his understanding was that Cenex was replacing pipes and asked if the violations stayed in place until the new system was inspected and up and running. Mr. Jemmings stated that this was a unique case, because the noted violations were due to a DEQ oversight inspection. Mr. Seth Hendrix, Underground Storage Specialist, UST Program, was the person that performed the oversight inspection, and he chose not to pursue the violations or recommend they be corrected. He felt the violations would be addressed with the construction permit he had issued for the new installation of tanks and piping being done by Cenex. Mr. Jemmings added that Cenex is a proactive company.

Mr. Johnson stated that the Board would need to determine that no extra impact to the Fund was caused due to the violations that had been noted. Mr. Shearer, stated that he did not know of any impact that these violations had on Release #5102.

Mr. Johnson asked about the other releases at this site. Mr. Shearer stated that those releases had been resolved and were related to bigger tank systems that were in place at the time or small surface spills. He stated that those releases were not likely to be reopened.

Ms. Rupp asked Mr. Wadsworth if the most recent count of days out of compliance started with June of 2019. Mr. Wadsworth stated yes, for Release #5102.

Ms. Rupp stated that Board staff counted more than 180 days out of compliance, but in the interim, the site had been completely upgraded. Mr. Wadsworth stated that was correct given the testimony that had been provided.

Ms. Rupp stated that the day count for noncompliance was probably irrelevant because of the situation. She also stated that it sounded like the owner replaced the system within the time they said they would, by November 1, 2019.

Mr. Wadsworth agreed and indicated that adhering to the permit was perhaps also a key component.

Ms. Rupp stated that Mr. Schnider had indicated that the Board had reduced reimbursement by 100% in the past and it seemed like a punitive measure just to consider compliance. She asked if they had gone away from that, as she felt they had in the meetings she had attended.

Mr. Schnider stated that the Board does want to keep people in compliance, and that it would come to a punitive action if someone is out of compliance. He indicated that he wanted to make sure that everyone has an equal playing field and he preferred that people learn the rules so that they don't have to come before the Board at all.

Mr. Johnson stated that he really thinks that DEQ's Enforcement and UST programs have the right to assess any punitive measures, fines or other sanctions. He stated that the way the Board has to look at it is, if the lack of compliance has caused an impact to the Fund. He noted that it is similar to an insurance company's settlement if you didn't have the proper inspections for your car and were in an accident. He stated that it is important that the Board recognize the flaws in applying a rigid percentage to reimbursement without consideration of other issues, like impact to the Fund or impact to the environment. Mr. Schnider agreed.

Mr. Johnson stated that he agreed with the Board staff in presenting the most rigorous evaluation so that the Board and owner, and their representatives, could have a discussion. He stated this was a good way to hear all the issues. He stated that there would likely be more of these types of discussions and wanted to streamline them by looking at precedents and finding exceptions that could be identified.

Mr. Schnider indicated that if the discussion was about this Board's philosophy and whether to have Board staff consider ARM 17.58.336(7)(e) before bringing the matter before the Board, which might result in granting everyone

100% reimbursement, it would need to be a Board discussion item. He felt it was a benefit for the Board to be able to have that these discussions.

Mr. Johnson stated that for example, there could be a site that doesn't report a catastrophic release until three weeks after it started. He stated that remediation for such a release could go on for years, and if the table was used, the site would only be sanctioned a little, and it would not be appropriate to only reduce reimbursement by 10%. He stated that this is an example of what one of the biggest issues at the start of the Fund. People were not reporting releases. He stated that the discussion is to try and find a way to get through these types of discussions in a more streamlined way. He suggested that instead of looking at percentages and missing tank record months, the Board should look at environmental impacts and impacts to the Fund based on the lack of compliance at a site.

Mr. Thamke stated there was good cause for bifurcation of the Board's responsibility to address the potential impact to the Fund based on the Facility's operational standards. He noted that Michael's Exxon was very expensive to the Fund, although the enforcement action taken was not for operational issues with the tank, but was related with the Clean Water Act. He noted that DEQ is sensitive to potential impact to human health and environment or other statutes that DEQ administers. Mr. Thamke stated that the Board needs to keep a mindset with regard to the tank statutes and rules, and not ask if Enforcement will penalize a facility for their poor activities. The Enforcement Program may, or they may not, depending upon the nature of that evidence. He stated that he liked the idea of the Board focusing on their responsibility and analyzing operational compliance with both Leak Prevention and the Fund rules and regulations.

Mr. Johnson motioned to reject the staff recommendation and to grant 100% reimbursement for all eligible Releases #1120, #1250 and #5102 based on ARM 17.58.336(7)(e) criteria. Mr. Thamke seconded. The motion was unanimously approved by voice vote.

Eligibility Ratification

Mr. Wadsworth presented the Board with the applications for eligibility that were tabulated in the Board packet, (see, table below). **Eligibility Ratification was addressed by the Board before hearing the disputed items, as eligibility and reimbursement adjustments affected some of the same Releases.**

<i>Location</i>	<i>Site Name</i>	<i>Facility ID #</i>	<i>DEQ Rel # Release Year</i>	<i>Eligibility Determination – Staff Recommendation Date</i>
Havre	Gilbert Property	32343 TREADS	5338 Jun 2019	Reviewed 11/18/19. Recommended eligible.
Lewistown	Spring Creek Oil Bulk Plant	8700101	Voluntary Registration	Reviewed 11/14/19. Recommending potential eligibility based on ongoing compliance.
Miles City	Cenex General Store	908212	5247 Aug 2017	Reviewed 9/27/19. Recommended eligible with 0% reimbursement due to possible violations at site. Eligibility granted at 100%.
Park City	Cenex Zip Trip 50	4808910	5102 Apr 2015	Reviewed 9/26/19. Recommended eligible with 0% reimbursement due to possible violations at site. Eligibility granted at 100%.
Poplar	Former Poplar Cenex	4303808	5337 Nov 2019	Reviewed 11/22/19. Recommended eligible.
Wisdom	Pintler Stations	102173	5349 July 2019	Reviewed 12/18/19. Recommended eligible with a 10% reduction in reimbursement due to lack of compliance.

The Board was asked to ratify the eligibility recommendations, not the reimbursement recommendations as presented in the table.

Mr. Johnson asked what caused the reduction in reimbursement for Pintler Station, Release #5349. Mr. Wadsworth indicated that there had been olfactory and visual evidence of a release suspected on June 18, 2019 and it was not

reported until July 9, 2019. Mr. Johnson stated that there was a delay of about three weeks and asked what the delay was from. Mr. Wadsworth didn't know and indicated that reimbursement adjustment notices were sent to the owner from PTRCB in October of 2019 and on December 18, 2019 with no reply received by Board staff from the owner.

Mr. Schnider recused himself from voting on any claims that are associated with Payne West Insurance. Mr. Johnson recused himself from voting on any claims associated with RTI, its clients, or Yellowstone Soil Treatment, and its clients. Mr. Thamke recused himself from any claims benefitting the Department of Environmental Quality. Mr. Taylor recused himself from any claims dealing with Ben Taylor Inc, Simmons Petroleum Inc., and the bulk plant at Sunburst. Mr. Rorabaugh recused himself from any claims associated with Rocky Mountain Supply or its customers. Ms. Rupp recused herself from any claims associated with the Montana University System.

Mr. Thamke motioned to accept the staff recommendation of eligibility for all the releases presented. Ms. Rupp seconded. The motion was unanimously approved by voice vote.

Weekly Reimbursements and Denied Claims

Mr. Wadsworth presented the summary of weekly claim reimbursements for the weeks of October 30, 2019 through January 1, 2020, and recommended the Board ratify the reimbursement of the 154 claims, which totaled \$1,033,771.35 (see, table below). There were five (5) denied claims.

WEEKLY CLAIM REIMBURSEMENTS January 27, 2020 BOARD MEETING		
Week of	Number of Claims	Funds Reimbursed
October 30, 2019	25	\$212,388.01
November 6, 2019	11	\$147,373.71
November 20, 2019	29	\$204,552.77
December 4, 2019	31	\$86,283.76
December 11, 2019	21	\$97,997.62
December 18, 2019	20	\$177,240.30
January 1, 2020	17	\$107,935.18
Total	154	\$1,033,771.35

Mr. Wadsworth present the five (5) claims being denied. Claim #20191125G, Release #3040 included an invoice that had already been claimed and reimbursed on Claim #20191017E. Claims #20191016F and #20191016D, Release #3537 were both withdrawn by the consultant and resubmitted on a corrected form. Claims #20191016C and #20191016E, Release #5212 were both withdrawn by the consultant and will be resubmitted on a corrected form.

Mr. Schnider recused himself from voting on any claims that are associated with Payne West Insurance. Mr. Johnson recused himself from voting on any claims associated with RTI, its clients, or Yellowstone Soil Treatment, and its clients. Mr. Thamke recused himself from any claims benefitting the Department of Environmental Quality. Mr. Taylor recused himself from any claims dealing with Ben Taylor Inc, Simmons Petroleum Inc., and the bulk plant at Sunburst. Mr. Rorabaugh recused himself from any claims associated with Rocky Mountain Supply or its customers. Ms. Rupp recused herself from any claims associated with the Montana University System.

Mr. Thamke motioned to approve the weekly and denied claims as presented. Mr. Rorabaugh seconded. The motion was unanimously approved by a voice vote.

Board Claims – Claims over \$25,000

Mr. Wadsworth presented the Board with two (2) claims for an amount greater than \$25,000 that had been reviewed by Board staff since the last board meeting (see, table below).

Facility Name Location	Facility- Release ID#	Claim#	Claimed Amount	Adjustments	Penalty	Co-pay	**Estimated Reimbursement
Big Hole Petro Wisdom	9995062- 4125	20191011F	\$32,337.69	-0-	-0-	\$6,211.93	\$26,125.76
Plevna Garage Plevna	1301243- 3804	20191106G	\$29,417.76	\$1,105.50	-0-	-0-	\$28,312.26
Total			\$61,755.45				\$54,438.02

* In accordance with Board delegation of authority to the Executive Director signed on December 8, 2003, the Board staff will review the claims for the Board. If the dollar amount of the claim is \$25,000.00 or greater, the claim must be approved and ratified by the Board at a regularly scheduled meeting before reimbursement can be made.

**In the event that other non-Board claims are paid in the period between preparation for this Board meeting and payment of the claim listed above, the amount of co-payment remaining may differ from that projected at this time, which may change the estimated reimbursement.

Mr. Schnider recused himself from voting on any claims that are associated with Payne West Insurance. Mr. Johnson recused himself from voting on any claims associated with RTI, its clients, or Yellowstone Soil Treatment, and its clients. Mr. Thamke recused himself from any claims benefitting the Department of Environmental Quality. Mr. Taylor recused himself from any claims dealing with Ben Taylor Inc, Simmons Petroleum Inc., and the bulk plant at Sunburst. Mr. Rorabaugh recused himself from any claims associated with Rocky Mountain Supply or its customers. Ms. Rupp recused herself from any claims associated with the Montana University System.

Mr. Taylor moved to approve the claims over \$25,000, as presented in the packet. Mr. Johnson seconded. The motion was unanimously approved by a voice vote.

Discussion Items

Ms. Amy Steinmetz, Section Supervisor, Petroleum Tank Cleanup Section presented an overview of legacy releases to the Board. Ms. Steinmetz stated that DEQ’s mission is to protect, sustain and improve a clean and healthful environment to benefit present and future generations. She stated that PTCS’ special mission is to protect human health and the environment from petroleum and hazardous substances, releases from storage tank systems, both underground and above ground. She stated that PTCS’ primary goal is to drive petroleum releases to a new milestone of petroleum cleanup, to continue to move sites toward closure.

Ms. Steinmetz presented the Board with multiple graphs that showed the amount of confirmed and closed releases over time. The main overview showed that between 1979-89 there were 219 confirmed and 25 closed, with a remainder of 194 total active releases. The next interval was from 1990-99, and there were 3,534 confirmed releases with 2,207 closed, leaving a remainder of 1,521 active releases. During the time period of 2000-08 there were 621 confirmed releases, 528 closed, and a remainder of 1,614 active. The following interval from 2009-2017 had 290 confirmed, 866 closed and a remainder of 1,038 active releases. The final time interval, 2018-19 showed a total of 61 confirmed releases, 136 closed and a remainder of 963 total active releases still open.

Ms. Steinmetz noted that the bulk of confirmed releases happened between 1990-1999 and there were several driving factors that lead to the discovery of those. There was risk-based corrective action guidance adopted, as well as regulatory changes that required owners to upgrade tanks. During the upgrades, many releases were discovered. She noted that the sheer volume of discoveries was hard to keep up with for the available staff.

Ms. Steinmetz stated that there has been a huge push to close sites, and the newer risk-based corrective action guidance, based on new toxicity data, allowed PTCS to close some of the releases that could not be closed before. DEQ also instituted a ranking scheme, the prioritization of releases, to help identify sites ready for closure.

Ms. Steinmetz noted that from 2009-2017 there was a huge push to close sites, and during that time almost 900 releases were closed, about 100 per year. During the last couple of years, PTCS had to refocus their efforts and look at sites from a wholistic view, not just closure. The group tried to find ways to build efficiency, by taking time on the front end to build and refine their processes. She noted that the focus has shifted to looking at the data with the idea of what steps will be needed to bring the site to closure and identifying those steps from the start. PTCS instituted a release closure plan that helps, and she stated that this investigation guidance document was developed to help ensure that investigations now can usually be completed within a year or two.

Ms. Steinmetz stated that within the last ten (10) years of the program, only 300 releases have been confirmed. She noted that new regulations have helped prevent new releases through better detection and prevention. She stated that there are still historical releases being discovered, contamination that has been there for many years.

Ms. Steinmetz stated that within the total number of active releases, 637 of those were discovered within the first ten years of the program. She noted that there are 50 releases that are still open that pre-date regulations. Of those 637 active releases discovered in the first 10 years, 503 are either Fund eligible or potentially eligible. Of the active releases from 1999-2009, there are a total of 166 that are Fund eligible or potentially eligible. She stated that from 2009-2019, there are a total of 100 active releases that are Fund eligible or potentially eligible. According to these numbers, there are 769 of the total active releases in the State of Montana that are potentially Fund eligible or have already been ratified eligible.

Ms. Steinmetz stated that the biggest challenge is to address the 637 active releases that are between 20-30 years old, those discovered in the first 10 years of the program. Almost all the sites are moving forward with active work plans, and reports that PTCS is waiting for. She stated that there are a few exceptions, and noted that one of the challenges in working on the older legacy sites is the multiple changes of ownership since they were last reviewed by DEQ. Often the current property owner doesn't know they have a petroleum release on their property. When DEQ calls them to notify them of the release, it can become a big challenge to moving forward in remediation efforts. She also noted that many legacy releases are ineligible for the Fund, either because they pre-date the Fund, or because of possible violations.

Ms. Steinmetz stated that funding corrective action is a challenge. She stated there are several funding sources, and identified the Leaking Underground Storage Tank Fund, (LUST/TRUST), Federal grants, Brownfields and the money transferred from the Fund at the last Legislative Session. She stated that PTCS is working with the Petroleum Marketers in how they use the monies transferred from the Fund.

Ms. Rupp thanked Ms. Steinmetz for the presentation and asked about the prioritization scheme that Ms. Steinmetz had mentioned. Ms. Steinmetz stated that there are high-priority, medium-priority and pending closure. There are four different categories, and she stated that PTCS is taking another look at their prioritization scheme. She noted that they didn't want the prioritization to be based on funding, but wanted to base it on the risk to human health and the environment.

Ms. Steinmetz stated that a 1.1 priority is the highest, and is given if there is an emergency response needed. The priorities cascade from that priority based on if there is free product on site, and if the product is migrating. The priority is also based on if there is a potential risk to human health and the environment. The priorities that are given a rating of 3 are considered medium priority. These aren't ready for closure because they don't meet water quality standards or risk-based screening levels, but the risk is pretty well defined. These are usually in a monitoring category. She stated that the final priorities are 4 & 5, and are given when the risks are mitigated, and the site just needs to be written up for closure.

Mr. Johnson asked if the prioritization or review process can be moved ahead if there is a pending real estate transaction. He asked if there is flexibility in classification based on the ground water, and if it would lead to a lower priority. Ms. Steinmetz stated that, typically, the groundwater classification doesn't play into the priority given. The reason is that in Montana, even if it is class 4 groundwater, carcinogens in any groundwater mandate that risk-based screening levels are met. This is a driver for how things move forward.

Mr. Johnson asked if a higher priority can be given to a site if there is a pending real estate transaction, and that priority could be based on an owner's needs. Ms. Steinmetz stated that the pending transaction would not impact the priority given to the site by PTCS, it is based on risk levels. She stated that PTCS is open to owner's needs and would try to be of assistance, but part of moving a site forward is based on work load for the Site Manager, and they would move even lower priority sites forward, if they had the room to address them in their work load.

Mr. Rorabaugh remarked that there are nearly 1,000 open and active releases. He also stated that there seem to be many funding sources available to bring the sites to closure, and asked Ms. Steinmetz what she thought the bottleneck was and what could be done to change it. Ms. Steinmetz stated that the way she saw it, the bottom line is that PTCS has all these releases and 11 project managers.

Ms. Steinmetz stated that one of the ideas to move through some of this is to potentially use some of the LUST/TRUST funding to hire a consulting company to help PTCS manage some of the open sites. She stated that, as the sites continue to be closed, the Site Managers have been targeting the legacy releases.

Mr. Schnider asked if there was more PTCS staff in the past. Ms. Steinmetz stated that in 2008 she was part of PTCS, and there were fewer Site Managers. She stated that more staff has been hired, but she believes that there was such a push for closures that the investigations and cleanups probably slowed down a little bit. That was why the staff was now having to take a closer look at the remaining open releases. Many of the sites that had been setting on the shelf were ready for closure, upon review, and those were closed during the push for closures. This left sites that required more investigation and review to determine what is needed to get them closed.

Mr. Rorabaugh asked if there was anything the Board or Board staff could do to help. Ms. Steinmetz stated that Board staff and PTCS are working together to make sure there is full documentation that is used and needed by both programs. She stated that we will continue to work together in the Stakeholder's Sub-Groups to come up with needed documentation.

Ms. Steinmetz stated that there is a challenge in addressing old sites that have new owners. The Petroleum Marketers did not want the money that had been transferred from the Fund to be used to for ineligible sites because of concerns the group had. She stated that there are still many old sites that haven't met their co-pay requirements, and the new owner is not willing to accept liability. Those sites are a challenge to move forward. She stated that in the past, the money ran out, so there are many sites on which work stopped because of funding.

Mr. Taylor asked if PTCS had a record of those legacy sites where work was stopped due to lack of funding, and if those are reviewed on a yearly basis by PTCS staff. Ms. Steinmetz stated that was not done annually, but that staff was working through those by age of release and priority. They will move them forward a bit faster if an owner calls and is interested in getting the work done.

Mr. Johnson asked if there was a correlation between the age of a release discovery and the complexity of the site. Ms. Steinmetz stated that releases that happened in the 1920-30's are potentially complex but are low risk. Many of the older releases were closed, there was just too high a volume to deal with at the time they were discovered.

Board Attorney Report

Mr. Chenoweth presented the Board Attorney Report. He stated that there is still the Cascade County case in litigation. The Board had decided to enter mediation instead of entering any kind of appeal. He stated that mediation was unsuccessful.

Mr. Chenoweth stated that Cascade County did file a notice of appeal, but there have been no briefs filed. He stated that, although he had not seen what the appeal was about, based on conversation with Cascade County's attorneys, their client was not satisfied that the case was remanded back to the Board. Cascade County wants to have the Court agree that they have won, and then award them damages.

Mr. Chenoweth stated that the Board has filed a cross-appeal, and the case is at the Supreme Court. The first brief due will be from Cascade County. By the end of February, the Board will file an answer and cross-appeal. He stated that, hopefully, the appeal would be submitted to the Supreme Court sometime in March. He hoped for a decision by the end of the year, whether it would be remanded back to the Board, or to District Court to determine damages. Or if the Board's position is successful, the case may end.

Location	Facility	Facility # & Release #	Disputed/ Appointment Date	Status
Great Falls	Cascade County Shops	07-05708 Release 3051-C1, 3051-C2, 3051-C3 AND 3051-C4	Denial of applications	Cascade County filed a notice of appeal on November 26, 2019. From informal conversations with opposing counsel, it appears that Cascade will be appealing the District Court's decision to remand the case back to the Board. Instead, Cascade wants the case to be remanded back to the District Court for a determination of damages. In response, the Board has filed a cross-appeal seeking a reversal of the District Court's decision regarding Montana's 5-year general statute of limitations. Briefing on this matter will likely begin in January or February 2020.

Fiscal Report

Mr. Wadsworth presented the Fiscal Report to the Board for the end of December FY20.

Mr. Thamke asked how the Fund Soundness report, for the Environmental Protection Agency, was coming and if it was current. Mr. Wadsworth stated that he had about six (6) items left to fill in, and that it was due by January 31, 2020.

Board Staff Report

Mr. Wadsworth presented the Board staff report. He noted that there were many pending eligibilities that would move from that status due to the ratified eligibilities granted in this meeting.

Petroleum Tank Cleanup Section (PTCS) Report

Ms. Amy Steinmetz, Section Supervisor, PTCS, presented the Board with the PTCS Report. She stated that the total number of confirmed releases was 4,725, total resolved was 3,762 and the total number of active releases was 963. She stated that they used to report on the total number of Fund eligible releases that were active. Now the total includes 76 transferred releases. She stated that there were fewer than 890 active releases.

Ms. Steinmetz stated that since the last Board meeting there were nine (9) confirmed releases and eight (8) resolved releases. From the start of the new calendar year, 2020, there have been no new confirmed or resolved releases.

Mr. Thamke asked what Ms. Steinmetz meant by transferred releases. Ms. Steinmetz stated that those were releases that had been taken over by other sections of DEQ, or by EPA, such as those that are on tribal property.

Public Forum

Mr. Brad Longcake, Executive Direction, Petroleum Marketers Association addressed the Board. Public Forum is provided verbatim as required.

BL: Mr. Chair, Members of the Board, my name is Brad Longcake, I am the Executive Director for the Montana Petroleum Marketers and Convenience Store Association. I just have a couple comments and a couple observations just from this meeting and the previous meeting.

First, I want to thank the Board because I hope you see how important doing what you do every day is, by obviously, the owners and operators that came today to plead their side of the story. My observation on these kind

of issues, and the previous issues, is the lack of communication that we are seeing between all involved parties. So, whether it's the owner/operator, the consultant, DEQ and the Petro Board staff.

And that's where our sub-groups that we are working on, along with a number of members in our audience, are trying to figure out, like Mr. Rorabaugh had mentioned, how do we fix the bottle-neck. And so, we've identified a number of issues that we are trying to streamline that process and improve those efficiencies to try to eliminate that bottle-neck.

My biggest concern is that you look on page 90, this is basically the end funding for the cash flow, the end of the year. Well, if you remember, last Legislative Session, we were penalized for being financially responsible. So, if you look at this cash flow that we are building, you are still going to have a net over five million dollars.

So, we have to figure out a way, 1) to continue the solvability (*sic*, solvency) of the program and 2) to improve its efficiency. But we've got to figure out a way to streamline this process so that we can get faster more efficient work plans from the Department to the consultants, from the consultants back to the Board, so that we have the ability to get these closures moving.

And, you know, when I look at the numbers that have been brought up, and I know that Amy has been working hard on this. But, when you look at the numbers of the sites that haven't been looked at in 30 years, to me, that, I don't know all the data, but if we haven't looked at it in 30 years, that seems like it would be a low priority to me. Obviously, I know that it doesn't work that way. But, when I look at these things and trying to figure out how we can improve efficiency, you know the last 20 years, there's a lot of eligible sites that we can go to work on.

Whether that's finding, or, if it's an owner/operator that wants to get something closed, I just think that we need to do a better job, everybody, of 1) improving our communication and 2) trying to figure out how to solve this problem.

If we come back and have such a huge ending Fund balance again, it's going to be looked at as an opportunity to steal and push somewhere else. And you obviously saw the passion of the owner/operators that were here today.

That's why we've been working so hard with Amy and the Department to really focus on those sites that are eligible. The problem is when you go after sites that are maybe in these 30-year old ones, that don't have an owner/operator that is there now and you're trying to figure out a way to close them, you have to make sure you do it in the appropriate manner. That you are not sending the wrong message to these people, that are spending a lot of money upgrading their sites, trying to do the best business that they can. Because if it comes off incorrectly, it is going to be highlighting the fact that you are rewarding those people that have done things and made bad decisions. And that's not, I know none of the parties want to do that, but it's sometimes not always the manner in which you do it, as the way you say it or the way you push it out.

That's where our group has been working together, but we need to continue to focus and think about that, the decisions that all of you guys are making.

And, with that, I appreciate the time and thank you for all the work you do. I am happy to answer any questions, thank you.

Chairman Schnider: Are there any other presenters for open forum. Seeing none, our next meeting will be March 30, 2020 with an Executive Session following the regularly scheduled Board meeting.

The meeting adjourned at 1:06 pm.


Signature - Presiding Officer