AGENDA

PETROLEUM TANK RELEASE COMPENSATION BOARD MEETING

March 21, 2016
10:00 a.m.
Metcalf Building Room 111, 1520 East 6th Avenue
Helena, MT

NOTE: Individual agenda items are not assigned specific times. For public notice purposes, the Board will begin the meeting at the time specified. However, the Board might not address the specific agenda items in the order they are scheduled. The Board may take action on any of the items on the agenda. For disability accommodation, please contact DEQ Personnel at 444-4218.

10:00 Board Meeting

I. ADMINISTRATIVE AGENDA ITEMS

Approval of August 31, 2015 Board Minutes - ACTION ITEM 1
Approval of January 25, 2016 Board Minutes – ACTION ITEM 18

II. ACTION ITEMS

Oral Arguments, Cascade County, Hearing's Examiner Case 2014-0705708 27
Percent Adj. Dispute, Main Street Service, Facility 39-04312, Rel. 3666, Deer Lodge 28
Ratification of Weekly Reimbursements and Denied Claims 54
Board Claims 62

III. DISCUSSION ITEMS

IV. REPORT ITEMS – INFORMATIONAL (DISCUSSED AT THE REQUEST OF INTERESTED PARTIES)

Board Attorney Report 84
Fiscal Report 85
Board Staff Report 89
DEQ Petroleum Tank Cleanup Section Report 95

V. Public Forum

Under this item, members of the public may comment on any public matter within the jurisdiction of the Board that is not otherwise on the agenda of the meeting. Individual contested case proceedings are not public matters on which the public may comment.

VI. Next Proposed Board Meeting date: June 6, 2016

VII. Adjournment

PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
Business Meeting
August 31, 2015
Department of Environmental Quality
Metcalf Building Room 111, 1520 East 6th Avenue
Helena, MT

Board members in attendance were Jerry Breen, Kate Cassidy, Chuck Thompson, Roger Noble, Tim McDermott, and Keith Schnider. Also in attendance were Terry Wadsworth, Executive Director; Mark Mattioli, Attorney for the Board; and Ann Root and Garnet Pirre, Board staff.

Presiding Officer Roger Noble called the meeting to order at 10:02 am. Mr. Noble announced that Mr. McDermott had accepted reappointment to the Board by the Governor and would be serving for another three years. Mr. Noble also noted that the previous Board meeting had been Roy Morris's last, and that the Governor had appointed Mr. Chuck Thompson in Mr. Morris's place as a representative for the service station dealers.

Approval of Minutes – July 13, 2015

Ms. Cassidy moved to accept the minutes as presented, and the motion was seconded by Mr. McDermott. **The motion was unanimously approved.**

Election of Vice Presiding Officer

The former Vice Presiding Officer, Mr. Morris, was no longer on the Board, creating the need to elect a new Vice Presiding Officer for the August 31, 2015 meeting. By rule, the Board elects a presiding officer and a vice-presiding officer for terms of one year each at its first meeting after October 1; therefore, officer elections for 2016 will also need to be held at the next meeting in 2015. Ms. Cassidy nominated Mr. Breen. No other nominations were made. Mr. Breen agreed to accept the nomination. Mr. McDermott seconded the nomination. **The nomination was unanimously approved.**

Eligibility Dispute, Bank West Building, Facility #1512006, Release #528, Kalispell

Before the matter of Bank West was brought before the Board for consideration, Mr. Noble stated that Bank West was his client and had requested his assistance with the eligibility dispute. He turned the meeting over to Mr. Breen, as acting Presiding Officer, and moved to the floor.

Mr. Wadsworth summarized the Board staff's ineligibility recommendation. He indicated the recommendation was based on documents contained in the Department of Environmental Quality's (DEQ's) files. Those documents, addressed reports of visual observations of the presence of petroleum motor fuel, a regulated substance, in the soil and ground water, as well as petroleum vapors in the basement of the building at the site. The documents indicate a discovery date prior to April 13, 1989. Because the release was discovered prior to April 13, 1989, the release is statutorily excluded from eligibility for reimbursement from the Petroleum Tank Release Cleanup Fund per §75-11-308(1) (a), 1989, MCA. Mr. Wadsworth directed the Board's attention to a letter, dated May 5, 1989, from Jeff Kuhn, Environmental Specialist, Department of Health and Environmental Sciences (DHES) Underground Storage Tank Program, to Mr. Doug Morton, Bank West, which states that there had been complaints of petroleum odors over a period of years indicating, that there was a known problem at this site at least a year before the letter was written. That would place the date of knowledge of a petroleum release before the deadline of April 13, 1989. Mr. Wadsworth reminded the Board that DHES was the predecessor agency to DEQ. Mr. Wadsworth also indicated the letter mentions that contaminated soil was also discovered during a recent sewer line replacement.

Mr. Wadsworth then directed the Board's attention to a letter, dated January 2, 1991, from Mr. Kuhn to Dave Tongen, City Service, a previous owner of the property. The letter documents Mr. Kuhn's December 31, 1989 phone conversation with Mr. Tongen, wherein he stated that the gasoline leak may have occurred from a gasoline tank that was taken out of service prior to City Service's purchase of the property in October 1969. Mr. Kuhn reiterated to Mr. Tongen that the tank was removed sometime between 1973 and 1975, and it was evident that this tank had been leaking when it was removed. In addition, Mr. Kuhn's letter to Mr. Tongen indicated that groundwater and small quantities of gasoline were pumped from a sump shortly after occupying the building, indicating that the owner

knew of a release as far back as 1969. City Service sold the property to Glenn Graham, in August 1984. Mr. Kuhn's letter of January 1991 indicated that Mr. Graham removed three underground storage tanks from the property during his remodel in 1984 and discovered up to one foot of floating gasoline in the excavation and gasoline-saturated pea gravel. According to the letter, Mr. Graham was convinced that none of these tanks leaked and he had no knowledge of a tank being removed between 1973 and 1975. As shown by his account, Mr. Graham, the property owner, knew of the release before April 13, 1989, and therefore, this release was discovered years before the inception of the Fund on April 13, 1989, per §75-11-308(1)(a), MCA, which is the reason the staff recommended denial of eligibility for Release #528.

Mr. Schnider asked if there were any other grounds for ineligibility, aside from the date. Mr. Wadsworth indicated that the staff did not look further, due to the statutory exclusion due to the date.

Mr. Breen asked if the Board had run across similar situations in the past. Mr. Wadsworth indicated that there were other sites that had been statutorily excluded from the Fund, but that he could not cite a specific case and would need to do some research to provide the Board with information about those specific eligibilities.

Mr. Schnider asked whether a release could be eligible if it occurred prior to 1989, but was not discovered until years later. Mr. Wadsworth indicated that, due to the language of the statute with regard to the discovery date of a release, in such circumstances a release would be considered eligible. For example, if you do a Phase II environmental site assessment because of a property transfer and you find contamination today, it's discovered after April 13, 1989, which would not exclude the release from eligibility to the fund. The discovery date of the release is the date used in the eligibility determination. Mr. Wadsworth further stated that, in the case of Release #528, the documentation contained in the files points to knowledge of the release and contamination nearly twenty years prior to the inception of the Fund.

Mr. Schnider asked if there was any documentation indicating that the release had ever been cleaned up. Mr. Wadsworth replied that there was no documentation in the files indicating that the release had been cleaned up and that the historical data seemed to indicate that the contamination was a result of the tanks that had been part of the gas station at that site. To the best of his knowledge the gas station tanks had not been replaced with other tanks that could have leaked, indicating that it was not a newer release. It is known there was contamination prior to 1989, but it is not known how much, since it was never investigated. It does not look to the staff, based on the files, that there was any other source of contamination or source of release at the site.

Mr. Breen asked if there were other releases discovered before 1989 that were denied eligibility. Mr. Wadsworth clarified that the inception of the Fund, April 13, 1989, was the date decided upon by the Legislature to allow or disallow eligibility, started. The statute stated that anything discovered before that date was ineligible, while anything discovered after that date could be eligible if other requirements were met. The staff has not done a detailed analysis of compliance on these tanks because it's statutorily ineligible.

Mr. Noble, Applied Water Consulting, appeared before the Board on behalf of Bank West. He introduced Mr. Lee Bruner as the counsel of record representing First Interstate Bank. Mr. Noble gave an outline of the ownership history. The site, formerly known as Rainbow Texaco, was owned by City Service from 1960 until 1984. During that time it was presumably operated as a service station. On September 6, 1984, Glen and Shelley Graham purchased the property and converted it into a Taco Time restaurant. The property was purchased by Bank West on June 25, 1987, and remained under their ownership until 2015 when First Interstate Bank acquired Mountain West Bank in a statewide acquisition of these facilities. The current Bank West property encompasses half a block. Rainbow Texaco occupied the northern part of the Bank West site.

Mr. Noble wanted to clarify some discrepancies that he felt were presented by Mr. Wadsworth. Mr. Noble stated the effective date of the PTRC Fund is April 13, 1989; however, almost all of the information on which the staff based its decision is anecdotal evidence. He further stated that there was no hard evidence, such as a receipt, a photograph, or even a written log, that any the tanks in place were causing the contamination. Basically, all of the information from October 1969 through March 1987 is anecdotal.

Mr. Noble had reviewed DEQ's files and found three pieces of information that he believed show the release occurred after April 13, 1989. First, he referred to the aforementioned May 5, 1989 letter written to Doug Morton by Mr. Kuhn. Mr. Noble focused on the subject line from this letter that states: "Possible Soil and Groundwater Contamination at former Texaco Service Station Site". Mr. Noble stressed the word "possible" as evidence that the

release had not been confirmed as of the date of the letter, which is after the April 13, 1989 date. He indicated that if the release had been discovered, the wording would have referred to the contamination as "existing" or "documented". The May 5, 1989 letter states that there are, potentially, multiple other sources of contamination at the site, and therefore, the actual source of the contamination is unclear. The letter's date is the first date that the actual owner, Bank West, had knowledge of a release on the property. Mr. Noble stated that under the PTRCB rules and statutes, the owner or operator needs to have knowledge of the release. In this case, the tanks were long gone, so there was no operator, and the new property owner, which is Bank West, this was first date they had knowledge of a release.

Mr. Schnider asked for the specific ruling that indicates the PTRCB rule just stated by Mr. Noble. Mr. Noble said that pretty much all the rules within the Fund are based on the owner/operator.

Mr. Noble next referred to the January 2, 1991 letter from Mr. Kuhn to Dave Tongen of City Service. The excerpt from the letter to which Mr. Noble referred stated: "During our phone conversation on December 31, 1989, you explained that the gasoline leak may have occurred…." Mr. Noble stressed the use of the phrase "may have occurred", stating that this was proof that the release had not been confirmed, but was speculative. Mr. Noble stated that this is some of what he considered anecdotal information, previously presented by Mr. Wadsworth. Mr. Noble felt this letter supported that the source of the contamination had not been unequivocally identified or confirmed before April 13, 1989, which was the basis for the recommended eligibility denial from the Staff.

Mr. Noble discussed an additional entry from the DEQ database document log for Release #528. The Doc ID entry #953 showed both the Notification Date and the Confirmation of Release date to be April 28, 1989. In addition, the source of the contamination is listed as "Unknown". He stated these documents are more reliable because as far as documenting a discovery date, because they provide a specific date of April 28, 1989.

Mr. Noble categorized all the documents he reviewed as the same type of evidence submitted in a water rights trial, which is part of his business experience, to be *prima facie* evidence based on the dates of confirmation shown from the logs and letters. He analogized that a release date is the same as a priority date in a water rights case and would be the defining date used by a judge to confirm a discovery.

Mr. Noble outlined the Initial Remedial Investigation Report, prepared April 28, 1994 by NTL Engineering & Geoscience, Inc. of Great Falls, MT and submitted to the DEQ on April 29, 1994. The report shows that there were five soil borings and monitoring wells, and soil and groundwater samples were collected. These are the first laboratory results documenting contamination at this site.

Mr. Noble stated that he interviewed Glen Graham, former owner of the Bank West [*sic*] (should be Taco Time), on July 21, 2015. In that interview, Mr. Graham stated the underground storage tanks he removed were intact and not leaking. Mr. Graham further acknowledged that there was free product in the sump, but he stressed that he did not know the source of that contamination. Mr. Graham said that the amount of free product was not a foot of gasoline, as previously stated, but that the vapors were strong. He related that his neighbor at his time of property ownership was an individual named Mr. O'Boyle. According to Mr. Graham, Mr. O'Boyle suggested the contamination could be from a former Exxon Station to the northwest of the Taco Time property. Mr. Noble pointed out that, although DEQ's correspondence indicated that they would do a follow-up investigation, there was no further investigation done by DEQ.

Mr. Noble stated that he did research to see if any of the surrounding properties could have been the source of contamination. He found a site immediately to the north. This neighboring site is a Town Pump facility that has had discovered releases, but due to the chemical makeup and volume of those releases, both Mr. Noble and the DEQ site manager, Reed Miner, concluded this was not a possible source of the contamination found at the Bank West site.

Mr. Noble indicated that he then researched another neighboring property, on the northwest corner, and found that Yale Oil owned a gas station that was subsequently purchased by other gas companies, Exxon being one, and was in operation for over forty (40) years. Mr. Noble stated that there had never been any investigative work done at this site, but as Mr. Wadsworth had previously stated, contamination could be eligible upon discovery if it was discovered after April 13, 1989, even if the actual contamination took place well before the statutory rule date for eligibility. He reiterated that the date of the discovery was the key element in determining eligibility.

Mr. Noble explained that on July 21, 2004, Mr. Kent Saxby, attorney for City Service, responded to a letter from Daniel Kenny, Enforcement Specialist at DEQ, concerning a proposed Consent Order for City Service to sign. City Service's attorney, Mr. Kent Saxby, responded to the consent order. In this letter, Mr. Saxby cited:

> "There are also substantial, unresolved questions regarding the source of any environmental contamination that may be on the property. In this regard, when the underground storage tanks were removed from this property, the parties involved with the removal indicate that none of the tanks appeared to have been leaking. Additionally, there was no apparent, significant environmental contamination to the property surrounding the tanks. There were also no complaints of petroleum vapors, or other environmental concerns expressed by the parties which were my client's successors in interest with respect to this property until 1989, approximately five (5) years after my client had sold this property. In 1989 an owner or tenant of the property expressed concern about a petroleum smell, and as a consequence a vapor extraction system was installed. This apparently resolved the petroleum vapor problem, but in 1994 and 1995, in connection with further investigations and monitoring of the property conducted by an environmental consultant, new contamination, including fresh petroleum product was discovered on the property. This occurred more than ten (10) years after the underground storage tank had been removed from the property previously owned by City Service. Given this significant passage of time, it is clear that this contamination migrated from another property onto the former City Service property."

Mr. Noble pointed to the fact that City Service was not the owner/operator at the time of the release and contended that they are therefore not responsible for cleanup of the release. Subsequently, this matter died, according to the records at DEQ.

Mr. Noble indicated that the chronology submitted to the Board shows no entries between July 27, 2011 and January 5, 2015, but that is not the case. According to DEQ records, between December 23, 2011 and May 11, 2015 there had been two groundwater monitoring reports, a work plan, additional soil samples, and installation of additional monitoring wells, and a geoprobe investigation. He felt this additional information illustrated the responsiveness of the current owner, Bank West, to the remediation efforts at this site. Mr. Noble stated that Bank West has been readily compliant and has completed all the requested work to date.

Mr. Noble summarized that DEQ records state the release date is April 28, 1989, as shown in two different documents. He felt that these documents must be relied upon to substantiate the official release date. The first knowledge of a release that Bank West had was on May 5, 1989 about "possible soil contamination". The actual release was confirmed via soil sample laboratory results in a report dated April 28, 1994, and should therefore be eligible for compensation from the Fund. Mr. Noble reiterated the information presented in the Board packet was of a speculative nature and that there had been no solid evidence to substantiate a release before the April 13, 1989 statutory date. He felt that the Board needed to make their decision based on factual data. Mr. Noble stated that if the Board decision got appealed and went on to a Hearings Examiner or District Court, the court would make their decision based only on factual data. Mr. Noble stated that when the Fund was created, the mandate was to clean up historical and new contamination sites and a structure was setup to provide protection for the environment.

Ms. Cassidy asked Mr. Noble about the current status of the site. Mr. Noble stated that a report was turned in to DEQ on May 11, 2015 and he had not received a response. The report defined the extent of the contamination and the next step is to decide how to remediate it.

Mr. Breen asked if the site across the street, the Exxon Station, was a possible source of contamination. Mr. Noble said that based on the water flow from the Exxon site, it is possible that the contamination could have come or be coming from there.

Mr. Breen stated that there was information presented by Mr. Noble that was not included in the packet of information to the Board by the staff and he asked if that was because the staff had recommended this release be ineligible. Mr. Wadsworth stated that the Board staff always allows additional information to be included in the packet if it is submitted in a timely manner. The staff had not received anything from Bank West at the time the packet was submitted to the Board.

Mr. McDermott made the analogy that ARCO is responsible for cleanup in Anaconda even though they were not the responsible party that caused the arsenic, copper, and other contamination. He then asked who is responsible for the Bank West property. He further questioned who would be liable if the contamination was from the Exxon station to the northwest of the site and not from the tanks removed at the Bank West site. He used the example of the ARCO case where the cleanup of the site was mandated, even though the owner of the site had not caused the contamination. Mr. Mattioli responded that the issue in the ARCO case was not when ARCO learned of or discovered the contamination but whether ARCO was liable for cleanup. Unlike the ARCO case, the Fund's laws clearly state that a release is not eligible for reimbursement from the Fund if it was discovered prior to April 13, 1989, when the Fund came into existence.

Mr. Wadsworth further clarified the requirements for the discovery date as it is applied within the Board's laws and quoted the definition contained in the rule, Administrative Rules of Montana (ARM) 17.58.311(25), "Release discovery date" provided the release is confirmed in any manner that is in 17.56.504 and 17.56.506; and that date is the date the owner and operator had actual knowledge of the release or the date the release is confirmed Although Mr. Noble indicated there was no laboratory evidence to confirm the release sometime later, there was olfactory evidence of a release.

Mr. Wadsworth referred back to Mr. McDermott's previous statement that referred to the records from 1984 wherein the property owner at that time reported free product and vapors at this site. That is considered olfactory evidence that a release has been discovered, consistent with the rules defining Release discovery date that were just discussed. This shows that as early as 1969 and definitely by 1984, the owner of the property at that time had knowledge of a release as defined in the Board's rules, which places the date of discovery well before April 13, 1989. Mr. Wadsworth said that according to the Board's rules, the owner of a facility is, by definition, an owner. The owner in 1984 had a duty to respond to that particular release and clean it up. He chose not to, and sold the property. The new buyer then has the responsibility of taking that on and cleaning it up. The statute states that the release must be discovered after April 13, 1989. Because this release was discovered before April 13, 1989, given the definition contained in the rules, that's why the staff recommended this release be ineligible.

Mr. Noble acknowledged the landowner is the responsible party. First Interstate Bank being the landowner is thereby the responsible party. Mr. Noble said that because the Underground Storage Tank program did not exist until 1987 there was no method to report, no method to cleanup, no cleanup requirements, or no other procedures. This was not established until the EPA underground storage tank rules were promulgated, and there should be some consideration for these dates.

Mr. Lee Bruner continued the presentation to the Board. He stated that the laws governing storage tanks have changed through the years, and the law applied was the law in place at the time of the release discovery. The Board was brand new in 1989 and there were not many regulations in place at that time. He believes that what defines the discovery date and the actual discovery date of the release are still in question. Mr. Bruner questioned if "release discovery" means discovery of contamination in the ground or if it means confirmation of a release at a facility. He stated that just because you dig in the ground and find some gasoline in the groundwater, that does not mean you had a release at your facility; that just means there is gasoline in the water. Mr. Bruner further delineated the definition to say that the presence of gasoline in the previous example would only be considered a "suspected release" not a "confirmed release" at a facility. Mr. Bruner referred to the DEQ phone log dated April 28, 1989, and the DEQ log showing they were excavating for a sanitary sewer system installation. They call DEQ and at that point confirmed Release No. 528 after the effect date of the statute, April 28, 1989. He also referred to a letter written to Kelly St. Onge, Mountain West Bank President, from Scott Eklund, Project Manager of the DEQ Petroleum Technical Section, dated July 27, 2011 wherein it was DEQ's position: The release was discovered in April 1989 when a complaint was made regarding petroleum fumes in the basement of the AAA Travel Building that was located on the site." Mr. Bruner stated this shows that prior to April 13, 1989, prior to the effective date of this statute, at best it would be considered a suspected release at this site.

Mr. Bruner highlighted ARM 17.506.502(1), which states: "The discovery by an owner or operator or other person of a released regulated substance at the storage tank site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water and groundwater)". This citation was taken from the rule in place in 1989. Mr. Bruner stated that accordingly, this release would still have been defined as a suspected release without a confirmed source. He reiterated that the source of the petroleum contamination is still not known.

Mr. Bruner postulated that Mr. Graham's report does not define this as a discovered and confirmed release but only a suspected release without a known source. Mr. Bruner also cited ARM 17.56.502, with emphasis on the title of that section: "17.506.502 Reporting of Suspected Releases".

Mr. Bruner also cited the May 5, 1989 letter from Jeff Kuhn to Doug Morton, wherein Mr. Kuhn states:

> "As I mentioned in our conversation yesterday, we asked that you retain a groundwater consultant to assess the extent of contamination at this site due to numerous complaints of petroleum odors in the sumps and crawl spaces in this area over the years, and the discovery of a large amount of contaminated soil during the recent removal and replacement of the sanitary sewer connected to the old service station building."

He stated the contaminated soil was discovered after the effective date of the statute being April 13, 1989.

He also cited these additional excerpts:

> "This by no means implies that the property owned by Bank West is the sole source of these off-site complaints or other known or previously known groundwater contamination in the area. It is possible that other closed or currently operating fueling facilities in the area may have also contributed some amount of contamination to soil and groundwater." and,
>
> "However, any information pertaining to the former service station that will help to explain the cause of any petroleum release on your property…."

Mr. Bruner stated this indicates DEQ is still looking for the source of the contamination, which is still unknown at this time.

Mr. Bruner stated that prior to April 28, 1989, we had a suspected release. On April 28, 1989 there was a confirmed release, but it was not until 1994 that the source of that contamination was identified.

Mr. Bruner researched numerous DEQ records to see if this type of situation had happened before and the only comparable record found was from the Burger King Site in Missoula, Facility #32-10677, Release #2198. This site had tanks and piping removed in the 1970s. We do not know what was found during removal. The record is silent on this. However, I think it's a safe assumption that if they pulled tanks and pipes and there was contamination but the record is also silent on whether there was or was not. There was a confirmed release at the Burger King site in 1994, after the April 13, 1989 effective date of statute. This site was determined eligible. Mr. Bruner submits that tanks were removed at both sites prior to April 13, 1989 and there was confirmation of a release at both sites after the effective date of the statute. Burger King was deemed eligible; therefore, Bank West should also be eligible.

Mr. McDermott asked Mr. Bruner to explain the process to go from suspecting a release to confirmation. Mr. Bruner deferred the question to Roger Noble. However, Mr. Mike Trombetta, Bureau Chief Remediation, DEQ, interjected that he could respond.

Mr. Trombetta explained that the discovery of a release and the confirmation of a release are two completely separate matters, defined by two separate laws. The two laws that govern how tanks are regulated are: 1) the Petroleum Storage Tank Clean-Up Act, found in Title 75, Chapter 11, Part 3, MCA, signed into law on April 13, 1989 wherein the Petroleum Tank Release Compensation Board (PTRCB or Board) came into being and that speaks to the discovery of releases; and 2) the Underground Storage Tank Act, found in Title 75, Chapter 11, Part 5, MCA, which was based on federal regulations and speak to suspected releases and confirmed releases. This can be confusing when looking at the language between the two programs, because the PTRCB speaks about the date that a release was discovered and the Underground Storage Tank Act speaks to the date that a release is confirmed. Mr. Trombetta was unsure as to why the legislature provided two conflicting statutes, but it was clear they wanted a difference. Mr. Trombetta spoke to the confusion surrounding these two conflicting statutes, but said that it is clear that the information sought in each is separate language and a separate process. A release is suspected, per the DEQ §75-11-part 5, MCA regulations, through many things; for example, odors in the soil, irregular pump operations, or an alarm going off. It is confirmed, when the contamination levels are above risk based corrective action tier 1 levels; you see free product on the ground; you have a known surface spill on the ground that cannot be cleaned up within 24 hours or is more than 25 gallons of product.

Mr. McDermott asked, what would be the process for evaluating contaminants that don't have an odor such as metals; would the concentration have to be documented. Mr. Trombetta said that all petroleum has an odor and being able to smell it does not always mean it is present in excess. Mr. McDermott asked again if you could smell free product would it be a confirmed or suspect release. Mr. Trombetta said we would call olfactory observations a suspect release. He elaborated that if a spill of the free-product is over 25 gallons and not able to be cleaned up within 24 hours it would be confirmed, but if it was less than 25 gallons and was cleaned up in 24 hours than it would be a suspect release. Mr. McDermott asked further if you could see free product in the soil, as was stated in the previously cited letters, would it be a suspect or confirmed release. Mr. Trombetta clarified that olfactory evidence would be considered a suspect release, and that free product on the ground would be a confirmed release. He further stated that free product in the soil is a confirmed release, if you see or detect free product in the soil.

Mr. McDermott asked if the location of the free product was in the soil where the tanks used to be. Mr. Kuhn stated that there was a sump located inside the building, which was located immediately adjacent to the tank basin and was gathering water through the pea gravel into a sump in the basement of the building. That there had been product in the sump with gas vapors was the connection all along. The building occupants complained about the presence of gas vapors, until City Service had installed an enclosed piece of PVC with a venting fan to evacuate the vapors through the roof of the building by the middle of the 1990s. He stated that the release had actually been discovered in 1988, prior to the inception of the PTRC Fund. The discovery was made during a site inspection conducted by Mr. Dave Mayhew, the Fire Chief of Kalispell, and Mr. Kuhn. Mr. Mayhew had requested Mr. Kuhn make a site visit. The City of Kalispell did not have an inspection process in place. Mr. Kuhn said they looked at all of the known leak facilities in Kalispell at that point in time and the reason they did was because they were a new program and were coming up to speed with all of the local fire chiefs who had jurisdiction over fire and safety. Mr. Kuhn said he did not bring his inspection notes to the hearing and they were in his files or personal notes, but that he would be happy to provide that documentation. Mr. Kuhn stated that his site inspection with the Kalispell Fire Chief was confirmation of that release at the Bank West site and the date of the site inspection was well before the inception of the Fund. Mr. Kuhn also drew the Board's attention to the paragraph from his January 2, 1991 letter to Dave Tongen, City Service, which stated:

> "The Montana Petroleum Tank Release Cleanup Fund is available to reimburse owners/operators of petroleum tanks for eligible expenses caused by a release (MCA 75-11-301 et. seq.). However, as we discussed, sites having verified leaks prior to the effective date of the Fund (April 13, 1989) are not typically eligible for reimbursement of investigative or cleanup costs."

Mr. Kuhn explained that he intentionally included that language in the letter because the release was known and confirmed before the inception date of the Fund. Mr. Kuhn said there were many conversations with City Service and the Fire Chief, and the release was on the list of the known releases even though the letters from the DEQ did not go out until later.

Mr. Bruner asked Mr. Kuhn if he was saying that in his May 5, 1989 letter, the Fire Chief had previously confirmed a release at the Bank West site, because Mr. Bruner had not seen that stated in the letter. Mr. Kuhn said that if that information was not in the letter, it would be in additional documents. He further stated that this was not unusual because the volume of facilities and sites that the DEQ was visiting at that time was too great to initiate letters at the exact time of the site visit. Mr. Kuhn explained that the dates of the letters in the DEQ database by themselves are not a clear indicator of the date of a confirmation of release. The UST program was new in 1987, Mr. Kuhn was hired in 1988 and the identification of releases was not even fully implemented until 1989, around the same time that the Fund came into existence.

Mr. Bruner specifically asked: "Did you say in your letter of May 5, 1989 you had identified that the fire department had previously confirmed a release at the site; because I am not seeing that in your letter." Mr. Kuhn stated that the City of Kalispell's Fire Inspection records would most likely show the site inspection whereby the release date would be stated, as well as other documents belonging to Mr. Kuhn. Mr. Kuhn referred back to the paragraph from his January 2, 1991 letter, indicating that the language he included in this letter, while not explicitly stated, there may be other documentation that provides a more specific date in the Fire Department records. Mr. Bruner reiterated to Mr. Kuhn that nowhere in his letter did it state there was a confirmed release prior to April 13, 1989, to which Mr. Kuhn acknowledged "no".

Mr. Bruner stated that he and his client had not seen those documents and he hoped the Board would not make a determination, since there is a lot of money at stake, based on some documents that may or may not exist. Mr. Noble followed Mr. Bruner's statement by saying that he was disconcerted because he had submitted a formal letter to DEQ requesting full documentation and the complete file be sent to him. Mr. Noble stated that the documentation he received was also vetted by the DEQ attorneys and that none of the documents Mr. Kuhn referred to were in the file he received. Mr. Noble stated that this was not right and they were not given access to this other information.

Mr. Breen asked if there was further discussion. Ms. Cassidy said that perhaps the Board should ask for this additional documentation before making a decision. Mr. McDermott felt that, in this case, the definitional difference between suspected and confirmation of a release still needed to be further clarified. Mr. Bruner said that the definitional differences were the position Bank West took all along, because he felt that the release was suspected not confirmed. Mr. Bruner further stated that the DEQ's own database had a clear confirmation date of April 28, 1989, after the effective date of the statute. He further stated that he could not imagine that there were any additional documents that would change the official confirmation date of April 28, 1989, which is the date confirmed by DEQ.

Mr. McDermott asked if there was any documentation confirming the communication between Mr. Graham and DHES. He wondered if the evidence used was all verbal or if it was documented. He referred to the Executive Summary reference to a telephone conversation between DHES and Mr. Tongen. Mr. Wadsworth drew Mr. McDermott's attention to the January 2, 1991 letter, which documents the telephone conversation. Mr. Wadsworth clarified that the information presented to the Board by the staff was obtained strictly from the two letters that had been cited and referred to previously.

Mr. Noble said that, in his experience, he had encountered sites where the petroleum vapors had been significant and the laboratory results came back indicating a low petroleum concentration, and other sites where there was a light odor but just the opposite was true. He used these illustrations to indicate that olfactory evidence without a laboratory test is only classified as a suspected release and that the laboratory results would be used to define a release as confirmed. Mr. Noble was questioned about the presence of free product referred to in the letters, as reported on by Mr. Graham, as well as his account of his interview with Mr. Graham in July of 2015. Mr. Noble said that Mr. Graham's main evidence of any release was the olfactory evidence, and Mr. Graham was not able to commit to the actual amount of free product he saw. Mr. Noble stressed that is why it is not a confirmed release until the soil samples were collected and analyzed in 1994. Mr. Bruner further stated that when Mr. Graham pulled the tanks in 1984 he reported that they were intact and they were not thought to be the source of the contamination.

Mr. Schnider wondered if the Board's concern in this dispute surrounded the source of the release being from the underground tanks versus another source. Mr. Noble answered by illustrating another project he had worked on in Kalispell that had contamination at a site from above ground tanks that had been removed long before inception of the Fund. Mr. Noble stated that site was deemed eligible by PTRCB and has received funding.

Mr. Breen asked whose responsibility it is to decide when the release was deemed to be eligible based on suspected or confirmed release prior to the cutoff date or after, or should that go to an appeal. Mr. Mattioli stated that the Board could make that judgment. Mr. Breen wondered if making that judgment in this case would be for the Court. Mr. Wadsworth stated that the Board has the ability to make that determination based on their interpretation of the statutory framework and within a case where there is a gray area that is open to interpretation. A judge could subsequently rule that the Board's interpretation was incorrect. In Mr. Wadsworth's opinion, there does not appear to be any gray area in this case. He also highlighted that the Fund rules use the language regarding "suspected" (ARM 17.56.502) and "confirmed" (ARM 17.56.504) to define the date of discovery. The Fund's law states that the earlier of those two dates, suspected or confirmed, is used within Board laws to define the Fund's discovery date. Mr. Wadsworth used an example to illustrate how the Fund law is written and stated that if you saw a release today and it was confirmed two weeks from now, the date of discovery would be today's date based on your first, earliest, observation.

Mr. Wadsworth suggested that the Board table this matter, allow Mr. Kuhn to provide the additional information he has, allow Mr. Bruner and Mr. Noble a chance to review that information, and then reconvene and reexamine the information in an effort to make an informed decision.

Mr. Schnider commented that he felt someone before Bank West was not acting in good faith and that Bank West should not be held accountable for that omission. He felt that Bank West had played by the rules and should not be

sanctioned because they are left in this position. Mr. Schnider also understood that the discovery date is part of making the decision and there may be additional information that can be brought before the Board to help in deciding.

In order to provide the Board additional information, Mr. Wadsworth referred back to an earlier question from Mr. Breen concerning other sites that had been discovered before the inception of the Fund and had been deemed eligible. He had asked the staff to look through the PTRCB database to see what cases were documented. Mr. Wadsworth stated that the database was not comprehensive because PTRCB does not have a record of every release, only those that have applied for eligibility. Of those that have applied, there have been twelve releases that have a discovery date that is before April 13, 1989. Only two of those twelve were granted eligibility. He stated that the staff was doing further research to verify the reasons those two releases were granted eligibility. Mr. Wadsworth again recommended the Board table this matter until all documentation, such as these two eligible historical releases, was gathered for the further review.

Mr. McDermott stated that his understanding that the options open to the Board were to table the dispute or to deny the eligibility and let the case go on to MAPA. Mr. Bruner suggested a third option, to grant eligibility.

Mr. Schnider moved to table the Bank West eligibility dispute. Mr. Thompson seconded the motion. The Bank West matter was tabled until all parties involved could submit and review further documentation. **The motion was unanimously approved.**

Eligibility Dispute, GM Petroleum, Facility 4410824, Release 5038, Forsyth

Mr. Noble resumed his role as Presiding Officer.

Mr. Wadsworth outlined the Staff recommendation to deny eligibility to Release #5038, based on the fact that the petroleum delivery driver, Mr. Phillip O'Brien, overfilled the aboveground storage tank at this facility, resulting in an estimated 1,243 gallons of red-dyed #2 diesel fuel being released onto the ground surface. The fluid level in this tank was in excess of 95 percent of its capacity at the time of fuel deliver, and there was no visible or audible means in place at the facility to warn the delivery driver of this overfill, as is required by MCA §75-11-308(1)(b)(ii). The International Fire Code states that there must be an independent means in place to notify the person filling the tank when the tank has reached 90 percent of capacity. This was not available at this site, which resulted in the subsequent overfilling of the tank. The applicable laws are found in ARM 17.58.325(1)(a)(vi)(A), as well as the International Fire Code 3404.2.9.7.6(1)(1.1) IFC (2009). International Fire Code 3406.6.1.2 IFC (2009) further states that the driver of a tank vehicle shall not remain in the vehicle cab and shall not leave the vehicle while it is being filled or discharged. The delivery hose, when attached to the tank vehicle is considered to be part of the tank vehicle. Because there was no visible or audible means for Mr. O'Brien to be notified of a tank overfill from outside of his vehicle, the Staff recommends denial of eligibility.

Mr. Schnider commented that there would not be releases if everyone followed the rules. Mr. Wadsworth, knowing that releases can occur even when everyone is following the rules, replied that tanks rust out and release product, but those releases are caught quickly due to monitoring equipment. Those releases are not necessarily preventable but can be minimized. Mr. Schnider stated that the fund exists to help people clean-up spills. Mr. Wadsworth agreed that if the owner is in compliance, the fund is available to assist with clean-ups.

Mr. McDermott asked if it was normal for a tanker to be separated from the refill stations. Mr. Wadsworth replied that is not uncommon for there to be a secondary containment area that is separate and provides safety for certain situations, but does not prevent spills or human error situations. It provides a barrier to keep people from hitting the storage tanks or to prevent the fuel going into navigable water sources if there is a release to the ground surface. This means that there is a loading area apart from the filling area.

Mr. McDermott questioned if the audible alarm was in the building and that was why the truck driver did not hear it. Mr. Wadsworth confirmed that the PTRCB staff had spoken with the truck driver, who stated that there was an alarm in the building, but that he could not hear it, and the visual gauge was not in the driver's line of sight when he was in the loading area. Mr. McDermott wondered what the driver was doing while he was dumping his fuel load. He wanted to understand what "maintaining the tank vehicle" means in the code. Mr. Wadsworth explained that the fire code requires the driver to be outside the vehicle to regulate the valves and check things as the fuel is unloaded

and cannot be inside the truck or otherwise distracted. Because the driver was unable to see the gauge or hear the alarm while following proper fire code, this release is recommended ineligible by the staff.

Mr. Thompson noted that the configuration at the storage facility would not enable the truck driver to see a gauge while off-loading fuel. Mr. Wadsworth agreed that the driver would not and could not see the gauge, and that the tank had reached over 90 percent full. That is why the staff had recommended denying eligibility to this release.

Mr. Schnider stated that moving the tanks to an area where the driver would be able to see them would be expensive. Mr. Wadsworth stated that it would not be expensive to relocate the alarm outside, where it was audible to the driver.

Mr. McDermott sought further clarification that the alarms were not audible. Mr. Wadsworth stated that the staff's understanding was that the alarm could not be heard outside of the building.

Mr. Tim O'Neil, Vice President at City Service Valcon, Mr. Dallas Herron, CEO, City Service Valcon, and Mark Johnson, consultant from Resource Technologies, were present to represent GM Petroleum, the owner. Mr. O'Neil stated that it is their driver's common practice to verify that the load will fit before off-loading fuel into a storage tank. In 2003, City Service and Valcon merged to become City Service Valcon. On August 1, 2014, City Service Valcon purchased the facility in Forsyth from GM Petroleum. Mr. O'Neil stated that the Board's records should reflect the new ownership. Mr. O'Neil explained that upon receiving the recommendation letter from the staff, he responded with his own letter, dated June 23, 2015. He wished for the opportunity to rebut the staff's use of ARM 17.58.326(1)(a)(vi)(A) or (B) and expressed the need for this regulation to be fully referenced with all of its language. The entire regulation states:

> (vi) 3404.2.9.7.6 Aboveground storage tanks shall not be filled in excess of 95 percent of their capacity. No later than December 31, 2013, tanks must comply with one of the following requirements:
>
> (A) An overfill prevention system shall be provided for each tank. During tank-filling operations, the system shall provide an independent means of notifying the person filling the tank that the fluid level has reached 90 percent of tank capacity or by providing an audible or visual alarm signal, or providing a tank level gauge marked at 90 percent of tank capacity; or
>
> (B) An impermeable secondary containment shall be provided for each tank. The tank shall have secondary containment, designated in accordance with 2704.2.2.4 of International Fire Code that is impermeable to petroleum;

On August 6, 2015, the staff responded to Mr. O'Neil's letter that further clarified the recommendation of denial of eligibility including the Fire Code as stated: "According to International Fire Code, the driver, operator or attendant of a tank vehicle shall not remain in the vehicle cab and shall not leave the vehicle while it is being filled or discharged." Mr. O'Neil said this staff letter added to the previous issues of non-compliance and issue with the driver leaving the transport during the fuel off-loading. Mr. O'Neil stated that it is standard procedure for their drivers to first verify the tank level gauge in the tank to which they are going to be off-loading, in order to make sure that there is the capacity for the new delivery of fuel. That is what his company considers to be an independent means of verification, thus fulfilling the above-referenced code requirements. In this instance, the driver hooked up to the wrong tank. He hooked up dyed diesel to the clear diesel tank. The driver verified the gauge on the dyed diesel tank, but hooked up to the clear diesel tank by mistake. Because of this mistake, the driver overfilled the clear diesel tank with dyed diesel. The driver, according to Mr. O'Neil, began off-loading and then subsequently walked around the building and that was how he discovered that the tank was being overfilled. It is Mr. O'Neil's contention that the driver was following procedures, but that it was a case of human error. Mr. O'Neil believes that the facility was in compliance, but the release was just an accident on the driver's part.

Mr. McDermott asked if the alarm was inside the building. Mr. O'Neil said that the alarm was a standard Veder-Root tank monitor system and was inside the building. Mr. McDermott followed up to see if the alarm could be heard. Mr. O'Neil said that the driver stated he could not hear the alarm. Mr. McDermott asked if the alarm had been moved outside now. Mr. O'Neil stated that the facility has been dismantled.

Mr. Wadsworth asked how much fuel was lost and what the fill rate was for the delivery tanker. Mr. O'Neil said that he did not know how much product was recovered, but that they knew how much went over the top. The

amount of spilled product was around 1,200 gallons and the fill rate for the off-loading pump was about 200 to 250 gallons per minute.

Mr. McDermott asked which tank was being filled and if it was verified that the end tank in the storage facility was being filled. He asked whether the driver would be able to see the site gauges for the storage tanks if he had been standing at the edge of the parking area for the tankers. Mr. O'Neil said that the site gauges have black numbering for the normal fill area followed by red numbering for the over-fill indicator. From the aerial view of the facility shown at the Board meeting, it was clear that the parking area for the tanker would not have had a clear line of site to the site gauges on the storage tanks. Mr. O'Neil stated that the driver would have walked around to the storage tank area during the off-loading to check the gauges.

Mr. Thompson asked how much of the compartment was filled in the incorrect tank or how much space there was in the tank, because the records showed that the driver had overloaded by more than 1,200 gallons. Mr. Wadsworth clarified that there should have been at least 10 percent of the capacity of the tank as space left when the driver hooked up to the tank. Mr. Thompson asked the size of the tank. Mr. Wadsworth indicated that if you have a 10,000 gallon tank, at 90 percent capacity, there would still be 1,000 gallons of space available in the tank. Given the overfill of 1,200 gallons and the expected space left in the tank, he concluded there would be about 2,200 gallons of fuel being dispensed while the alarms were sounding. This indicates that an alarm should have been going off for approximately 10 minutes.

Ms. Cassidy asked if it was possible that the alarm was not working. Mr. McDermott said that if the alarm was not audible then the facility may not have been in compliance.

Mr. O'Neil stated that in the company's opinion, the facility was in compliance with the existing gauges. He also felt the driver walking around the vehicle and over to the storage area was part of maintaining his vehicle. Mr. O'Neil called the Board's attention to an Aboveground Storage Tank Inspection report prepared for GM Petroleum by NW Tank Lining and Inspection Inc., dated October 15, 2013. This inspection shows that the test for Overfill Protection passed within the guidelines for the alarm sounding when 90 percent capacity had been reached, and automatic shutoff when the tank was filled to 95 percent capacity. Mr. O'Neil stated that City Service had used this document as part of their pre-purchase review and it seemed to be in order.

Mr. McDermott wondered if B2 Engineering had conducted the inspection. Mr. Johnson added that B2 Engineering is certified and licensed to do these inspections. Mr. Breen asked if there was a frequency requirement for AST inspections. Mr. Wadsworth stated that there currently was no requirement.

Mr. Breen asked if this inspection was conducted as part of the sale of the property. Mr. O'Neil said that the inspection was done by GM Petroleum in preparation for the sale. It was used during the purchase.

Mr. McDermott clarified that the date of the inspection predated the date of the release and although the inspection had passed for Overfill Protection, it did not work and prevent Release #5038. Mr. O'Neil concurred.

Mr. Thompson asked if anyone verified that the alarm had actually sounded. Mr. O'Neil explained that the release occurred on the Sunday of Labor Day weekend and there was no one at the site, so there was no way to verify whether the alarm functioned properly. Mr. O'Neil did not check to make sure it sounded and the driver stated that he did not hear it.

Mr. McDermott asked if alarms are part of the inspection process. He also wondered if the audible alarm and the auto shut off were linked together. Mr. Breen asked if the alarm reflected in the inspection was the same one that the driver should have been able to hear. Mr. Wadsworth said that the two were not likely connected since one was an audible alarm based on the tank being filled at 90 percent of capacity, and the shut off feature would have been a function that took place when the tank had reached 95 percent capacity and would most likely be based on a float in the tank that would act as a sensor to determine the fill level. Mr. Wadsworth noted that the inspection done at the facility was not in compliance with Montana Law, because as of 2009, the Fire Marshall required this inspection be done according to the International Fire Code not NFPA. Mr. Wadsworth did not feel that this was overly significant, as the two codes do not differ greatly. He mentioned it as a point of interest for Mr. O'Neil, as well as the Board's attorney.

Mr. McDermott noted that there were some technical failures due to the evidence that the alarm was not heard and the auto shut off did not work, regardless of the tank driver's error in filling the wrong tank, although the inspection took place less than a year before this release. Mr. McDermott wondered how much faith an owner/operator would place in this type of inspection, asking if the inspection would relieve the owner's mind in terms of potential problems.

Mr. Noble stated that it looked like City Service had done their due diligence.

Mr. McDermott asked again if it was correct to interpret that the auto shut off had failed, regardless of the audible alarm.

Mr. Breen stated that his understanding was the ineligibility recommendation was a result of the tank driver's inability to see the fill gauge from where he would be maintaining his truck while off -loading product. Mr. Wadsworth agreed that this was a main issue that prompted the staff's recommendation, but also noted that it would have been helpful to have the audible alarm. However, without the audible alarm it would have been ideal to be able to see the fill gauge from the driver's location.

Mr. Schnider asked if the auto shut-off at this storage facility was the same as those at a gas station dispenser when you are filling your car. Mr. Wadsworth said it was not. Mr. Schnider asked what the approval process was to become eligible; he further asked if there is any process in place that would pre-approve a facility so they would know what they needed to have in place to meet eligibility. Mr. Wadsworth said that, due to the lack of regulation, there is no pre-approval process for ASTs. The Board, as well as the Petroleum Marketers, recognize this difficulty and have worked to enact legislation to address the issue. He stated that the Board's website contains a checklist that would enable owners to better understand the eligibility requirements and upgrades that may be necessary to their facilities to meet current regulations.

Mr. Breen asked if the tank driver had checked the gauge on the red dye diesel tank. He wondered if the driver was looking at the gauge levels on the correct tank from the beginning. Mr. O'Neil said that he assumed the standard procedure was followed and that the driver just hooked up to the incorrect tank, thinking the tank would hold the volume because he checked the correct tank at first and subsequently hooked up to the wrong tank.

Mr. Breen stated that AST regulation has been wrestled with for a long time in the industry and he asked to hear Ms. Ronna Alexander's input regarding this issue. Ms. Alexander, Executive Director, Montana Petroleum Marketers Association, stated that AST regulation and inspection protocols have been a discussion for the past 15 to 18 years. The impetus for creating the PTRCB in the first place was the requirement by the EPA for a tank owner to have $1,000,000 worth of insurance to cover cleanup of contamination, a policy amount which was not being written by insurance companies in the 1980s. Ms. Alexander said this financial need was the driving force, not historical leaking tanks. Montana created a Fund that is funded by the gas tax, which includes fuel that comes from ASTs. As a result, ASTs are covered by Montana's Fund, whereas most state Funds do not cover ASTs. This coverage of ASTs created a mess, because the only inspection done for ASTs was done by Fire Marshalls and the Fire Code was the regulatory framework used. The interpretation of the Fire Code was variable and hard to gain a clear understanding of eligibility issues, because the regulations did not revolve around just the environmental impact. A committee was formed and the PTRCB rules were redrafted to incorporate only those Fire Code rules that apply to environmental issues, similar to USTs. One difficulty with the program is that at that time, you could be in compliance with overfill prevention or a secondary containment. The Fire Marshalls do not want to deal with this and are not concerned with the rules as they apply to PTRCB. The only person an AST site owner could use to conduct an inspection is a certified engineer, which is what GM Petroleum did. The proposed statute addressing how an AST would be inspected never became law because the Petroleum Marketers and the DEQ could not agree on who would be in charge of the inspections. Ms. Alexander noted only 25 percent of the other states cover ASTs.

Mr. Noble asked Mr. Johnson, Resource Technologies, what the outcome of the Phase I and Phase II site assessments were for the facility. Mr. Johnson stated that he did not do those. Mr. O'Neil said that Hydrometrics was the consultant used for those assessments and they were trying to establish property lines among other things. Mr. Johnson stated that a Phase I assessment is a site inspection coupled with historical document review. If there is an observation from the Phase I that indicates there is suspected contamination, a Phase II assessment is conducted. During a Phase II assessment, actual sampling would take place and the scope would be tied to a Corrective Action Plan. This is the due diligence that is also part of the Innocent Landowners Defense.

Mr. Noble asked if any boring samples were done at this site. Mr. O'Neil explained that the spill took place after any borehole samples were taken. The existing boreholes were part of a previous release that was eligible and has been closed. Mr. Noble wondered if there would be a way to differentiate between the prior release and this one, if the Board granted eligibility for this release. Mr. Noble also stated that it appears that City Service did their due diligence and the Board would have to decide how the rules apply in this situation.

Mr. Breen reiterated that there was no way to know how long the tank driver was pumping product, because there was no alarm or gauge in the line of site to quickly mitigate this spill. He stated that City Service did their due diligence, as the inspection showed. He wondered how the Board could determine eligibility in the same manner as they have done in the past.

Mr. Noble asked if there would be a way to set a sanction on the eligibility, as the Board has done in the past with UST facilities. Mr. Wadsworth stated that the regulations for a UST and an AST are different and under the current statutory framework the Board must either determine the release eligible or not eligible.

Mr. Nobel asked if the earlier release was closed. Mr. Johnson affirmed that it was and further explained that the product released previously, and the release under review by the Board, were easily differentiated as they were two different types of product.

Mr. Noble asked if the cleanup was of this release fairly easy and inexpensive. Mr. Johnson said that his company took care of the emergency response and that the clean-up happened in March. It involved excavation and tank removal. He said that they have not seen free product in the monitoring systems in place. His company has not determined the eastern limit of the contamination, but the plume does not appear to have traveled far. Mr. Wadsworth asked how much had been spent toward cleanup efforts so far. Mr. Johnson said that amount was around $105,000 and that was to take care of the ASTs.

Mr. Johnson noted that the applicable rules do not include specific portions of the Fire Code. He felt that the location of the driver in relationship to his vehicle was not specified in the applicable rules. Mr. Mattioli, Agency Legal Services, clarified that the Board has the latitude to interpret what it means to monitor the truck and also the offloading to the tank. Mr. Johnson stated that the code says that it is an either/or statement, that you have to have an alarm or a gauge. He contended that the tank driver was within the guidelines of monitoring the truck, which includes the hose, by walking around to see the offloading tank and that is how the release was discovered.

Mr. McDermott asked if the driver was monitoring the wrong tank. Mr. Johnson said that it was just a case of human error, not a problem due to the gauge or monitoring of the truck.

Mr. Thompson asked what time of day this took place. Mr. O'Neil stated that it was between 5:00 pm and 6:00 pm on the Sunday of Labor Day weekend and there was nobody monitoring the store.

Mr. Thompson felt that City Service was operating in good faith, based on the inspection results, and were caught in the middle. Mr. Breen stated that it appeared to be a driver error. Mr. Thompson concluded that this type of situation is why the Fund exists. Mr. Schnider further concluded that City Service exercised due diligence, was in compliance, or thought they were, and that the question remained if the gauge placement had any bearing on the truck driver monitoring his truck and causing the release.

Mr. Breen stated that the other ways to mitigate a problem like this, which is to use sanctions.

Mr. McDermott moved to grant eligibility for this release. Mr. Breen seconded the motion.
The motion was unanimously approved by roll call vote.

<u>Eligibility Ratification</u>

Mr. Wadsworth outlined the applications for eligibility that were before the Board (See, table below). There were initially three eligibility applications before the Board; however the disputed eligibility for Bank West, Release #528, was tabled until the next meeting, and the disputed eligibility for GM Petroleum, Release #5038 was previously determined eligible. The remaining site was Cenex Harvest States, Release #5036.

Board Staff Recommendations Pertaining to Eligibility From July 2, 2015 through August 12, 2015				
Location	*Site Name*	*Facility ID #*	*DEQ Release # Release Year*	*Eligibility Determination – Staff Recommendation Date*
~~Kalispell~~	~~Bank West Building~~	~~1512006~~	~~528~~	~~Ineligible – 2/12/2015~~ ~~Release discovered before Fund~~ **Tabled until next meeting.**
Forsyth	GM Petroleum	4410824	5038 Aug 2014	Recommended Ineligible – 3/17/2015 - > 95 percent of capacity, & visible gage. **Found Eligible by Board.**
Kalispell	Cenex Harvest States	1509705	5036	Eligible July 30, 2015

Mr. McDermott moved to accept the eligibility recommendation for Cenex Harvest States, as presented. Mr. Breen seconded the motion. **The motion was unanimously approved.**

Weekly Reimbursements and Denied Claims

Mr. Wadsworth presented the summary of weekly claim reimbursements for the weeks of July 15, 2015 through August 5, 2015, and recommended that the Board ratify the weekly reimbursements, as presented. There were 75 claims totaling $502,923.23 and there were no denied claims to present at this meeting, (See, table below).

RATIFICATION OF WEEKLY CLAIM REIMBURSEMENTS Board Meeting Date: 08/31/15		
Week of	**Number of Claims**	**Funds Reimbursed**
7/15/2015	17	$74,279.55
7/22/2105	6	$271,812.69
7/29/2015	30	$100,516.94
8/5/2015	22	$56,314.05
Total	**75**	**$502,923.23**

Mr. McDermott moved to ratify the weekly claims, as presented. Mr. Breen seconded the motion. **The motion was unanimously approved.**

Board Claims – Claims over $25,000

Mr. Wadsworth presented the Board with the claims for an amount greater than $25,000 that had been reviewed by Board staff since the last Board meeting (See, table below). There were three claims with an estimated total reimbursement of $92,794.67. Mr. Wadsworth indicated that the Colstrip Steam Electric Station requested that its claim be removed from the claims put before the Board. The staff recommended ratification of the two remaining claims.

Location	Facility Name	Facility-Release ID Numbers	Claim #	Claimed Amount	Adjust-ments	Penalty	Co-pay	Estimated Reimburse-ment
Eureka	Peltier Oil Co	2705255 2801	20150311A	$25,250.80	$1,424.25	-0-	-0-	$23,826.55
~~Colstrip~~	~~Colstrip Steam Electric Station~~	~~4408921 562~~	~~20150515G~~	~~$25,036.62~~	~~$7,723.00~~	~~-0-~~	~~-0-~~	~~$17,313.62~~
Whitefish	Whitefish Title Services Inc.	9995009 4419	20150622A	$55,278.50	$3,624.00	-0-	-0-	$51,654.50
Total				$105,565.92				**$92,794.67**

Mr. McDermott moved to ratify the claims exceeding $25,000. Mr. Schnider seconded the motion. **The motion was unanimously approved.**

Discussion Item: Proposed Board Meeting Dates for 2016

Mr. Wadsworth outlined the proposed Board meeting dates for 2016 and invited input from the Board. The dates will be ratified at the next Board meeting. Mr. Wadsworth also gave a brief overview of the statutes governing the frequency of Board meetings, which mandates that the Board meet at least quarterly. Mr. McDermott asked if the meetings were all on Mondays and whether he would be able to participate via teleconference for the January and March meetings. Mr. Wadsworth stated that most of the time the Board Chairman wanted to have face-to-face meetings when contested cases are being presented but that did not mean all the Board Members had to be physically present.

Board Attorney Report

Mark Mattioli, Agency Legal Services (ALS), attorney for the Board, presented the Board Attorney Report as of July 1, 2015 (See, table below).

Location	Facility	Facility# / Release#	Disputed/Appointment Date	Status
Miles City	Miles City Short Stop	09-04443 Release 4800	Dispute of reduced reimbursement	Hearing date has been extended to Nov. 12, 2015.
Great Falls	Cascade County Shops	07-05708 Release 3051-C1, 3051-C2, 3051-C3 3051-C4	Denial of applications	HE issued Findings of Fact, Conclusions of Law and Proposed Decision

Mr. Mattioli provided a summary of the legal issues before the Board. In the Short Stop matter, the owner was granted eligibility, but the reimbursement percentage was reduced to 25%, due to violations. The reimbursement reduction is being contested and the date has not changed.

In the Cascade County matter, there needs to be a schedule put in place for filing exceptions. The case was time barred although there were multiple releases. The Board will need to review the entire record of the case and make a final decision on the Hearing Examiner's order considering the whole record for this case.

Mr. Bruner, attorney for Cascade County, asked for direction on the next step to take. Mr. Mattioli restated that there was a need to setup a conference in order to put a schedule in place for filing exceptions between all the parties involved. Mr. Bruner proposed a schedule and Mr. Mattioli responded that he was unable to meet that schedule due to conflicts and the fact that he was not in his office and unable to see his current calendar. Mr. Bruner stated his need to answer his client. Mr. Mattioli set October 30th as the date to file exceptions. Mr. Bruner asked for clarification on to whom to send the correspondence and it was indicated that Mr. Wadsworth would receive the initial communication.

Mr. Noble asked if there was an update on the mediation for the Miles City case and Mr. Wadsworth stated that there would probably be a decision from the judge on further mediation.

Fiscal Report

Mr. Wadsworth presented the fiscal report to the Board through the fiscal year end, June 31, 2015 without the accrual adjustment, and the fiscal report for month end for July 2015. Mr. Wadsworth handed out additional fiscal information that covered the difference between the projected revenue and accrual amount from 2015 to 2016. He explained that the Montana Department of Transportation collects the revenue at the beginning and end of June, and both those amounts are put into the Board's total amount available. The report Mr. Wadsworth provided reflected our fiscal year-end report with the adjustments to it. Because there are two collections in June, revenue looks very high in June and low in July. Projected vs. actual amounts are not known until the end of each month. The predicted monthly revenue for the upcoming year is estimated to be about $600,000.00 per month.

Board Staff Report

Mr. Wadsworth presented the Board Staff Report. He reviewed the graphs and what they mean. He drew the Board's attention to several eligibilities that were pending over a period of time. The delay, in many of the cases, is the result of ongoing communication between the Staff and owners. Mr. Wadsworth outlined the business process of an eligibility application and the ensuing communication that the Staff provides and requests from the owner. Mr. Wadsworth also provided an overview of the budgeting process to obligate money for reimbursement.

Petroleum Tank Clean Up (PTCS) Section Report

Rebecca Ridenour, PTCS Supervisor, presented the PTCS report. There were four (4) new confirmed releases, and eight (8) submitted for closure since the last Board meeting. There have been twenty-one (21) releases approved for closure, and fifty-seven (57) closures approved from the beginning of 2015 through August 17, 2015. Ms. Ridenour explained that there is a lag between what is in the business process and what is reflected in the database. There may be confirmed releases that do not show up on the PTCS report due to recording them in the database, but the numbers are reliable and verified by the PTCS staff.

Ms. Ridenour explained that the Legislature granted PTCS money from the Orphan Share Fund in order to close releases from the Active Undetermined portion of the PTCS report. She wanted the Board to know that PTCRB may see an increase in applications due to the increased activity and targeted closure activity as a result of the grant.

Ms. Ridenour reported on the statutory mandate that the PTCS close 90 releases every year. The mandate ended in June, 2015. PTCS closed a total of 360 releases, which was well beyond the mandate. Part of the ongoing focus in closing releases will be to actively use the newly legislated Petroleum Mixing Zone closure option and Ms. Ridenour expressed the hope that the Board would continue to support PTCS's ongoing clean up and closure efforts.

Mr. Trombetta presented the latest Tank Autopsy Report which is produced every spring and published in the MUST News. The report stated that there were thirty-three (33) releases in 2014. Of those thirty-three (33) releases, nine (9) were caused by human error. Of the nine (9) releases caused by human error, five (5) were caused by professionals, specifically the tanker truck operator either filling or off-loading the tanker truck and were caused by filling the wrong tank. Mr. Trombetta referred to a question Mr. McDermott asked earlier in the meeting about Phase II environmental assessments and drew the Board's attention to the six (6) releases that were confirmed through a Phase II environmental assessment.

Public Forum

Ms. Alexander revisited the AST regulation issues that had been discussed earlier in the meeting. She highlighted the courses of action that had been pursued in the past; imposing a three (3) year inspection cycle, inspecting for compliance; and the ability to sanction the facility when out of compliance, which was an overall attempt to match the current regulations for the UST tanks to the ASTs. The inspection process that is in place is a point of contention. Ms. Alexander offered to revisit this issue with the Petroleum Marketers Association and the Board to try to come to an agreement between the two. Ms. Alexander pointed out that the current inspection process is cost prohibitive. She further stated that the Petroleum Marketers Association is interested in protecting the viability of

the Fund, as it fulfills the EPA insurance requirements and provides for a real need in the industry. Mr. Noble asked if Ms. Alexander would like to present a plan to the Board at the November meeting. Ms. Alexander emphasized that there would need to be a clear agreement of what type of inspection the Board will accept. Because DEQ does not have the authority over ASTs, the inspection and compliance issues concerning regulation have become a political issue. Ms. Alexander stated she would present the Associations opinions at the next Board meeting.

The next Board meeting, expected to be held on Monday, November 16, 2015, was subsequently rescheduled to December 7, 2015.

The meeting adjourned at 1:37 p.m.

Jerry Breen – Vice-Presiding Officer

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PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
Business Meeting
January 25, 2016
Department of Environmental Quality
Metcalf Building Room 111, 1520 East 6th Avenue
Helena, MT

Board members in attendance were Jerry Breen, Chuck Thompson, Roger Noble, Keith Schnider, and Timothy McDermott. Also in attendance were Terry Wadsworth, Executive Director; Mark Mattioli, Attorney for the Board; and Ann Root and Garnet Pirre, Board staff.

Presiding Officer Roger Noble called the meeting to order at 10:01 am. Because Mr. Noble was going to be representing his client, Bank West, he recused himself as presiding officer and handed the chair to Mr. Breen as Acting Presiding Officer.

Approval of Minutes – December 7, 2015

Mrs. Root presented the six (6) typographical errors she found in the December 7, 2016 minutes. Mr. Wadsworth recommended the Board approve these minutes with the noted corrections.

Mr. Schnider moved to accept the minutes with the corrections. Mr. McDermott seconded. **The motion was unanimously approved.**

Approval of Minutes – August 31, 2015

Mr. Wadsworth presented the rough draft of proposed changes to the August 31, 2015 minutes. Mr. Wadsworth outlined the staff's business process for producing the minutes in story form, not as a verbatim transcript. He pointed out examples in the August 31, 2015 minutes that were included to provide clarity, such as, direct excerpts of statutes or letters. Mr. Wadsworth further explained that the minutes are created to stand alone, without the information packet provided to the Board before each meeting. The staff's objective in constructing the minutes is to allow the reader to follow the discussed materials without the necessity of other documentation. The minutes, only, are offered to the State Historical Society for long term retention.

After Mr. Wadsworth's review, Mr. Thompson asked if the Board was going to ratify the minutes. Mr. Wadsworth recommended the Board allow the opportunity for the staff to work out the details of the changes with Mr. Noble and bring a finished document to the Board at the next meeting. He explained that the rough draft of the August 31, 2015 minutes was included in the Board's information packet in order to prepare the Board to hear the Bank West disputed eligibility matter and so that there could be a discussion about minutes in general for which these minutes could serve as an example.

Mr. Noble said that he looked at a verbatim transcript of the meeting provided by Mr. Bruner, and compared that transcript with the staff's minutes. He used this process to make some suggested changes which are reflected in the rough draft. Mr. Noble stated that he had been pressed for time, and did not have an opportunity to correct his rough draft for spelling and grammatical errors. Mr. Wadsworth said the draft minutes were received too late to be reviewed with Mr. Noble before reaching the deadline date for mailing the packet.

Mr. Schnider moved to table action on the August 31, 2015 minutes until the March 21, 2016 Board meeting. Mr. McDermott seconded. **The motion was approved with Mr. Breen, Mr. Thompson, Mr. Schnider and Mr. McDermott in favor, and Mr. Noble abstaining.**

Eligibility Dispute, Bank West, Facility #15-12006, Release #528, Kalispell

Mr. Wadsworth presented the Board with a summary of the staff recommendation that Release #528 at the Bank West site be determined ineligible. The staff has recommended the release not be eligible for reimbursement from the Petroleum Tank Release Cleanup Fund (Fund) because the release was discovered before the inception of the Fund and would, by statute, be ineligible. Mr. Wadsworth summarized the chronology of events beginning in the early 1950s through 1987. He explained that according to the staff's research, in October of 1969, gasoline vapors

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were discovered in the basement sump at this property. Between 1973 and 1975, when the site operated as Rainbow Texaco Service Station, a gasoline tank was removed, and evidence of a release was observed. In 1984 the property was sold to Glen Graham. Mr. Graham remodeled the property, and three (3) underground storage tanks were removed. Mr. Graham discovered up to one (1) foot of floating gasoline in the excavation and gasoline saturated pea-gravel was left in place near the east side of the building where the sump is located. In March 1987, Bank West purchased the property. There were complaints from Bank West employees of petroleum vapor in the basement of the building. The documents used to create the chronology included letters that had been discussed and presented at the August 31, 2015 Board Meeting. Two of those letters were: a May 5, 1989 letter from Mr. Jeffrey Kuhn, Environmental Specialist, Department of Health and Environmental Sciences (DHES, predecessor to the Department of Environmental Quality (DEQ)), to Mr. Doug Morton, Bank West, discussing vapor complaints and contaminated soil being observed at the time of tank excavation; and a January 2, 1991 letter from Mr. Jeffrey Kuhn (DHES) to Dave Tongen (sic), City Service, discussing the leaks evident from the tank excavations done at the site and continued vapor complaints over the years.

At the August 31, 2015 Board meeting, Mr. Kuhn, currently DEQ Remediation Supervisor, indicated that he may have further documentation from his files or those of the Kalispell Fire Chief, Dave Mayhew and that he would gather them for presentation at the next meeting. Mr. Kuhn tried to contact Joe Russell, Sanitarian for Flathead City-County Health Department as well as Mr. Mayhew. Mr. Mayhew is deceased and his office could not find any of his files. Mr. Russell provided an affidavit that affirmed knowledge of a discovered release at the Bank West site that predated the established date of the Fund, April 13, 1989. Mr. Kuhn also provided an affidavit affirming the discovery of a Release at the Bank West site predating the establishment of the Fund.

Mr. Wadsworth referred to a question Mr. Breen asked at the August 2015 meeting concerning the disposition of other sites that had applied for eligibility to the Fund and were discovered before the establishment of the Fund. The staff researched the Board's hard copy and electronic records and found 13 releases that met the criteria. Two of those records contained errors and the errors have been corrected in the records. They were outlined by Mr. Wadsworth, as follows:

> Release 111 – A diesel release was discovered June 13, 1988, before the inception of the Fund and was not eligible. A gasoline leak was discovered September 1, 1989, assigned Release #111, and was determined to be eligible on June 3, 1996. The Board's database "release discovered" date for the gasoline leak was incorrect. It reflected the diesel discovery date of June 13, 1988, rather than the gasoline release discovered September 1, 1989. This error was corrected on September 1, 2015. The database and records now clearly reflect the correct dates noted above.
>
> Release 132 - The owner filed an application for release eligibility on March 15, 1994, five (5) months following the discovery of a release on October 7, 1993. The application did not specify the release number; however it indicated the release was discovered after April 13, 1989. The 24-hour report for the release discovered October 7, 1993 also did not indicate any release ID. Two claims had been received for that facility. The claim received on November 9, 1993 claim did not identify a release ID; however, it indicated a leak discovery date of October 7, 1993. The second claim, received October 24, 1995, two (2) years later, referred to release 132; however, it indicated a leak discovery date of October 7, 1993. **Therefore the wrong release identification number was attached to the application. Release 132 (discovered March 3, 1989) was entered into the database in error, because the application had that release number identified on the form when, in fact, the information was related to release 1883, which was discovered October 7, 1993.** Since release 132 was discovered and resolved in the same month, March 1989, and release 1883 was resolved November 4, 1993, before the claims were received by the fund, no correction was made to the database. However, the comment to the release record indicates that the release identifier, 132, should have been 1883 with a discovery date of October 7, 1993.

Mr. Wadsworth presented ten (10) more releases that had been discovered before April 13, 1989 and applied for eligibility, and all those had been denied eligibility. These ten (10) releases reflect only those that have applied for eligibility and not all releases that were discovered before April 13, 1989.

Mr. Wadsworth explained that the statute establishing the Fund in 1989 stated that if a release was discovered before April 13, 1989, the release would not be eligible for reimbursement by the Fund. He said that Bank West's attorney had discussed the terms "suspected", "confirmed", and "discovered" at the August 31, 2015 meeting in an attempt to establish that the date the release was "confirmed" was the date that should be used to determine eligibility of a

release. Mr. Wadsworth stated that "discovered" was the only term of importance. The laws in place at the time of the Funds' inception defined "discovery" as smelling or seeing any petroleum in the environment. Knowledge of the presence of petroleum at the Bank West site dates back to 1969, as evidenced by the letters and records already presented. He referred to the Federal law §40 CFR 280 50, promulgated December 22, 1988, that defines discovery and confirmation of a release as separate processes, with discovery prompting investigation and remediation of releases. Mr. Wadsworth concluded that both state and federal laws in place at the time Release #528 was discovered are consistent with the staff recommendation of ineligibility based on statutory exclusion by date of discovery.

Mr. Noble, Applied Water Consulting, consultant for Bank West, stood to represent his client and introduced the applicant's legal representative, Mr. Lee Bruner. Mr. Noble recounted the chain of ownership leading up to Bank West's purchase of the property, followed by First Interstate Bank's acquisition of Bank West. Mr. Noble cited the May 5, 1989 letter written by Mr. Kuhn, DEQ, to Mr. Doug Morton, Bank West, which references "possible contamination" instead of "documented contamination". Mr. Noble also cited the January 2, 1991 letter from Mr. Kuhn to Mr. Dave Tongen, City Service, that states a release "may have" occurred instead of stating a release "did" occur. He pointed out that there was no compelling evidence of a release predating April 13, 1989. Mr. Noble read from a DEQ log that shows the date of notification of the release as April 28, 1989. He stated that all the information presented by Mr. Wadsworth was anecdotal, without any hard piece of evidence. He then gave the definition for the word anecdotal as being based on personal accounts rather than facts. He further stated that there was no hard evidence in the records, such as photographs, receipts or logs. Mr. Noble cited the Affidavit from Mr. Russell, Flathead City-County Sanitarian, stating that the Affidavit was based only on Mr. Russell's recollection. Mr. Noble maintained that, based on DEQ records and his conversation with a previous owner of the property, Mr. Graham, Taco Time, there was no confirmation of the source of the contamination, which left the question of responsibility for remediation unanswered.

Mr. Noble stated that Mr. Bruner's paralegal researched the historical Board minutes and found a site in Missoula, Former Burger King, which was similar to the Bank West property's contamination. The Burger King site had underground storage tanks that were removed in approximately 1986 and there were vapors and gasoline in a nearby well. The owner's application for reimbursement was initially deemed ineligible, but after further activity the site was granted eligibility on February 2, 1999 and claims paid out for remediation. He also stated that there was not much data in the files concerning the Burger King release, and said that Mr. Reed, DEQ, Kalispell, had said the files had been "aggressively purged".

Mr. Noble stated that the definition of discovery is based on the knowledge that the owner has of contamination. Previous to that knowledge, the release would only be defined as a suspected release.

Mr. Noble outlined the history of his client's responsiveness to all DEQ remediation requests. He summarized that all DEQ records state that the release was April 28, 1989 and its confirmation came at a later date and therefore he felt that Release #528 should be eligible.

Mr. McDermott spoke to Mr. Noble about the chronology of ownership and the letters that stated petroleum vapors had been encountered at this property over time. He said that back in 1969 there was a record of gas vapors and small amounts of product being pumped out of the water. He recollected the representations made by Mr. Noble concerning Mr. Noble's conversation with Mr. Graham, previous owner, the amount or depth of free product Mr. Graham stated was there. Mr. McDermott stated that he felt the amount or depth of product was irrelevant. The fact that free product was observed indicated something was wrong. He also cited the May 5, 1989 letter to Mr. Morton, Bank West, which showed there had been complaints of petroleum odors in sumps and crawl spaces in this area over the years. Mr. McDermott used the following analogy to apply a reasonable standard to defining the discovery of a release; if his kid had changed the oil in his lawn mower in the driveway and the following morning when getting the paper, oil was seen in the driveway, he would not have to send the spilled oil to the lab to confirm its origin or that it was oil. Mr. McDermott stated that if you are observing a hole in the ground and you can smell gasoline vapors, this would be consistent with the definition of an observed release. The backup data from a lab report would tell you the chemical makeup of the product and help determine appropriate types of remediation. Mr. McDermott said that the records presented show that there was fuel at the site; however he felt that placing blame and tracking the source of the contamination was outside the purview of the Board. The fact that there was documented free product and gasoline vapors speaks to a known problem.

Mr. Thompson stated that the Burger King site shows the tanks were taken out in the 1970's and he asked if the release was discovered at that time. Mr. Thompson said that it seems that it was inferred that the release was discovered after 1989, but was unclear to him.

Mr. Bruner continued the presentation to the Board. He stated that the Burger King site was denied eligibility because there were no tanks in the ground at the time of discovery. When the Fund was first established, the existence of tanks at a contaminated site was required to grant eligibility. This requirement was overturned in a Montana State Supreme Court case, Safeway in Polson (Safeway, Inc. v. Mont. Petroleum Release Compensation Bd., 189, 195, 931 p.2d 1327, 1330, 1997), that changed the law and allowed eligibility even after tanks and piping had been removed. Mr. Bruner said that there was obviously fuel at the Burger King site in 1986. He said that inferences have had to be made concerning the Burger King site because the documents were purged, and he further stated that his client, First Interstate, should not have any prejudice from the Board because they are not the ones that threw the files away. Mr. Bruner indicated that there was fuel at the Burger King site prior to 1989. Mr. Bruner used the analogy; if you had a wedding and multiple cars were parked on your property and there was a resulting oil slick found, you could not confirm that it was your car that created the oil slick. He stated that knowing about contamination is not equal to discovering contamination. He referred to the definitions of the terms suspected, confirmed, and discovered.

Mr. McDermott stated that although there was fuel at the Burger King site, it did not seem to be within the purview of the Board to sort out where the releases come from. He said that the records from the Burger King site stated that there was a hole in the tank and that if it was filled with product it would leak. Mr. Bruner said that it was an abandoned tank, so there was no way to know when it was leaking or who owned it when it leaked. Mr. Breen stated it was probably abandoned because it was leaking. Mr. Thompson and Mr. Bruner both said that the tank may have been left in place long after it had been in use. Mr. Noble cited a situation of an abandoned tank, which no one had knowledge of, that was discovered in a phase 2 assessment and it was not leaking. He stated it is a common occurrence that just because a tank is abandoned does not mean it is leaking.

Mr. Thompson asked Mr. Bruner for clarification on the date of the Bank West property purchase. It was reiterated that the site was purchased in March 1987, and that the complaints of vapors were noted by the employees there.

Mr. Bruner agreed that there was petroleum product at the Bank West site before April 13, 1989, but he said the release was not a confirmed release. Mr. McDermott asked for clarification that the term "confirmed" was being used to indicate when a lab result was received after a sample of the product found at the release had been submitted. He asked if it was within the Board's purview to determine where the release came from in order to determine eligibility for reimbursement. Mr. Bruner stated that his understanding of the record shows the release was confirmed in 1994. He stated there was not a definition of a discovered release at the time and he stated that the term "confirmation" is analogous to the term "discovery".

Mr. Mattoili, attorney for the Board, stated that the rules and statutes do not state that it has to be a confirmed discovery; it just has to be a discovery. He said that the quality of historical evidence prior to the effective date of the statute is strong. He drew the Board's attention to what was not in the record. What was not in the record is any statement from the former site owners, Mr. Tongen and Mr. Graham, that they did not find free product in the ground. The entire historical record, in this case, concerns evidence suggesting there was a release known to exist prior to effective date of the Fund. The statute language does not say discovered by an owner, it just says discovered. It was set up this way by the legislature so that the Fund would not incur tremendous liability for releases that were known to exist before April 13, 1989. Mr. Mattioli said the effective date in the statute is a clear statement that the liability is going forward, not going backward.

Mr. McDermott sought further clarification by asking if it mattered if a fuel release happened on that site or if it migrated in. Mr. Mattioli stated that all that mattered was if the release was known to exist prior to April 13, 1989. He stated that in this case, the confirmation of the release took place after the statutory date, but it was a known release prior to that date, thus making it ineligible.

Mr. McDermott asked how the Board should reconcile the fact that the employees at the Bank West property complained of vapors from the release. Mr. Bruner stated that the release could have been in existence but it was not confirmed at the time of the complaints, therefore, it had not been discovered. He submitted that it could have been coming from another site so it was not the owner's release.

Mr. Breen stated that the Fund was put into existence because of the Federal law that made it mandatory for tank owners and operators to have $1,000,000.00 of coverage for release cleanup in order to own or operate a tank. The cut-off date of April 13, 1989 was put in place because the Fund cannot clean up every site in Montana. He felt that, by the evidence contained in the historic records, Release #528 had been discovered before the inception of the Fund.

Mr. Bruner drew the Board's attention to ARM §15.56.502, which covers the reporting of suspected releases. The rule mandates the reporting of a discovery, by an owner or operator, of the presence of free product or vapors in soils, basements, and sewer and utility lines and nearby surface water and groundwater. He said that this denotes a suspected release by rule definition. Mr. McDermott asked if this definition superseded everything that Mr. Wadsworth covered. Mr. Bruner said that it did, because Mr. Wadsworth had covered RCRA (Resource Conservation and Recovery Act) law, which is Federal rule, and the Board is controlled by Montana law and its own regulations. Mr. McDermott asked if this definition amended prior definitions and Mr. Bruner stated that it was the only definition that mattered. Mr. Mattioli said that the rule Mr. Bruner cited only covered the reporting of suspected releases and was effective on November 23, 1989. Mr. Mattioli spoke about ARM §17.58.312 which defines the release discovery date as being the **earliest** (emphasis stated) of: discovery by an owner/operator, the date the owner/operator has knowledge of, or has confirmation of a release. Mr. Mattioli said that Release #528 was discovered before April 13, 1989 and that is the eligibility determination before the Board.

Mr. Bruner restated that the question before the Board was to define the terms of discovery or suspected. Mr. Bruner said this release was at best, suspected, before April 13, 1989. He noted the DEQ database records the confirmation of the release as being April 28, 1989 and the source of the release was not determined until after 1989. He inferred that the Burger King site did not note a petroleum release at the time the tanks were removed and they were granted eligibility. Mr. Mattioli stated that the issue in the Burger King case was whether the tanks were in the ground on April 13, 1989. The Supreme Court said that eligibility could not be determined based on the presence of tanks on the effective date of the statute. There is nothing in the Release #528 case that has anything to do with the presence of tanks and everything to do with the discovery of petroleum product before the effective date of the Fund. Mr. Mattioli also addressed the statement by Mr. Noble, as told him by Mr. Miner, that DEQ files had been aggressively purged. He said this was the first he heard of that and did not want to intimate any notion of wrong doing, especially without further investigation. He summarized that the issues in the two cases were not the same and so there is no inference that can be made between the two. Mr. Bruner said that because there are documents missing, you can draw your own inference.

Mr. Thompson commented that April 28, 1989 was not the confirmation of release when the owners applied for eligibility, but rather the date the release was recorded in DEQ's database. He commented concerning any migration of fuel from another site to the Bank West property prior to April 13, 1989. If the release was discovered before statute, it would not be eligible, but Mr. Thompson said that Bank West could pursue another previous owner for compensation if the contamination was coming from another source. Mr. Bruner restated that DEQ records labeled the discovery date and that the owner filed for compensation much later. Mr. Bruner said that the question still to be answered was the Board's definition of the term discovery.

Mr. Mattioli said that the Burger King case does not rebut the Bank West ineligibility recommendation or the consistent practice of the Board's determination of eligibility, because the facts in the two cases are different. The evidence is that the Board's practice is to use the statutory date and the discovery date to define eligibility, not the existence of tanks or piping at the site when contamination is discovered.

Mr. McDermott stated that he believed there was petroleum at the Bank West site before the statutory date and that the Board could not use two different standards to view DEQ records in the Bank West case and the Burger King case. He did not feel the Board could infer things that don't exist, nor can the Board make an eligibility determination based on the source of the release, only on the discovery date. Mr. Bruner stated that there were inconsistencies in the letters and database, and that made it reasonable to make inferences that have held true in other cases.

Mr. Wadsworth clarified that the laws in place at the time of this discovery were the Federal laws. The State laws were based on the Federal law and the State laws came into being at the Fund's effective date. All those laws separate discovery and confirmation. He pointed out that if the regulatory framework was put in place to require confirmation before discovery, the State could not require the owner to take remedial investigation action before a confirmation was received. The discovery of a release initiates the rest of the steps necessary to get the site

investigated and cleaned up. Mr. Wadsworth said that the current PTRCB business process for eligibility is to suspend an application if there is no source of contamination listed.

Mr. McDermott concluded that there was fuel on the site, regardless of its source, and consequently the staff recommendation was correct and that Release #528 is ineligible. Mr. McDermott moved that the Board confirm the staff recommendation of ineligibility for this release. Mr. Schnider seconded. **The motion passed unanimously by a roll call vote.**

Mr. Breen handed the meeting back to Mr. Noble as the Presiding Officer.

Eligibility Ratification

Mr. Wadsworth informed the Board of the applications for eligibility that were before the Board, (see table below). There were five (5) applications, all recommended to be eligible. The Bank West matter was addressed earlier in the meeting.

Board Staff Recommendations Pertaining to Eligibility From December 5, 2015 through January 6, 2016				
Location	*Site Name*	*Facility ID #*	*DEQ Release # Release Year*	*Eligibility Determination – Staff Recommendation Date*
Kalispell	Bank West	1512006	528	Ineligible – 2/12/2015 Release discovered before Fund
Great Falls	Bennett Motors Parking Lot	99-95173	5093	Eligible – 12/31/2015
Great Falls	Bennett Motors Office Lot	99-95174	5094	Eligible – 12/31/2015
Scobey	Pratt Employee Residence	99-95130	4884	Eligible – 1/7/16
Forsyth	GM Petroleum	44-10824	5071	Eligible - 1/7/16
Billings	Former Barry O'Leary	60-15226	5042	Eligible - 12/22/15

Mr. Thompson moved to ratify the staff recommendations presented in the table. Mr. Breen seconded. **The motion was unanimously approved.**

Weekly Reimbursements and Denied Claims

Mr. Wadsworth presented the summary of weekly claim reimbursements for the weeks of December 2, 2015 through January 6, 2016, and recommended the Board ratify the reimbursements. These 104 claims totaled $534,793.84, (see table below).

WEEKLY CLAIM REIMBURSEMENTS January 25, 2016 BOARD MEETING		
Week of	**Number of Claims**	**Funds Reimbursed**
December 2, 2015	10	$68,822.07
December 9, 2015	15	$209,607.07
December 16, 2015	26	$79,133.67
December 23, 2015	23	$88,239.44
December 30, 2015	19	$38,014.94
January 6, 2016	11	$50,976.65
Total	104	**$534,793.84**

In addition, there was one (1) claim the staff denied: 20151221I (Matovich Oil Co. Inc. - Hardin) – the invoice was claimed on a previous claim.

Mr. Schnider moved to ratify the weekly claim payments and denied claim, as presented. Mr. McDermott seconded. **The motion was unanimously approved.**

Board Claims – Claims over $25,000

Mr. Wadsworth presented the Board with the claims for an amount greater than $25,000 that had been reviewed by Board staff since the last Board meeting, (see table below). There were two (2) claims with an estimated total of $55,501.80. Claim #20151223C, Town Pump Billings, was pulled prior to the meeting pending further communication with the owner and their consultant.

Location	Facility Name	Facility-Release ID Numbers	Claim#	Claimed Amount	Adjustments	Penalty	Co-pay	Estimated Reimbursement
Culbertson	Old McKinney Motors	4306620-4943	20151120H	$28,787.89	$21.61	-0-	$3,163.17	$25,603.11
~~Billings~~ Pulled From Table	~~Town Pump Billings 2~~	~~5608671-2007~~	~~20151223C~~	~~$28,304.92~~	~~$405.94~~	~~-0-~~	~~-0-~~	~~$27,898.98~~
Butte	Montana Agri Food	4711251-539	20151228A	$29,898.69	-0-	-0-	-0-	$29,898.69
Total				$86,991.50				**$83,400.78**

Mr. Breen asked if the higher claim amounts indicated that the site was getting near closure. Mr. Wadsworth noted that the work plans indicated the bulk of the work was for well drilling. Mr. Wadsworth briefly discussed the business process for Board claims and the authority granted to the staff.

Mr. Breen moved to ratify payment of the claims presented. Mr. Schnider seconded. **The motion was unanimously approved.**

Discussion Item – DEQ's Compliance Assistance Activities

This was postponed to a later meeting date.

Board Attorney Report

Mr. Mattioli presented the Board Attorney's Report, as shown in the table below. Mr. Mattioli informed the Board members of the decision to hire independent legal counsel, Mr. Kauffman of Drake Law, concerning the Cascade County Shops matter. He instructed the Board to direct any questions or concerns they had to Mr. Kauffman. Mr. Wadsworth and Mr. Mattioli explained the rules for public meetings and stated that, because we are involved in a contested matter with another public entity, the Board should not engage in executive closed sessions. However, the Board can engage in individual conversations with their attorney, Mr. Kauffman.

Location	Facility	Facility/Release #	Disputed/Appoint-ment Date	Status
Miles City	Miles City Short Stop	09-04443 Release #4800	Dispute of reduced reimbursement	The owner/operator and other interested parties, including the DEQ, are involved in complex civil litigation. Various motions and cross-motions have been briefed and will be argued orally in the near future. Mediation is scheduled for February 29, 2016 in Billings.
Great Falls	Cascade County Shops	07-05708 Release 3051-C1, 3051-C2, 3051-C3, and 3051-C4	Denial of applications	HE issued Findings of Fact, Conclusions of Law and Proposed Decision. The County's and Board's exceptions have been filed. The matter is scheduled for oral arguments during the Board's March 21, 2016 meeting.

Fiscal Report

Mr. Wadsworth presented the fiscal report for the period ending December 31, 2015. Discussion ensued concerning a possible burden on the Fund to meet the closure mandate. It was noted that Orphan Share and Brownfields dollars are helping alleviate the potential immediate cash shortage. Mr. Wadsworth provided to the Board an estimated cost for the actuarial analysis requested by EPA, and noted that the analysis is being partially funded by EPA. After the analysis is complete, everyone will have a better understanding of how far the Fund money will go toward clean-up efforts mandated by the Legislature.

Ms. Jenny Chambers, DEQ Remediation Division Administrator, stated that she intended to ask the legislature for more money, depending on how much money the Orphan Share Fund has. Ms. Chambers also offered to do a presentation to the Board on Orphan Share money, with an explanation of where it comes from and what it can be used for. Senate Bill 96 (2015) reallocated some of the Orphan Share funds and regulated how they could be used by the Legislature for clean-up of sites where the owner has no money or there is no current responsible owner.

Board Staff Report

Mr. Wadsworth presented the Board Staff report. There was no discussion.

Petroleum Tank Clean Up Section (PTCS) Report

Rebecca Ridenour, DEQ PTCS Supervisor, presented the PTCS report for the time period January 1, 2015 through January 12, 2016. There were 33 new confirmed releases and 85 releases closed during that time, almost three times as many releases closed as confirmed. She indicated that 33 confirmed cases in a year is average. Mr. McDermott questioned how a more proactive approach could be taken to prevent releases and who would fund release prevention efforts. Mr. Wadsworth presented facts from the 2013 UST Tank Autopsy report, produced by DEQ Bureau Chief; Mr. Mike Trombetta, showing the largest cause of releases is from delivery problems on active sites. There are releases that are at an active site and others that are discovered from Phase II site assessments. In 2013, release causes were as follows; six (6) releases from equipment failure, five (5) from human error and one (1) from corrosion. There is not much that can be done about historical releases, but the prevention component is something DEQ wants to speak with the Board about. Mr. Ridneour agreed that mining the available data could help steer the tank programs in a more proactive direction.

There were three work plans for an amount greater than $100,000 presented for Board review.

Arnie's Gas and Tire, Ronan, Facility #24-05517, Release #482, Work Plan #9992, Priority1.4
This Work Plan (WP) is required to remove the accessible source mass and move Release #482 toward closure. The estimated project cost is $173,305.50 and will cover; excavation and disposal of an estimated 800 cubic yards of impacted soil, assess potential petroleum impact along the utility corridor on the southeast side, collect confirmation soil samples from excavation, collect soil samples around utility corridor, install piping for an air sparge curtain during backfill activities, repave disrupted paved surface, and the installation of up to nine (9) groundwater monitoring wells, and one groundwater monitoring event.

Heltnes Exxon, Havre, Facility #21-06481, Release #3453, Work Plan #9101 and #1005
The approved work covers two WPs that originally were submitted to DEQ as one plan. The original WP was for excavation. . After the original WP was submitted, DEQ determined that a pilot study was needed to determine the effectiveness of using an in-situ chemical oxidation (ISCO) reagent. The excavation work plan consists of approximately 1,490 cubic yards of soil removal, of which approximately 869 yards is contaminated and will be disposed of at the Hill County Landfill. The ISCO pilot test was approved in the summer of 2015 and will be conducted in spring of 2016. The purpose of using ISCO is to address contamination that is inaccessible to excavation. The combined WPs total $197,000.00.

Lolo Hot Springs, 38500 US Highway 12 West, Facility #32-09722, Release #4280, Work Plan #9966, Priority 1.4
The approved WP consists of an excavation and disposal of up to 1,000 cubic yards of contaminated soil; impacted soil will be transported to Allied Waste. Overburden soil will be stockpiled on site for use as fill during reconstruction. This WP will remove the bulk of the source mass and move the release toward closure. Monitoring wells destroyed during the excavation process will be individually assessed, based on historical results and need, and replaced accordingly under a separate WP. The estimated project cost is $161,360.30.

Public Forum

There were no comments from the public.

The next Board meeting is scheduled for March 21, 2016.

The meeting adjourned at 1:10 p.m.

Jerry Breen – Acting Presiding Officer

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MICHAEL A. KAUFFMAN
Drake Law Firm, P.C.
111 North Last Chance Gulch
Suite 3J, Arcade Building
P. O. Box 1181
Helena, MT 59624-1181
Telephone: (406) 495-8080
michael@drakemt.com

ATTORNEYS FOR PETROLEUM TANK
RELEASE COMPENSATION BOARD

BEFORE THE PETROLEUM TANK RELEASE COMPENSATION BOARD

DEPARTMENT OF ENVIRONMENTAL QUALITY, STATE OF MONTANA

IN THE MATTER OF DENIAL OF APPLICATIONS FOR PETROLEUM RELEASES #3051-C1, 3052-C2, 3051-C3, AND 3051-C4 AT CASCADE COUNTY SHOP COMPLEX (Facility 07-05708), LOCATED IN GREAT FALLS, MONTANA,	* Case No. 2014-0705708 * * * * *

ORDER RESCHEDULING ORAL ARGUMENT

Cascade County has filed an Unopposed Motion requesting that oral argument on the Hearing Examiner's Proposed *Findings of Fact, Conclusions of Law & Proposed Decision* ("Proposed Decision") be rescheduled to the March 2016 Board Meeting.

Having considered the Unopposed Motion, and good cause appearing,

IT IS ORDERED that oral argument on the Proposed Decision is set for Monday, March 21, 2016 at 10:30 a.m. in Room 111 of the Metcalf Building, at 1520 E. 6th Ave., Helena, MT 59620. Cascade County will open and conclude the argument. Closing argument shall be limited to rebuttal of argument by the Petroleum Tank Release Compensation Board.

DATED this 21st day of January, 2016.

Roger Noble, Board Presiding Officer

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Main Street Service – Deer Lodge
Percent Adjustment Dispute
Facility ID #39-04312, DEQ Release 3666

EXECUTIVE SUMMARY

TYPE OF ACTION: Owner/operator disputes the adjustment to reimbursement for the eligible releases at the facility.

SUMMARY OF ACTIONS REQUESTED: Request Board review the facts and circumstances pertaining to the violations and Administrative Order on Consent for Facility ID #32-04312 which lead to a staff recommended adjustment to reimbursement..

ISSUE: Owner/operator disputes the staff recommended adjustment to all suspended and future claims.

FACTS: An Administrative Order on Consent (AOC - FID #2313) was issued on December 29, 2015 by the Department of Environmental Quality (DEQ) for failure to comply with requirements pursuant to Montana Code Annotated, as noted in a compliance inspection. Owner was notified that all claims received after the date of the AOC would be suspended, pending resolution of the order. The AOC was satisfied on February 12, 2016. Noncompliance found at the time of the inspection indicated that the facility was in violation for greater than 45 days. The Release was resolved on December 8, 2015. Two claims have been submitted which total $7,108.07. The earlier claim was reimbursed before the Administrative Order was issued, however, the second claim (20160125C) in the amount of $1,732 has been suspended and is pending reimbursement.

BOARD STAFF RECOMMENDATION:

The owner/operator executed an AOC, effective December 29, 2015. The order was satisfied 43 days later on February 12, 2016. Consistent with statute and rules, the staff recommends seventy five percent (75%) reimbursement for suspended and future claims.

VIOLATIONS:

1. The owner or operator of a UST system is required to have its **USTs inspected** by a licensed compliance inspector no later than 90 days prior to the expiration date of the previously-issued operating permit (ARM §17.56.309(1)(a)). Main Street Service was required to obtain a compliance inspection no later than August 15, 2013. A compliance inspection was conducted on September 6, 2013 (September Inspection), 21 days past the 90-day deadline.

2. The September Inspection revealed that the owner **did not have tank leak detection monitoring records available for twelve (12)** of the previous twelve (12) months as required in ARM §17.56.401(1), ARM §17.56.402(1) and ARM §17.56.409(1)(b), for

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three (3) underground storage tank systems at the facility. A March 24, 2014 re-inspection (March Inspection) showed that the owner did not have tank leak detection monitoring records available for eight (8) of the previous twelve (12) months (April through October, 2013 and March 2014). The March 2014 monitoring report was submitted on February 12, 2015, leaving seven (7) months of records missing.

3. The owner or operator of a UST system is required to **maintain and operate a corrosion protection (CP)** system to continuously provide protection to the metal components of that portion of the tank and piping that are in contact with the ground (ARM §17.56.302(1)(a)). The September Inspection showed the piping between the tanks and below the flex connectors at all dispensers was not adequately protected from corrosion. The April 11, 2014 compliance re-inspection (April Inspection) found CP to be adequate. The July 29, 2015 re-inspection (July Inspection) found corrosion protection to be inadequate.

4. The owner or operator is required to correct violations and submit a follow-up inspection report within the required timeframes (ARM §17.56.309). Owner was given Corrective Action Plans that listed necessary corrective actions, and time frames for completing those actions. **Main Street failed to meet the required timeframes.**

BOARD OPTIONS:

1) Ratify the staff recommendation.
2) Reject the staff recommendation and propose alternative motion based upon provisions of ARM §17.58.336(7)(e). If the staff recommendation is rejected, provide rationale for the decision.

CHRONOLOGY:

December 10, 2012	The Co-Owner of Main Street Service, Tina Schowengerdt, deceased. Co-Owner Dennis Schowengerdt in police custody.
December 12, 2012	Co-Owners' daughter, Angie McCullough, appointed as Special Administrator to oversee and handle the affairs of Main Street Service. Title to, and ownership of, the property was unclear.
April 12, 2013	Dennis Schowengerdt relinquishes his interest in the facility.
August 2, 2013	Ms. McCullough appointed as Personal Representative for the Estate of Tina Schowengerdt, giving her full authority to act.
August 15, 2013	Main Street was required to obtain a compliance inspection no later than this date (90 Days before expiration date of November 13, 2013).
September 6, 2013	Facility compliance inspection completed (September Inspection). Facility was missing the previous 12 months of tank and line leak

	detection records, and inadequate corrosion protection for piping on three systems.
September 26, 2013	DEQ Warning Letter providing a Corrective Action Plan (CAP) requiring re-inspection by October 30, 2013 to confirm correction of inspection results.
October 2013	Owner/operator learns that statistical inventory reconciliation calculations were faulty and data collection for August, September and October, 2013 were unusable.
October 30, 2013	Date by which corrosion protection violation was required to be fixed.
November 1, 2013	CAP extended to new due date of March 10, 2014 to correct corrosion protection violation. Problem was not fixed by March 10, 2014.
March 10, 2014	Correction of corrosion protection violation due, however, CP was not fixed.
March 24, 2014	Re-Inspection conducted (March Inspection). Facility missing 8 of the previous 12 months of leak detection records (April through October 2013, March 2014).
April 9, 2014	DEQ Violation Letter issued for failure to conduct 12 months of leak detection.
April 11, 2014	Compliance re-inspection conducted (April Inspection). Corrosion protection passes.
February 11, 2015	Tanks emptied of fuel.
February 23, 2015	Ms. McCullough completed a Notification of ln-active Status Form for the three USTs at the Facility.
April 20, 2015	Transfer of Release Eligibility to Estate of Tina Schowengerdt, Angie McCullough-Personal Representative, received by Board staff.
July 29, 2015	Re-inspection and corrosion protection test conducted (July Inspection). UST Tags #3945 and 3944 and the regular gas line do not have adequate corrosion protection.
August 21, 2015	Violation Letter and Corrective Action plan - Violation of corrosion protection requirements. All violations must be corrected either within 90 days of receipt of the inspection report, or at least 14 days prior to the expiration of the facility's operating permit, whichever occurs first.

December 8, 2015	DEQ issues No Further Corrective Action (NFCA) required letter for releases 3666 and 4804, indicating that the releases have been resolved. Release 4804 is not eligible for the Fund.
December 29, 2015	Effective date of Administrative Order on Consent. Requires a re-inspection showing adequate corrosion protection by February 6, 2016.
January 7, 2016	Notification of suspension of claim sent to owner.
February 12, 2016	Department letter providing notice of Closure of Administrative Order on Consent (AOC); FID 2313.
February 26, 2016	PTRCB notification of recommended reimbursement adjustment sent to owner.

APPLICABLE LAWS & RULES:

ARM 17.56.402(1) – monitor at least every 30 days for a release
ARM 17.56.409(1)(b) – maintain monitoring results for at least one year
ARM 17.56.302(1)(a) – corrosion protection requirement
ARM 17.56.309 – correct violations and submit a follow-up inspection within allotted timeframes
ARM 17.58.336(7) – requirement that claims be suspended after the date of non-compliance

Petroleum Tank Release Compensation Board

Work Plan Task Costs

Facility ID: 3904312 **FacilityName:** Main Street Service Inc **City:** Deer Lodge

Release ID: 3666 **WP ID:** 10089 **WP Name:** F-W-WA **WP Complete:** ☐ **WP Date:** 09/10/2015

Task #	Task Name	Phase	Estimated Cost	Actual Cost	Balance	Comment
1	Work Plan		$330.00	$330.00	$0.00	
2	Project Management		$184.00	$184.00	$0.00	
3	Well Abandonment		$900.00	$963.00	($63.00)	
4	Report		$255.00	$255.00	$0.00	
		Total:	**$1,669.00**	**$1,732.00**	**($63.00)**	

At the request of the owner, pages 33 through 39 have been removed from the packet.

Petroleum Tank Release Compensation Board

STATE OF MONTANA

P.O. Box 200902 • Helena, MT 59620-0902 • (406) 444-9710 •
Website: http://deq.mt.gov/DEQAdmin/pet

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

February 26, 2016

Tina B Schowengerdt Estate
Angie McCullough, Administrator
5325 Simmental Trail
Florence, MT 59833

Subject: Reimbursement of Future Claims for Reimbursement by the Petroleum Tank Release Compensation Board due to Administrative Penalty and Compliance Order by the Montana Department of Environmental Quality for Main Street Service, 520 Main Street, Deer Lodge, Powell County, Montana, Facility #39-04312, Release 3666 (FID 2313)

Dear Ms. McCullough:

The Petroleum Tank Release Compensation Board has received notification that the DEQ requirements of the December 29, 2015 Administrative Order on Consent were satisfied on February 12, 2016. The Board statute Montana Code Annotated 75-11-309 (3)(b)(ii), requires that upon compliance with the order, suspended and future claims may be reimbursed according to criteria established by the Board.

As set forth in Administrative Rule of Montana (ARM) §17.58.336(7) and the 43 days the administrative order was open, the staff will recommend 75% reimbursement of all suspended and future claims.

An owner or operator dissatisfied with the adjustment to future claims may submit a written request for a hearing before the Board. With the agreement of the Board chairman, Mr. Wadsworth has **placed this matter on the agenda for the March 21, 2016** Board meeting, based on the email you sent to me on February 10, 2016. If you have any documents or information you would like the Board to review, please provide that information to us by March 7, to allow us time to include that information in the packet of information we provide to the Board.

Pursuant to ARM §17.58.336(7)(e), the Board may adjust the percentages upon a substantial showing by the owner or operator that factors as put forth would entitle the owner or operator to an adjustment to the schedule in ARM §17.58.336(7)(a).

Sincerely,

Ann R. Root
Fund Cost Specialist

Cc: Dean Kinney, PTCS, Environmental Science Specialist
File

DEQ
Montana Department of Environmental Quality

February 12, 2016

William E. McCarthy
Main Street Service, Inc.
P.O. Box 4747
Missoula, MT 59806

Subject: Closure letter, Administrative Order on Consent, Docket No. UST-15-01 [Facility ID 39-04312; FID 2313]

Dear Mr. McCarthy:

I am writing to notify Main Street Service, Inc that it has satisfied the requirements of the above-referenced Administrative Order on Consent (Consent Order).

On February 11, 2016, the Department received the $750 penalty payment. Payment of the penalty satisfies the requirements of the Consent Order. The Department considers this matter to be resolved and is closing the case file.

Thank you for your cooperation in resolving this enforcement action and your timely payment. If you have any questions, please feel free to contact me at (406) 444-3109.

Sincerely,

Shasta Steinweden

Shasta Steinweden
Environmental Enforcement Specialist
Enforcement Division
P.O. Box 200901
Helena, MT 59620-0901
Email: ssteinweden@mt.gov

cc via email: Kirsten Bowers, DEQ Legal
Leanne Hackney, DEQ WUTMB
Ann Root, PTRCB
Carson Coate, EPA-Montana
Powell County Sanitarian
Angie McCullough

DEQ
Montana Department
of Environmental Quality

December 29, 2015

William E. McCarthy
Main Street Service, Inc.
P.O. Box 4747
Missoula, MT 59806

RE: Executed Administrative Order on Consent, Docket No. UST-15-01 [Facility ID 39-04312; FID 2313]

Dear Mr. McCarthy,

Enclosed is the executed copy of the Administrative Order on Consent (Consent Order). Please note that the effective date of the Consent Order is December 29, 2015.

According to the terms of the Consent Order, you are required to complete corrective actions described in Section III.

If you have questions related to this matter, please contact me at ssteinweden@mt.gov or the telephone number listed below.

Sincerely,

Shasta Steinweden

Shasta Steinweden
Environmental Enforcement Specialist
Enforcement Division
(406) 444-3109; fax (406) 444-1923

Enclosure

cc w/enc. via email: Kirsten Bowers, DEQ Legal
Ed Thamke, DEQ WUTMB
Carson Coate, EPA-Montana
Powell County Sanitarian
cc w/enclosure: Angie McCullough, 5325 Simmental Trail, Florence, MT 59833

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY

OF THE STATE OF MONTANA

IN THE MATTER OF: VIOLATIONS OF THE MONTANA UNDERGROUND STORAGE TANK ACT BY MAIN STREET SERVICE, INC. AT MAIN STREET SERVICE, DEER LODGE, POWELL COUNTY, MONTANA. [FACILITY ID 39-04312; FID 2313]	ADMINISTRATIVE ORDER ON CONSENT Docket No. UST-15-01

I. NOTICE OF VIOLATION

Pursuant to the authority of Sections 75-11-512 and 75-11-525, Montana Code Annotated (MCA), the Department of Environmental Quality (Department) hereby gives notice to Main Street Service, Inc. (Main Street) of the following Findings of Fact and Conclusions of Law with respect to violations of the Montana Underground Storage Tank Act (Act), Title 75, chapter 11, part 5, MCA, and the administrative rules implementing the Act, Administrative Rules of Montana (ARM) Title 17, chapter 56.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Department hereby makes the following Findings of Fact and Conclusions of Law:

1. The Department is an agency of the executive branch of government of the State of Montana, created and existing under the authority of Section 2-15-3501, MCA.

2. The Department administers the Act and the administrative rules implementing the Act.

3. Main Street notified the Department that it owns three underground storage tank (UST) systems which have been designated by the Department as Tank Tag Nos. 3945, 3844, and 3944. The USTs are located at Main Street Service, 520 Main Street, Deer Lodge, Montana, (Facility) and are used to store and dispense petroleum products. Main Street is, therefore, an "owner" as defined in ARM 17.56.101(47)(c)(i).

4. Main Street was in control of, or had responsibility for, the daily operation of the Facility USTs at the time of the alleged violations and, therefore, meets the definition of an "operator" as defined in ARM 17.56.101(44).

5. The two shareholders and officers of Main Street were Dennis and Tina Schowengerdt. On December 9, 2012, Dennis Schowengerdt killed Tina Schowengerdt and turned himself into the authorities in the early morning hours of December 10, 2012.

6. Despite the confession, a period of legal limbo ensued for Main Street as upon the death of Tina Schowengerdt, her interest in joint tenancy property passed to Dennis. Ownership interest of her Main Street shares was unknown.

7. On December 12, 2012, on an emergency basis, Tina's daughter, Angie McCullough, was appointed by the Third Judicial District Court, Powell County, as a Special Administrator to oversee and handle the affairs of both Main Street and the Estate of Tina Schowengerdt. Title to, and ownership of, all the Schowengerdt's property, including their shares in Main Street, was unclear.

8. On December 18, 2012, Angie McCullough filed a complaint on behalf of her mother's estate requesting that, based upon the pending charges against Dennis Schowengerdt for the criminal accountability for the felonious and intentional killing of Tina, pursuant to Section 72-2-813(2), MCA, Dennis Schowengerdt must forfeit all benefits under Section 72-2-101, *et seq.*, MCA, with respect to Tina's Estate, including, but not limited to, any intestate share, any elective share, any omitted spouse's share, any homestead allowance, exempt property, and family allowance.

9. On April 11, 2013, the Court issued an Order whereby Dennis Schowengerdt was divested of any interest he had in the 50% interest of the Estate of Tina Schowengerdt, based on the felonious and intentional killing. With the Order, the Schowengerdt's two daughters were

effectively joint tenants of numerous parcels of real property with Dennis Schowengerdt, and the Estate still held a 50% interest in Main Street with Dennis Schowengerdt owning the other 50%.

10. Angie McCullough negotiated with Dennis Schowengerdt, and he agreed to relinquish his interest in the joint tenancy properties and his share in Main Street on April 12, 2013.

11. Because of the unusual and complicated nature of the situation, it was not until August 2, 2013, that Angie McCullough was finally appointed as Personal Representative for the Estate of Tina Schowengerdt, giving her full authority to act.

12. A Notification of Inactive Status Form for the three Facility USTs was completed by Angie McCullough, personal representative of the Estate of Tina B. Schowengerdt, the principal of Main Street, and signed February 23, 2015.

Failure to obtain compliance inspection in a timely manner

13. The owner or operator of an UST system is required to have all its USTs inspected by a licensed compliance inspector every three years for compliance with the tank operation and maintenance requirements of ARM Title 17, chapter 56. These inspections must be completed not later than 90 days prior to the expiration date of the operating permit. *See* ARM 17.56.309(1)(a).

14. The Facility's Operating Permit expired on November 13, 2013. Main Street, therefore, was required to obtain a compliance inspection no later than August 15, 2013.

15. Main Street did not have a compliance inspection of its Facility USTs completed until September 6, 2013 (September Inspection).

16. Main Street violated ARM 17.56.309(1)(a) by failing to obtain a compliance inspection at least 90 days prior to the expiration date of its Operating Permit.

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17. In consideration of the tragic circumstances of Mrs. Schowengerdt's death and the efforts of her Personal Representative to administer the Facility, the Department has waived the portion of the administrative penalty related to failure to obtain a timely compliance inspection.

Failure to conduct leak detection monitoring

18. Pursuant to ARM 17.56.101(59), release detection means, "determining whether a release of a regulated substance has occurred from the tank system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it."

19. ARM 17.56.401(1) requires that owners and operators provide a method, or combination of methods, of release detection that: (a) can detect a release from any portion of the tank or the connected underground piping that routinely contains product; (b) is installed, calibrated, operated, and maintained in accordance with manufacturer's instructions, including routine maintenance and service checks; and (c) meets the performance requirements in ARM 17.56.407 or 17.56.408, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer.

20. ARM 17.56.402(1) requires that owners and operators provide release detection for tanks and piping; and requires that the tanks and piping are monitored at least every 30 days for a release.

21. ARM 17.56.409(1)(b), in part, requires UST owners and operators to maintain the results of any monitoring for at least one year.

22. The Department considers an owner or operator's failure to have release detection monitoring records available for inspection as evidence that monthly release detection was not conducted as required by ARM 17.56.401(1) and ARM 17.56.402(1).

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23. On September 11, 2013, the Department received the results the September Inspection. The September Inspection noted that the Facility was missing the previous 12 months of tank and line leak detection records.

24. On September 26, 2013, the Department sent a Warning Letter to notify Main Street that the September Inspection identified violations of the Act including the failure to conduct 12 months of leak detection as evidenced by the failure to maintain 12 months of leak detection records. The accompanying Corrective Action Plan (September CAP) listed the violations, the violations' significance, and corrective actions necessary to return the Facility to compliance. The September CAP required that reinspection results be submitted to the Department by October 30, 2013.

25. After submitting a trial report for August 2013, Main Street was notified by TotalSir that the statistical inventory reconciliation (SIR) calculations for the Facility were faulty because measurements were not being taken the same time each day and before any new day's sales. The c-store's point of sale and reporting limitations were also problematic, and there needed to be an adjustment for blended fuel. Each of the above-listed issues rendered the data collection and corrective actions taken by Main Street in August, September and October unusable. These were all issues the Personal Representative, Angie McCullough, first learned of in October 2013.

26. On December 5, 2013, the first SIR reports were transmitted to the Department for the month of November 2013.

27. On March 25, 2014, the Department received the results of a reinspection conducted on March 24, 2014 (March Inspection). The March Inspection noted that the Facility was missing 8 of the previous 12 months of leak detection records, April through October 2013 and March 2014.

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28. On April 9, 2014, the Department sent a Violation Letter to notify Main Street that the March Inspection identified violations of the Act caused by the failure to conduct 12 consecutive months of leak detection. The accompanying Corrective Action Plan (April CAP) listed the violations, the violations' significance, and corrective actions necessary to return the Facility to compliance.

29. Main Street violated ARM 17.56.402(1) eight times by failing to monitor for a release every 30 days during the months of April, May, June, July, August, September, and October 2013 and March 2014.

30. Main Street submitted the monitoring report for March 2014 on February 12, 2015. With the March 2014 monitoring report, Main Street is lacking seven out of twelve consecutive months of leak detection records.

Failure to provide corrosion protection on all portions of piping in contact with the soil

31. ARM 17.56.302(1)(a) requires that owners and operators of metal UST systems with corrosion protection maintain and operate the corrosion protection system to continuously provide corrosion protection to the metal components of that portion of the tank and piping that are in contact with the ground.

32. The Facility has three USTs and three associated piping runs in contact with the soil that require corrosion protection. The September Inspection showed that the piping between the tanks and below the flex connectors at all dispensers was not adequately protected from corrosion.

33. The September CAP informed Main Street of the inadequate corrosion protection on the piping identified in Paragraph 21, and required that the violation be fixed by October 30, 2013. A CAP issued on November 1, 2013, extended the due date and allowed Main Street

until March 10, 2014, to correct the violation. Main Street did not correct the violation by March 10, 2014.

34. The April 11, 2014 compliance reinspection documented the corrosion protection was adequate.

35. Main Street violated ARM 17.56.302(1)(a) three times by having three piping runs with inadequate corrosion protection.

36. The July 29, 2015, reinspection and corrosion protection test show that UST Tag Nos. #3945, 3944, and the regular gas line do not have adequate corrosion protection.

37. The August 21, 2015 Violation Letter and Corrective Action Plan (August Cap) informed Main Street of the violation and the corrective actions needed to return Main Street to compliance.

Failure to correct violations and submit a follow-up inspection report within the allotted timeframe

38. ARM 17.56.309(8) provides that the owner or operator shall correct all violations noted in the compliance inspection report either within 90 days of receipt of the inspection report, or at least 14 days prior to the expiration of the facility's operating permit, whichever occurs first. For violations that have minor or moderate gravity, the Department may establish another timeframe in which the violation must be corrected. ARM 17.56.309(9) states that the owner or operator shall submit to the Department a follow-up inspection report either within seven days after completion of corrective actions, or at least 14 days before expiration of the facility's operating permit, whichever occurs first; or within the timeframe determined by the Department.

39. Main Street was given CAPs that listed necessary corrective actions, and the timeframes in which to complete the corrective actions, to return the UST systems to compliance. Main Street violated ARM 17.56.309(8) by failing to correct the violations listed in

the CAPs within the allotted timeframes. The November 1, 2013 CAP gave Main Street until March 10, 2014, to correct the violations and submit a follow-up inspection report.

40. Main Street violated ARM 17.56.309(9) by failing to submit a follow-up inspection report to the Department documenting the correction of the violations within the allotted timeframe.

III. ADMINISTRATIVE ORDER ON CONSENT

This Administrative Order on Consent (Consent Order) is issued to Main Street pursuant to the authority vested in the State of Montana, acting by and through the Department under the Act and rules adopted under the Act. NOW, THEREFORE, THE DEPARTMENT ORDERS AND MAIN STREET AGREES AS FOLLOWS:

41. By February 6, 2016, Main Street shall submit to the Department a reinspection report that shows the tanks and piping are adequately protected from corrosion.

42. All documents required to comply with this Consent Order, shall be sent to:

Shasta Steinweden
Enforcement Division
Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620-0901

43. Main Street is hereby assessed a $2,850 administrative penalty for the violations cited herein. For the purpose of facilitating resolution of the violations, the Department will exercise its enforcement discretion and suspend all but $750 of the $2,850 assessed penalty provided that Main Street fully complies with all requirements of this Consent Order.

44. Within 60 days from the effective date of this Consent Order, Main Street shall pay to the Department an administrative penalty in the amount of $750 to resolve the violations cited herein. The penalty must be paid by check or money order, made payable to the "Montana Department of Environmental Quality," and shall be sent to:

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John L. Arrigo, Administrator
Enforcement Division
Department of Environmental Quality
1520 East Sixth Avenue
P.O. Box 200901
Helena, MT 59620-0901

45. In the event Main Street fails to comply fully with the requirements of this Consent Order, the Department may require Main Street to pay the suspended portion of the total penalty, in part or in full. The amount demanded shall become due and payable in full within 30 days of the date of the Department's written notice of demand for payment.

46. Failure to fully comply with the requirements of this Consent Order by the specified deadlines constitutes a violation of Title 75, chapter 11, part 5, MCA, and may result in the Department seeking a court order assessing civil penalties of up to $10,000 per day of violation pursuant to Section 75-11-516, MCA.

IV. CONSENT TO ADMINISTRATIVE ORDER

47. Main Street waives its right to administrative appeal or judicial review of the Findings of Fact and Conclusions of Law and Administrative Order on Consent set forth herein and agrees that this Consent Order is the final and binding resolution of the issues raised.

48. The terms of this Consent Order constitute the entire agreement between the Department and Main Street with respect to the issues addressed herein notwithstanding any other oral or written agreements and understandings made and entered into between the Department and Main Street prior to the effective date of this Consent Order.

49. Except as herein provided, no amendment, alteration, or addition to this Consent Order shall be binding unless reduced to writing and signed by both parties.

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50. Each of the signatories to this Consent Order represents that he or she is authorized to enter into this Consent Order and to bind the parties represented by him or her to the terms of this Consent Order.

51. None of the requirements in this Consent Order are intended to relieve Main Street from its obligation to comply with all applicable state, federal, and local statutes, rules, ordinances, orders, and permit conditions.

52. Main Street agrees to waive defenses based upon the statute of limitations for the violations alleged herein and not to challenge the Department's right to seek judicial relief in the event that Main Street fails to fully and satisfactorily comply with the terms of this Consent Order.

53. This Consent Order becomes effective upon signature of the Department.

IT IS SO ORDERED:

STATE OF MONTANA
DEPARTMENT OF ENVIRONMENTAL QUALITY

John L. Arrigo

JOHN L. ARRIGO, Administrator
Enforcement Division

12/29/15
Date

IT IS SO AGREED:

MAIN STREET SERVICE, INC.

Angie McCullough
Signature

Angie McCullough
Print Name

Personal Representative for the Estate of Tina B. Schawengerdt
Title

12/18/15
Date

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Petroleum Tank Release Compensation Board

RATIFICATION OF WEEKLY REIMBURSEMENTS

BOARD MEETING DATE 03/21/2016

Week Of	Number of Claims	Funds Reimbursed
1/13/2016	11	$55,741.18
1/27/2016	11	$101,056.67
2/3/2016	14	$32,934.78
2/10/2016	17	$28,408.23
2/17/2016	12	$50,189.91
2/24/2016	14	$66,385.51
Totals :	**79**	**$334,716.28**

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Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 1/13/2016

Org Unit: 993050
Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20151208C	5613804	3342	Former Texaco Station #3342	Grass Range	5/24/2011	$1,985.00	$15,274.16		Report
20151214B	2710131	3287	Moore Oil Bulk Facility	Libby	5/12/1999	$3,438.26	$725,925.36		Soil Removal
20151215A	1504503	4249	Manions Implement Dealership	Kalispell	1/5/2004	$9,878.78	$329,805.91		Monitoring Well Installation
20151217B	4600762	3619	Prairie States Coop Terminal	Dagmar	8/31/2000	$1,172.53	$334,268.20	$1,911.46	Mobilization
20151221E	1113942	3767	Realty One	Glendive	5/23/2001	$2,478.74	$9,982.08	$254.62	Fieldwork
20151223A	1508709	2567	Town Pump Inc Kalispell 1	Kalispell	3/8/1996	$18,322.96	$138,157.57		Miscellaneous
20151223E	701418	3212	Keiths Country Store	Great Falls	10/5/2000	$1,484.69	$448,981.81		Miscellaneous
20151229A	5003596	4385	Mountain View Coop Fairfield	Fairfield	3/8/2013	$3,036.51	$42,289.18		Monitoring
20151230A	9995055	4618	Weston's Repair #4618	Billings	12/19/2013	$3,653.60	$9,309.27	$3.75	Report
20151231A	9995002	4395	Former Econo Lumber	Glasgow	4/5/2006	$8,675.89	$122,653.03		Laboratory Analysis w/fee
20160107A	804017	499	Robertson Oil Co Big Sandy	Big Sandy	11/26/1991	$1,614.22	$677,898.58		Mobilization

11 claims in the report *Total Reimbursement:* **$55,741.18**

Reviewed for Reimbursement by: _____ **Date** 2-1-16

Approved for Reimbursement by: _____ **Date** 2-1-16

Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 1/27/2016

Org Unit: 993050
Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20151221C	5604951	760	West Parkway	Billings	2/12/1992	$16,778.36	$78,210.01	$0.00	Soil Borings
20151221D	5604951	4496	West Parkway	Billings	12/18/2006	$1,258.38	$3,167.58	$1,677.84	Soil Borings
20151120H	4306620	4943	Old McKinney Motors #4943	Culbertson	2/26/2014	$25,603.11	$39,939.93	$21.61	Monitoring Well Installation
20151209A	2100131	3589	Northern Tire Buff N Shine	Havre	6/7/1999	$13,679.55	$58,601.51	$5,171.28	Laboratory Analysis w/fee
20151209F	5313598	4333	Former Mikes Muffler	Glasgow	2/15/2005	$2,200.00	$128,671.13		Report
20151228A	4711251	539	Montana Agri Food Industrial Com	Butte	6/29/1990	$29,898.69	$119,614.16		Miscellaneous
20160108A	2508708	4793	Town Pump Inc Helena 3	Helena	5/2/2011	$4,387.28	$51,671.07		Laboratory Analysis w/fee
20160108B	306204	1547	Conoco C Store #1547	Chinook	9/3/2013	$514.59	$207,619.30		Work Plan
20160108D	2600105	3526	Jac & Jils	Chester	10/14/1999	$2,267.85	$239,264.20		Fieldwork
20160108E	300035	3019	Jamieson Motors Inc	Chinook	5/13/2005	$1,961.86	$230,927.58		Report
20160111F	5605746	1570	Kwik Way 19	Billings	4/2/1997	$2,507.00	$140,765.44		Report

11 claims in the report *Total Reimbursement:* **$101,056.67**

Reviewed for Reimbursement by: [signature] **Date** 02-01-16

Approved for Reimbursement by: Tony Wadsworth **Date** 2/5/16

Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 2/3/2016

Org Unit: 993050
Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20151026F	708809	4598	Auto Service Center	Great Falls	10/21/2008	$3,796.92	$228,088.17	$238.39	Mobilization
20151209D	2108068	3537	Holiday Stationstore 272	Havre	4/16/1999	$7,132.67	$63,942.14	$21.60	Fieldwork
20160113A	2502093	441	Sinclair Retail 25009	Helena	6/19/1991	$420.00	$365,850.75		Work Plan
20160114A	3805046	4162	Park Super Service	Broadus	8/11/2014	$3,770.47	$25,294.23		Report
20160114D	2906376	3689	Farmers Union Oil Co Circle	Circle	4/15/2015	$373.75	$956.25	$28.75	Project Management
20160114E	1509705	5036	Cenex Harvest States Kalispell	Kalispell	1/14/2016	$500.00	$500.00		Work Plan
20160114H	907083	2938	Cenex Harvest States	Miles City	10/27/1997	$626.66	$788,435.35		Remediation System
20160114I	9995029	4485	CHS Cardtrol and Bulk Site	Condon	10/5/2006	$895.00	$661,353.41		Mobilization
20160114J	2504619	3330	Gasamat 563	Helena	8/17/1999	$920.00	$291,188.13		Miscellaneous
20160119A	5608287	3802	Shepherd Country Market	Shepherd	1/26/2000	$3,029.75	$116,071.31		Mobilization
20160119B	1102466	3854	Robins Conoco Service	Glendive	8/23/2000	$3,795.95	$133,855.88	$17.00	Monitoring Well Installation
20160119C	900624	325	Conoco Quik Stop Inc	Miles City	9/17/1990	$1,188.80	$152,683.74	$319.20	Monitoring Well Installation
20160122A	1010800	3821	Nash Brothers	Scobey	9/28/2005	$840.00	$930,862.46		Laboratory Analysis w/fee
20160122D	5600251	2655	Greens Service & Repair Inc	Huntley	11/20/2006	$5,644.81	$107,665.86		Report

14 claims in the report *Total Reimbursement:* **$32,934.78**

Reviewed for Reimbursement by: _____ **Date** 2/12/16

Approved for Reimbursement by: Terry Wadsworth **Date** 2/12/16

Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 2/10/2016

Org Unit: 993050
Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20150313D	2106481	3453	Heitnes Service Center	Havre	10/27/1999	$741.13	$158,442.63		Project Management
20150617E	5604955	2853	Kwik Way 18	Billings	10/23/1996	$799.60	$28,574.16	$199.90	Work Plan
20150721B	2106481	3453	Heitnes Service Center	Havre	10/27/1999	$700.62	$158,442.63		Project Management
20151013D	9995029	4485	CHS Cardtrol and Bulk Site	Condon	10/5/2006	$420.00	$661,773.41		Work Plan
20151127A	403467	4342	MRL Bulk Plant Former Visocan Petroleum	Townsend	10/14/2004	$566.72	$173,086.51		Work Plan
20151221A	5604951	4496	West Parkway	Billings	12/18/2006	$362.37	$3,529.95	$483.16	Report
20151221B	5604951	760	West Parkway	Billings	2/12/1992	$4,831.60	$83,041.61		Report
20160111A	5613771	3034	Keenan & Associates	Billings	7/17/2015	$546.55	$9,702.10	$2,047.23	Miscellaneous
20160111B	5613771	3034	Keenan & Associates	Billings	7/17/2015	$1,387.25	$9,702.10	$341.25	Laboratory Analysis w/fee
20160111D	706926	1636	Flying J Inc Great Falls	Great Falls	7/27/1993	$582.90	$123,230.91		Monitoring
20160111E	706926	2051	Flying J Inc Great Falls	Great Falls	5/2/1996	$1,165.80	$250,379.77		Monitoring
20160111G	706926	2159	Flying J Inc Great Falls	Great Falls	5/2/1996	$582.90	$125,406.10		Monitoring
20160114C	1608190	1751	Interstate 90 Exxon	Bozeman	2/9/2001	$12,184.00	$370,877.54		Well Abandonment
20160119F	4905153	104	Oie Motor Co Inc	Big Timber	10/21/1999	$1,302.27	$342,183.32	$41.88	Fieldwork
20160119G	4905153	4213	Oie Motor Co Inc	Big Timber	7/30/1999	$1,302.27	$119,432.30	$41.88	Fieldwork
20160119I	1608674	5031	Town Pump Inc Bozeman 1	Bozeman	11/6/2014	$932.25	$210,077.67		Project Management
20151230B_CA	1402289	4653	HILGER COUNTRY STORE #4653	HILGER	12/30/2015	$0.00	$0.00	$23,617.99	Miscellaneous

17 claims in the report *Total Reimbursement:* **$28,408.23**

Reviewed for Reimbursement by: _____ **Date** 2/12/16

Approved for Reimbursement by: _____ **Date** 2/17/16

Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 2/17/2016

Org Unit: 993050
Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20151007B	706614	335	Bills Soco	Great Falls	12/11/1990	$923.00	$179,726.33		Work Plan
20160119H	4308725	4110	Town Pump Inc Wolf Point	Wolf Point	9/6/2002	$21,026.82	$385,839.71	$224.00	Monitoring Well Installation
20160122B	805931	3645	Chouteau County EOC	Fort Benton	9/20/2000	$1,810.05	$437,777.08		Miscellaneous
20160125F	708065	2597	Holiday Stationstore 267	Great Falls	10/25/1996	$1,382.45	$584,578.06	$78.00	Report
20160127A	2705733	213	Troy Service Center Chevron	Troy	3/1/1990	$4,998.91	$364,541.46	$91.36	Work Plan
20160128A	1505489	1327	Laplume Aka Debbys Aka Tims Exxon	Kalispell	1/29/1993	$3,328.51	$228,426.52		Report
20160204A	3209351	3378	Gas Haus	Seeley Lake	7/31/1998	$2,121.40	$55,504.11		Report
20160204B	5613871	3300	Shelby Distributors LLC	Shelby	6/26/2000	$1,660.00	$74,101.81		Report
20160204D	306475	3824	Pehrson Service Exxon	Chinook	5/26/2005	$3,412.74	$127,127.72		Laboratory Analysis w/fee
20160204E	2503918	4063	Noons 438	Helena	12/12/2001	$6,103.01	$186,105.52		Monitoring
20150921E	701418	3212	Keiths Country Store	Great Falls	10/5/2000	$23.77	$449,005.58	$0.00	Laboratory Analysis w/fee
20160204F	302863	2197	Swensons Bulk Plant	Chinook	4/17/2013	$3,399.25	$169,616.10		Well Abandonment

12 claims in the report — ***Total Reimbursement:*** **$50,189.91**

Reviewed for Reimbursement by: _____ **Date** 2/29/16

Approved for Reimbursement by: Terry Wadsworth **Date** 2/29/16

Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 2/24/2016

Org Unit: 993050
Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20150120B	2106481	3453	Heltnes Service Center	Havre	10/27/1999	$4,426.10	$167,061.81	$177.60	Laboratory Analysis w/fee
20150518G	2106481	3453	Heltnes Service Center	Havre	10/27/1999	$1,967.30	$167,061.81	$651.00	Miscellaneous
20150831J	1506839	2447	Jiffy Mart I I Mikes Conoco	Columbia Falls	3/20/1995	$1,552.00	$170,882.49	$326.00	Water Level Measurements
20150831K	1506839	2447	Jiffy Mart I I Mikes Conoco	Columbia Falls	3/20/1995	$2,458.00	$170,882.49	$159.75	Water Level Measurements
20151223D	2508708	4793	Town Pump Inc Helena 3	Helena	5/2/2011	$2,032.55	$53,703.62	$178.00	Monitoring
20160104A	2108068	3537	Holiday Stationstore 272	Havre	4/16/1999	$12,703.06	$76,645.20	$911.47	Survey
20160128D	5003596	4385	Mountain View Coop Fairfield	Fairfield	3/8/2013	$5,363.50	$48,115.18		Laboratory Analysis w/fee
20160108F	5608671	2007	Town Pump Inc Billings 2	Billings	1/19/1994	$18,845.96	$269,108.46	$142.02	Remediation System
20160125B	4201287	2469	SIDNEY OIL CO	Sidney	1/25/2016	$7,432.75	$7,432.75	$134.00	Monitoring Well Installation
20160203A	306483	4252	Andys Exxon	Chinook	4/5/2004	$2,999.01	$297,733.27		Laboratory Analysis w/fee
20160205A	5003596	4385	Mountain View Coop Fairfield	Fairfield	3/8/2013	$462.50	$48,115.18		Report
20160205B	702988	3533	Pro Lube 2	Great Falls	8/7/2001	$518.00	$1,266.47		Work Plan
20160205J	1808666	3836	Flying J Inc Cut Bank	Cut Bank	2/27/2001	$3,399.00	$208,331.47		Monitoring
20141112A	2106481	3453	Heltnes Service Center	Havre	10/27/1999	$2,225.78	$167,061.81	$1,463.56	Work Plan

14 claims in the report **Total Reimbursement: $66,385.51**

Reviewed for Reimbursement by: Steve R Roest **Date** 3/1/16

Approved for Reimbursement by: Terry Wadsworth **Date** 3/1/16

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Petroleum Tank Release Compensation Board

Claims Denied Between 01/01/2015 and 03/07/2016 and Not Ratified

Facility ID/Alt ID: 2106481 / 21-06481 **Facility Name:** Havre, Heltnes Service Center

ClaimID	Amount	Date Denied	Reason Denied
20150409H	$827.48	2/4/2016	Work Plan Prep exceeds the reasonable hours. WP prep previously reimbursed on claims 20141112A and 20150721B.
Total:	$827.48		

Facility ID/Alt ID: 2906376 / 29-06376 **Facility Name:** Circle, Farmers Union Oil Co Circle

ClaimID	Amount	Date Denied	Reason Denied
20150427C	$14,966.28	12/31/2015	Work done without a department approved CAP (75-11-309 MCA).
Total:	$14,966.28		

Facility ID/Alt ID: 3805047 / **Facility Name:** Broadus, Park Ave TV McCurdy Motor

ClaimID	Amount	Date Denied	Reason Denied
20160114B	$6,668.19	3/2/2016	Consultant request claim withdrawal.
Total:	$6,668.19		

Facility ID/Alt ID: 5304078 / 53-04078 **Facility Name:** Nashua, Sportmans Stop

ClaimID	Amount	Date Denied	Reason Denied
20160217D	$780.00	3/1/2016	Consultant request to withdraw claim due to incorrect lab invoice.
Total:	$780.00		

Grand Total: **$23,241.95**

TOTAL NUMBER OF CLAIMS FOR THIS REPORT: 4

Reviewed By: Tony Wadsworth Date: 3/8/16

Board Approval By: _____ Date: _____

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March 21, 2016
ACTION ITEM

CLAIMS OVER $25,000.00 *
March 21, 2016

Location	Facility Name	Facility-Release ID Numbers	Claim#	Claimed Amount	Adjustments	Penalty	Co-pay	Estimated Reimbursement
Colestrip	Colstrip Steam Electric Station	4408921 - 562	20150515G	$25,036.62	$7,723.00	-0-		$17,313.62
Whitefish	Town Pump	1510105-4155	20151223B	$32,854.24	$4,654.58	-0-		$28,199.66
Billings	Town Pump Inc	5608674-2007	20151223C	$28,304.92	$405.94	-0-	$3,163.17	$27,898.98
Total				$86,195.78				**$73,412.26**

* In accordance with Board communication of delegation 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 above $25,000.00 the claim must be approved and ratified by the Board at a regularly scheduled meeting before reimbursement can be made.

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

Reviewed for Reimbursement by: Terry Wadsworth **Date** 3/7/16

Board Approval by: _____ **Date**_____

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Petroleum Tank Release Compensation Board

PO Box 200902 Helena, MT 59620 -0902 (406)444-9710 Website www.deq.mt.gov/pet/default.mcpx

June 11, 2015

PPL Montana LLC (OWNER)
Mike Holzwarth
PO Box 38
Colstrip, MT 59323 - 0038

Location	Colstrip
Facility ID	4408921
Facility Name	Colstrip Steam Electric Station

SUBJECT: Recommended Adjustment(s) to Claim for Reimbursement

The Board staff has proposed the following adjustment(s) to this claim and has temporarily suspended it to allow an opportunity for you to comment on the proposed adjustment(s). Review the adjustments and contact me by phone or email within 14 calendar days of this date to discuss the specifics of any issue(s) you may have with the adjustment(s). After 14 days, the suspended claim will be released for processing.

If the adjustment can't be resolved at the staff level, you may dispute the proposed adjustment(s) at the next Board meeting. Should this be necessary, please notify me via email so that I may request to have this matter placed on the agenda of the meeting. Once the Board has made a determination, any dispute will be conducted according to Montana Code Annotated and compliant with the Montana Administrative Procedures Act.

Claim ID:	20150515G	Release ID: 562	Ordinal: 21
Claim Amount:	$25,036.62	Reimbursement To-date:	$64,376.61

Adjustments:

Action	Amount	Comment
Reduced	$1,597.00	CAP 6889 - Standarized Abbreviated Groundwater Monitoring Reports (AR-01) exceeded the maximum reimbursable amount.
Reduced	$1,631.00	CAP 7627 - Standardized Additional Remedial Investigation Report (RIR-02) and RAA exceeded the maximum reimbursable amount.
Reduced	$591.00	CAP 7627 - Groundwater monitoring exceeded the standard rate of $172.00/well to sample 7 wells.
Reduced	$51.00	CAP 7627 - Meals exceeded the rates set forth in 2-18-501 and 2-18-502, MCA.
Reduced	$81.00	CAP 7627 - Sample prep and delivery exceeded the sample fee of $10/sample.
Reduced	$1,262.00	CAP 7627 - Equipment and supplies is included in the groundwater monitoring standard rate of $172.00/well.
Reduced	$2,510.00	CAP 7627 - Y Environmental's invoice is subject to an adjustment based on ARM 17.58.341(3) for not obtaining competitive bids for subcontractor work costing over $2,500 (ARM 17.58.344(2)).

Total Adjustment $7,723.00

20150515G

MONTANA PETROLEUM TANK RELEASE COMPENSATION BOARD
CLAIM FOR REIMBURSEMENT –CORRECTIVE ACTION
FORM 3

Claims should be submitted upon completion of a task or tasks of a Department of Environmental Quality corrective action plan for a **single** petroleum release. **A separate claim form is required for each release.** Please review the Form 3 Instructions before completing this form. If you require assistance, contact Janet Adolph at 406-444-9714 or e-mail jaadolph@mt.gov .

1. Facility and Petroleum Release Information	
Name of Facility:	Colstrip Steam Electric Station
Street Address:	Willow and Warehouse Road
City:	Colstrip, MT 59323
DEQ Facility Identification Number:	44-08921
DEQ Petroleum Release Number: **(only one release #)**	0562

RECEIVED
MAY 15 2015
Petroleum Tank Release Compensation Board

2. Owner – Name and Address		3. Operator – Name and Address		4. Payable to: – Name and Address (Required)	
PPL Montana, LLC		PPL Montana, LLC		PPL Montana, LLC	
P.O. Box 38		P.O. Box 38		P.O. Box 38	
Colstrip, MT 59323		Colstrip, MT 59323		Colstrip, MT 59323	
Attn:	Mike Holzwarth Sr. Envl Compliance Specialist	Attn:	Mike Holzwarth Sr. Envl Compliance Specialist	Attn:	Mike Holzwarth Sr. Envl Compliance Specialist
Phone Number:	406-748-5046	Phone Number:	406-748-5046	Phone Number:	406-748-5046
Fax Number:	406-748-5000	Fax Number:	406-748-5000	Fax Number:	406-748-5000
Email Address:	mvholzwarth@pplweb.com	Email Address:	mvholzwarth@pplweb.com	Email Address:	mvholzwarth@pplweb.com
Do you want to receive Email about this claim?	Yes ☑ No ☐	Do you want to receive Email about this claim?	Yes ☑ No ☐	Do you want to receive Email about this claim?	Yes ☑ No ☐

5. Claimant – Name and Address		6. Consultant – Name and Address		7. Any other person – Name and Address	
Hydrometrics, Inc.		Hydrometrics, Inc.			
5602 Hesper Rd.		5602 Hesper Rd.			
Billings, MT 59106-3236		Billings, MT 59106-3236			
Attn:	Al Hilty, P.G., Principal	Attn:	Al Hilty, P.G., Principal	Attn:	
Phone Number:	406-656-1172	Phone Number:	406-656-1172	Phone Number:	
Fax Number:	406-656-8912	Fax Number:	406-656-8912	Fax Number:	
Email Address:	ahilty@hydrometrics.com	Email Address:	ahilty@hydrometrics.com	Email Address:	
Do you want to receive Email about this claim?	Yes ☑ No ☐	Do you want to receive Email about this claim?	Yes ☑ No ☐	Do you want to receive Email about this claim?	Yes ☐ No ☐

8. Total amount of this claim (including all page 2's):	$25,036.62

E-MAILED
5-27-15

Facility Name: Colstrip Steam Electric Station **Facility #** 44-08921 **Release#** 0562

9. **Detail of Costs: This section must be completed for each corrective action plan (CAP).**

Please review Form 3 Instructions for detailed information.

The work claimed must be in accordance with an DEQ approved CAP. **The costs of each different corrective action plan must be on a separate page 2. Multiple tasks may be submitted on a single claim.** Submit itemized invoices and other support documentation with this claim. **(Additional copies of this page may be included in each claim.)**

Corrective Action Plan (CAP): CAP ID # 6889 CAP Date: 07/10/12

CAP Modification (Form 8) Date (s) _____ _____ _____

View the Task Names on our web site. Enter the PTRCB task number, task name, budget, amount claimed and corresponding invoice number(s) for each task in the table below. The PTRCB task number is assigned by the Board staff in the CAP Review Letter.

COMPLETED TASKS SUBMITTED FOR REIMBURSEMENT

Task Number	Task Name	Budget	**Amount Claimed**	Invoice Numbers
	"2012/2013 Abbreviated Corrective Action Plan and			
	Budget for the Petroleum Release at Colstrip Common			
	Facilities, 601 Willow Dr, Colstrip, MT;			
	Facility ID# 44-08921, Release #562"			
300	Reporting/Reimbursement	$14,600.88	$2,409.63	21372, 21410, 21530, 21768
Total		$14,600.88	$2,409.63	

10. **Acknowledgement of Payment (Form 6)** is required for each invoice. **Refer to Section 10 of the instructions for acceptable proof of payment.** Reimbursement will be issued and mailed to the party identified as Payee in Section 4 on page 1.

11. **An Assent to Audit (Form 2)** is required for each consultant, contractor, or subcontractor who has worked at the release site with billable labor charges.

Facility Name: Colstrip Steam Electric Station **Facility #** 44-08921 **Release#** 0562

9. **Detail of Costs: This section must be completed for each corrective action plan (CAP).**

Please review Form 3 Instructions for detailed information.

The work claimed must be in accordance with an DEQ approved CAP. **The costs of each different corrective action plan must be on a separate page 2. Multiple tasks may be submitted on a single claim.** Submit itemized invoices and other support documentation with this claim. **(Additional copies of this page may be included in each claim.)**

Corrective Action Plan (CAP): CAP ID # 7627 CAP Date: 07/17/14

CAP Modification (Form 8) Date (s) _____ _____ _____

View the Task Names on our web site. Enter the PTRCB task number, task name, budget, amount claimed and corresponding invoice number(s) for each task in the table below. The PTRCB task number is assigned by the Board staff in the CAP Review Letter.

COMPLETED TASKS SUBMITTED FOR REIMBURSEMENT

Task Number	Task Name	Budget	**Amount Claimed**	Invoice Numbers
	"Corrective Action Plan and Budget for Remedial			
	Investigation for the Well 810 Area at PPL Montana			
	Colstrip Steam Electric Station, 601 Willow Drive			
	Colstrip, MT 59323			
	Facility ID# 44-08921, Release #562"			
I	Work Plan	$1,735.00	$1,907.34	21951, 22053
II	Soil Boring/Monitor Well Installation & Well Develop	$15,196.00	$14,120.09	22053, 22153
III	Annual GW Monitoring and Sampling &	$6,291.60	$4,043.19	21372, 22053, 22153
	Monthly Free Product Measure/Recovery			
IV	Corrective Action Report	$3,335.00	$4,966.00	22265, 22355, 22398
	RECEIVED			
	MAY 15 2015			
	Petroleum Tank Release			
	Compensation Board			
Total		$26,557.60	$25,036.62	

10. **Acknowledgement of Payment (Form 6)** is required for each invoice. **Refer to Section 10 of the instructions for acceptable proof of payment.** Reimbursement will be issued and mailed to the party identified as Payee in Section 4 on page 1.

11. **An Assent to Audit (Form 2)** is required for each consultant, contractor, or subcontractor who has worked at the release site with billable labor charges.

Facility Name: Colstrip Steam Electric Station Facility # 44-08921 Release # 0562

12. **Owner Certification:** I certify under penalty of perjury that this submitted claim is for work that was actually completed; that the work performed was necessary to clean up the petroleum release at the facility identified in **Section 1**; that the cost of work for which reimbursement is sought is reasonable; and that to the best of my knowledge, all information herein provided is true and correct. **NOTE: If someone is submitting the claim on behalf of the owner/operator, skip Section 12 and complete Section 13. See the Form 3 instructions.**

Mike Holzwarth
Owner/Operator Signature

05/05/15
Date

Mike Holzwarth
Typed Name of Owner/Operator

State of Montana

County of Roseland

Signed and Sworn before me on this day 5/5/15 by Mike Holzwarth
Date

Kathryn J. Stinson
Notary Public

(SEAL)

KATHRYN J. STINSON
NOTARY PUBLIC for the
State of Montana
Residing at Colstrip, Montana
My Commission Expires
July 27, 2015

Kathryn J. Stinson
Printed or typed

Notary Public for the State of MT
Residing at Colstrip, MT
My Commission Expires July 27, 2015

13. **Claimant Certification:** I certify under penalty of perjury that I am authorized to submit claims on behalf of the owner or operator for this release and the information on this claim form is true to the best of my knowledge. This claim is submitted for work that was actually completed.

Claimant Signature

Date

Albert Hilty, P.G.
Typed Name of Claimant

State of _____

County of _____

Signed and Sworn before me on this day _____ by _____
Date

(SEAL)

Notary Public

Printed or typed

Notary Public for the State of _____
Residing at _____
My Commission Expires _____

Submit this completed claim and supporting documents to the following address:
PETROLEUM TANK RELEASE COMPENSATION BOARD
PO BOX 200902, HELENA MT 59620-0902

Petroleum Tank Release Compensation Board

Work Plan Task Costs

Facility ID: 4408921 **FacilityName:** Colstrip Steam Electric Station **City:** Colstrip

Release ID: 562 **WP ID:** 6889 **WP Name:** F-W-GWM **WP Complete:** ☑ **WP Date:** 07/10/2012

Task #	Task Name	Phase	Estimated Cost	Actual Cost	Balance	Comment
1	Work Plan	F	$410.00	$109.00	$301.00	
2	Project Management	F	$300.00	$391.75	($91.75)	
3	Mobilization	F	$1,185.60	$40.00	$1,145.60	
4	Water Level Measurements	F	$148.00			
5	Monitoring	F	$936.00	$480.00	$456.00	
6	Lodging/Per Diem	F	$46.00			
7	Report	F	$2,700.00	$2,740.00	($40.00)	
8	Laboratory Analysis w/fee	F	$1,290.00	$1,245.50	$44.50	
		Total:	**$7,015.60**	**$5,006.25**	**$2,009.35**	

Petroleum Tank Release Compensation Board

Work Plan Task Costs

Facility ID: 4408921 **FacilityName:** Colstrip Steam Electric Station **City:** Colstrip

Release ID: 562 **WP ID:** 7627 **WP Name:** F-B-SB/WI/GWM/FP **WP Complete:** ☑ **WP Date:** 07/17/2014

Task #	Task Name	Phase	Estimated Cost	Actual Cost	Balance	Comment
1	Work Plan	F	$1,735.00	$1,749.84	($14.84)	
2	Project Management	F	$456.00	$285.94	$170.06	
3	Mobilization	F	$1,218.00	$1,128.35	$89.65	
4	Monitoring Well Installation	F	$2,850.00	$2,962.50	($112.50)	
5	Monitoring Well Installation	F	$3,870.00	$4,062.00	($192.00)	
6	Monitoring Well Installation	F	$3,428.00	$270.80	$3,157.20	
7	Laboratory Analysis w/fee	F	$2,430.00	$1,430.00	$1,000.00	
8	Lodging/Per Diem	F	$944.00	$462.04	$481.96	
9	Project Management	F	$570.00			
10	Mobilization	F	$615.60			
11	Monitoring	F	$1,870.00	$1,190.00	$680.00	
12	Free Product Activities	F	$760.00			
13	Free Product Activities	F	$80.00	$90.00	($10.00)	
14	Lodging/Per Diem	F	$141.00			
15	Laboratory Analysis w/fee	F	$2,255.00	$1,710.00	$545.00	
16	Report	F	$3,335.00	$3,335.00	$0.00	
		Total:	**$26,557.60**	**$18,676.47**	**$7,881.13**	

Petroleum Tank Release Compensation Board

PO Box 200902 Helena, MT 59620 -0902 (406)444-9710 Website www.deq.mt.gov/pet/default.mcpx

January 12, 2016

Troy Town Pump Inc (OWNER)
Trent Biggers
PO Box 6000
Butte, MT 59702 - 6000

Location	Whitefish
Facility ID	1510105
Facility Name	Town Pump Inc Whitefish 2

SUBJECT: Recommended Adjustment(s) to Claim for Reimbursement

The Board staff has proposed the following adjustment(s) to this claim and has temporarily suspended it to allow an opportunity for you to comment on the proposed adjustment(s). Review the adjustments and contact me by phone or email within 14 calendar days of this date to discuss the specifics of any issue(s) you may have with the adjustment(s). After 14 days, the suspended claim will be released for processing.

If the adjustment can't be resolved at the staff level, you may dispute the proposed adjustment(s) at the next Board meeting. Should this be necessary, please notify me via email so that I may request to have this matter placed on the agenda of the meeting. Once the Board has made a determination, any dispute will be conducted according to Montana Code Annotated and compliant with the Montana Administrative Procedures Act.

Claim ID: 20151223B Release ID: 4155 Ordinal: 139

Claim Amount: $32,854.24 Reimbursement To-date: $825,261.42

Adjustments:

Action	Amount	Comment
Reduced	$3,300.01	WP 10030 - Budget for RAA exhausted - Additional charges denied.
Reduced	$793.00	WP 10030 - DEQ requested VPH analyses only. All other analysis charges denied.
Reduced	$277.51	Budgeted costs exceeded. Allowed 10% over budget, remainder denied.
Reduced	$82.84	WPID 10030 - Overtime not approved. Hours approved at straight time.
Reduced	$166.36	WPID 9801 - Overtime not approved. Hours approved at straight time.
Reduced	$34.86	Sample shipping fees are handling charges and part of the sample fee.

Total Adjustment $4,654.58

201512238

MONTANA PETROLEUM TANK RELEASE COMPENSATION BOARD
CLAIM FOR REIMBURSEMENT –CORRECTIVE ACTION
FORM 3

Claims should be submitted upon completion of a task or tasks of a Department of Environmental Quality corrective action plan for a **single** petroleum release. **A separate claim form is required for each release.** Please review the Form 3 Instructions before completing this form. If you require assistance, contact Janet Adolph at 406-444-9714 or e-mail jaadolph@mt.gov .

1. Facility and Petroleum Release Information		
Name of Facility:	Town Pump Inc Whitefish 2	
Street Address:	6600 US Highway 93 S	
City:	Whitefish, MT	59937
DEQ Facility Identification Number:	1510105	
DEQ Petroleum Release Number: **(only one release #)**	4155	

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Petroleum Tank Release Compensation Board

2. Owner – Name and Address		3. Operator – Name and Address		4. Payable to: – Name and Address (Required)	
Town Pump				Town Pump	
P.O. Box 6000				P.O. Box 6000	
Butte, MT 59702-6000				Butte, MT 59702-6000	
Attn:	Trent Biggers	Attn:		Attn:	Trent Biggers
Phone Number:	406-782-9121	Phone Number:		Phone Number:	406-782-9121
Fax Number:	406-723-9533	Fax Number:		Fax Number:	406-723-9533
Email Address:	trentb@townpump.com	Email Address:		Email Address:	trentb@townpump.com
Do you want to receive Email about this claim?	Yes ☑ No ☐	Do you want to receive Email about this claim?	Yes ☐ No ☐	Do you want to receive Email about this claim?	Yes ☐ No ☐

5. Claimant – Name and Address		6. Consultant – Name and Address		7. Any other person – Name and Address	
Olympus Technical Services		Olympus Technical Services			
765 Colleen Street		Alan Stine			
Helena, MT 59601					
Attn:	Jennifer Steilmann	Attn:		Attn:	
Phone Number:	406-443-3087	Phone Number:		Phone Number:	
Fax Number:	406-443-0232	Fax Number:		Fax Number:	
Email Address:	jsteilmann@olytech.com	Email Address:		Email Address:	
Do you want to receive Email about this claim?	Yes ☑ No ☐	Do you want to receive Email about this claim?	Yes ☐ No ☑	Do you want to receive Email about this claim?	Yes ☐ No ☐

8. Total amount of this claim (including all page 2's):	$32,854.24 ~~$12,118.48~~

E-MAILED
12-30-15

Facility Name: Town Pump Inc Whitefish 2 **Facility #** 1510105 **Release#** 4155

9. **Detail of Costs: This section must be completed for each corrective action plan (CAP).**

Please review Form 3 Instructions for detailed information.

The work claimed must be in accordance with an approved DEQ CAP. **The costs of each different corrective action plan must be on a separate page 2. Multiple tasks may be submitted on a single claim.** Submit itemized invoices and other support documentation with this claim. **(Additional copies of this page may be included in each claim.)**

Corrective Action Plan (CAP): CAP ID # 9801 CAP Date: 1/30/2015

CAP Modification (Form 8) Date (s) _____ _____ _____

View the Task Names on our web site. Enter the PTRCB task number, task name, budget, amount claimed and corresponding invoice number(s) for each task in the table below. The PTRCB task number is assigned by the Board staff in the CAP Review Letter.

COMPLETED TASKS SUBMITTED FOR REIMBURSEMENT

Task Number	Task Name	Budget	**Amount Claimed**	Invoice Numbers
1	Work Plan	$600.00		
2	Project Management	$5,927.50	$2,054.01	12881
3	Remediation System	$15,554.44	$5,659.97	12881
4	Mobilization	$9,970.41	$1,323.12	12881
5	Miscellaneous	$2,599.52	$1,656.18	12881
6	Miscellaneous	$15,800.00	$495.00	12881
7	Miscellaneous	$14,000.00	$536.14	12881
8	Water Level Measurements	$312.00		
9	Monitoring	$3,784.00		
10	Lodging/Per Diem	$1,128.00	$394.06	12881
11	Laboratory Analysis w/fee	$4,500.00		
12	Report	$6,186.16		
	RECEIVED			
	DEC 2 0 2015			
	Petroleum Tank Release			
	Compensation Board			
Total		$80,362.03	$12,118.48	

10. **Acknowledgement of Payment (Form 6)** is required for each invoice. **Refer to Section 10 of the instructions for acceptable proof of payment**. Reimbursement will be issued and mailed to the party identified as Payee in Section 4 on page 1.

11. **An Assent to Audit (Form 2)** is required for each consultant, contractor, or subcontractor who has worked at the release site with billable labor charges.

Facility Name: Town Pump Inc Whitefish 2 **Facility #** 1510105 **Release#** 4155

9. **Detail of Costs: This section must be completed for each corrective action plan (CAP).**

Please review Form 3 Instructions for detailed information.

The work claimed must be in accordance with an approved DEQ CAP. **The costs of each different corrective action plan must be on a separate page 2. Multiple tasks may be submitted on a single claim.** Submit itemized invoices and other support documentation with this claim. **(Additional copies of this page may be included in each claim.)**

Corrective Action Plan (CAP): CAP ID # 10030 CAP Date: 6/17/2015

CAP Modification (Form 8) Date (s) _____ _____ _____

View the Task Names on our web site. Enter the PTRCB task number, task name, budget, amount claimed and corresponding invoice number(s) for each task in the table below. The PTRCB task number is assigned by the Board staff in the CAP Review Letter.

COMPLETED TASKS SUBMITTED FOR REIMBURSEMENT

Task Number	Task Name	Budget	**Amount Claimed**	Invoice Numbers
1	Work Plan	$0.00		
2	Project Management	$0.00		
3	Mobilization	$0.00	$1,216.56	12881
4	Remediation System	$0.00	$4,886.48	12881
5	Miscellaneous	$9,369.00	$4,869.38	12881
6	Miscellaneous	$1,000.00	$1,297.26	12881
7	Monitoring	$1,032.00	$722.86	12881
8	Monitoring	$385.55	$366.00	12881
9	Lodging/Per Diem	$1,036.00	$1,313.00	12881
10	Laboratory Analysis w/fee	$2,340.00	$4,890.50	12881
11	Report	$0.00	$1,173.72	12881
12	Report	$0.00		
Total		$15,162.55	$20,735.76	

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Petroleum Tank Release
Compensation Board

10. **Acknowledgement of Payment (Form 6)** is required for each invoice. **Refer to Section 10 of the instructions for acceptable proof of payment**. Reimbursement will be issued and mailed to the party identified as Payee in Section 4 on page 1.

11. **An Assent to Audit (Form 2)** is required for each consultant, contractor, or subcontractor who has worked at the release site with billable labor charges.

12. **Owner Certification:** I certify under penalty of perjury that this submitted claim is for work that was actually completed; that the work performed was necessary to clean up the petroleum release at the facility identified in **Section 1**; that the cost of work for which reimbursement is sought is reasonable; and that to the best of my knowledge, all information herein provided is true and correct. **NOTE: If someone is submitting the claim on behalf of the owner/operator, skip Section 12 and complete Section 13. See the Form 3 instructions.**

Owner/Operator Signature

Date

Typed Name of Owner/Operator

RECEIVED
DEC 9 2015
Petroleum Tank Release Compensation Board

State of _____

County of _____

Signed and Sworn before me on this day _____ by _____
Date

(SEAL)

Notary Public

Printed or typed

RECEIVED
DEC 9 2015
Petroleum Tank Release Compensation Board

Notary Public for the State of _____

Residing at _____

My Commission Expires _____

13. **Claimant Certification:** I certify under penalty of perjury that I am authorized to submit claims on behalf of the owner or operator for this release and the information on this claim form is true to the best of my knowledge. This claim is submitted for work that was actually completed.

Jennifer Steilmann

Claimant Signature

12-18-15

Date

Jennifer Steilmann

Typed Name of Claimant

State of Montana

County of Lewis & Clark

Signed and Sworn before me on this day 12/18/15 by Jennifer Steilmann
Date

(SEAL)

JANIE L. DANBROOK NOTARIAL SEAL STATE OF MONTANA
JANIE L. DANBROOK
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
June 19, 2019

Janie L. Danbrook

Notary Public

Janie Danbrook

Printed or typed

Notary Public for the State of Montana

Residing at Helena

My Commission Expires 06/19/2019

Submit this completed claim and supporting documents to the following address:
PETROLEUM TANK RELEASE COMPENSATION BOARD
PO BOX 200902, HELENA MT 59620-0902

Petroleum Tank Release Compensation Board

Work Plan Task Costs

Facility ID: 1510105 **FacilityName:** Town Pump Inc Whitefish 2 **City:** Whitefish

Release ID: 4155 **WP ID:** 9801 **WP Name:** C-B-SVE/AS/OX/G **WP Complete:** ☐ **WP Date:** 01/30/2015

Task #	Task Name	Phase	Estimated Cost	Actual Cost	Balance	Comment
1	Work Plan	C	$600.00	$600.00	$0.00	
2	Project Management	C	$5,927.50	$5,281.74	$645.76	
3	Remediation System	C	$15,554.44	$8,037.97	$7,516.47	
4	Mobilization	C	$9,970.41	$2,899.33	$7,071.08	
5	Miscellaneous	C	$2,599.52	$1,798.78	$800.74	
6	Miscellaneous	C	$15,800.00	$3,703.34	$12,096.66	
7	Miscellaneous	C	$14,000.00	$3,664.18	$10,335.82	
8	Water Level Measurements	C	$312.00			
9	Monitoring	C	$3,784.00	$1,720.00	$2,064.00	
10	Lodging/Per Diem	C	$1,128.00	$422.06	$705.94	
11	Laboratory Analysis w/fee	C	$4,500.00	$1,746.00	$2,754.00	
12	Report	C	$6,186.16	$3,129.92	$3,056.24	
		Total:	**$80,362.03**	**$33,003.32**	**$47,358.71**	

Petroleum Tank Release Compensation Board

Work Plan Task Costs

Facility ID: 1510105 **FacilityName:** Town Pump Inc Whitefish 2 **City:** Whitefish

Release ID: 4155 **WP ID:** 10030 **WP Name:** R-W-AS/RAA/GWM **WP Complete:** ☐ **WP Date:** 06/17/2015

Task #	Task Name	Phase	Estimated Cost	Actual Cost	Balance	Comment
1	Work Plan		$1,518.22	$1,518.22	$0.00	
2	Project Management		$509.79	$544.45	($34.66)	
3	Mobilization		$2,341.74	$1,216.56	$1,125.18	
4	Remediation System		$15,740.52	$13,373.45	$2,367.07	
5	Miscellaneous		$1,000.00	$1,100.00	($100.00)	
6	Monitoring		$1,032.00	$688.00	$344.00	
7	Monitoring		$364.80			
8	Lodging/Per Diem		$1,036.00	$366.00	$670.00	
9	Laboratory Analysis w/fee		$2,340.00	$1,606.00	$734.00	
10	Report		$5,100.40	$5,100.40	$0.00	
11	Report		$2,564.99	$1,404.83	$1,160.16	
		Total:	**$33,548.46**	**$26,917.91**	**$6,630.55**	

Petroleum Tank Release Compensation Board

PO Box 200902 Helena, MT 59620 -0902 (406)444-9710 Website www.deq.mt.gov/pet/default.mcpx

January 13, 2016

Broadwater Town Pump Inc (OWNER)
Trent Biggers
PO Box 6000
Butte, MT 59702 - 6000

Location	Billings
Facility ID	5608671
Facility Name	Town Pump Inc Billings 2

SUBJECT: Recommended Adjustment(s) to Claim for Reimbursement

The Board staff has proposed the following adjustment(s) to this claim and has temporarily suspended it to allow an opportunity for you to comment on the proposed adjustment(s). Review the adjustments and contact me by phone or email within 14 calendar days of this date to discuss the specifics of any issue(s) you may have with the adjustment(s). After 14 days, the suspended claim will be released for processing.

If the adjustment can't be resolved at the staff level, you may dispute the proposed adjustment(s) at the next Board meeting. Should this be necessary, please notify me via email so that I may request to have this matter placed on the agenda of the meeting. Once the Board has made a determination, any dispute will be conducted according to Montana Code Annotated and compliant with the Montana Administrative Procedures Act.

Claim ID: 20151223C Release ID: 2007 Ordinal: 184

Claim Amount: $28,304.92 Reimbursement To-date: $250,262.50

Adjustments:

Action	Amount	Comment
Reduced	$405.94	Tech III and Tech II 2015 overtime rates reduced to 2015 standard approved rates for Task 11 Remediation System (fieldwork).

Total Adjustment $405.94

If you have any questions please contact me at (406) 444-9716 or via email reaton@mt.gov.

Sincerely,

Ross Eaton
Fund Cost Specialist

2015 1223C

MONTANA PETROLEUM TANK RELEASE COMPENSATION BOARD
CLAIM FOR REIMBURSEMENT –CORRECTIVE ACTION
FORM 3

Claims should be submitted upon completion of a task or tasks of a Department of Environmental Quality corrective action plan for a **single** petroleum release. **A separate claim form is required for each release.** Please review the Form 3 Instructions before completing this form. If you require assistance, contact Janet Adolph at 406-444-9714 or e-mail jaadolph@mt.gov .

1. Facility and Petroleum Release Information		
Name of Facility:	Town Pump Inc Billings 2	
Street Address:	942 Broadwater Ave	
City:	Billings, MT	59101
DEQ Facility Identification Number:		5608671
DEQ Petroleum Release Number: **(only one release #)**		2007

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Petroleum Tank Release Compensation Board

2. Owner – Name and Address		3. Operator – Name and Address		4. Payable to: – Name and Address (required)	
Town Pump				Olympus Technical Services, Inc.	
P.O. Box 6000				765 Colleen Street	
Butte, MT 5901				Helena, MT 59601	
Attn:	Trent Biggers	Attn:		Attn:	
Phone Number:	406-497-6700	Phone Number:		Phone Number:	406-443-3087
Fax Number:		Fax Number:		Fax Number:	406-443-0232
Email Address:	trentb@townpump.com	Email Address:		Email Address:	
Do you want to receive Email about this claim?	Yes ☑ No ☐	Do you want to receive Email about this claim?	Yes ☐ No ☐	Do you want to receive Email about this claim?	Yes ☑ No ☐

5. Claimant – Name and Address		6. Consultant – Name and Address		7. Any other person – Name and Address	
Olympus Technical Services, Inc.		Olympus Technical Services, Inc.			
765 Colleen Street					
Helena, MT 59601					
Attn:	Jennifer Steilmann	Attn:	Guy LaRango	Attn:	
Phone Number:	406-443-3087	Phone Number:		Phone Number:	
Fax Number:	406-443-0232	Fax Number:		Fax Number:	
Email Address:	jsteilmann@olytech.com	Email Address:		Email Address:	
Do you want to receive Email about this claim?	Yes ☑ No ☐	Do you want to receive Email about this claim?	Yes ☐ No ☑	Do you want to receive Email about this claim?	Yes ☐ No ☐

8. Total amount of this claim (including all page 2's):	$28,304.92

E-MAILED
12-30-15

37

Facility Name: Town Pump Inc Billings 2 **Facility #** 5608671 **Release#** 2007

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DEC 2 2 2015
Petroleum Tank Release
Compensation Board

9. Detail of Costs: This section must be completed for each corrective action plan (CAP).

Please review Form 3 Instructions for detailed information.

The work claimed must be in accordance with an approved DEQ CAP. **The costs of each different corrective action plan must be on a separate page 2. Multiple tasks may be submitted on a single claim.** Submit itemized invoices and other support documentation with this claim. **(Additional copies of this page may be included in each claim.)**

Corrective Action Plan (CAP): CAP ID # 7511 CAP Date: 9/26/2014

CAP Modification (Form 8) Date (s) _____ _____ _____

View the Task Names on our web site. Enter the PTRCB task number, task name, budget, amount claimed and corresponding invoice number(s) for each task in the table below. The PTRCB task number is assigned by the Board staff in the CAP Review Letter.

COMPLETED TASKS SUBMITTED FOR REIMBURSEMENT

Task Number	Task Name	Budget	**Amount Claimed**	Invoice Numbers
1	Work Plan	$1,726.50		
2	Remediation System	$4,495.20		
3	Project Management	$4,620.00	$592.75	13026
4	Mobilization	$160.80		
5	Fieldwork	$3,418.56		
6	Miscellaneous	$425.70		
7	Monitoring Well Installation	$11,045.08		
8	Miscellaneous	$414.28	$1,592.99	13026
9	Laboratory Analysis w/fee	$1,920.00		
10	Mobilization	$42.70	$146.40	13026
11	Remediation System	$15,887.78	$16,711.56	13026
12	Remediation System	$4,091.00	$5,558.71	13026
13	Remediation System	$200.00	$80.00	13026
14	Remediation System	$9,994.12		
15	Miscellaneous	$105.00		
16	Mobilization	$61.00		
17	Remediation System	$10,333.20		
18	Remediation System	$10,000.00	$3,607.61	13026
19	Mobilization	$475.80		
20	Remediation System	$17,398.00		
SubTotal		$96,814.72	$28,304.92	

Facility Name: Town Pump Inc Billings 2 **Facility #** 5608671 **Release#** 2007

COMPLETED TASKS SUBMITTED FOR REIMBURSEMENT CONTINUED

Task Number	Task Name	Budget	Amount Claimed	Invoice Numbers
21	Remediation System	$34,200.00		
22	Remediation System	$4,860.00	$14.90	13026
23	Remediation System	$9,000.00		
24	Mobilization	$132.90		
25	Water Level Measurements	$234.00		
26	Monitoring	$6,120.00		
27	Laboratory Analysis w/fee	$8,730.00		
28	Report	$4,547.88		
29	Report	$3,526.56		
30	Report	$3,526.56		
Sub Total		$ 74,877.90	$ 14.90	
Total		$171,692.62	$28,304.92	

RECEIVED
DEC 2 3 2015
Petroleum Tank Release
Compensation Board

10. **Acknowledgement of Payment (Form 6)** is required for each invoice. **Refer to Section 10 of the instructions for acceptable proof of payment**. Reimbursement will be issued and mailed to the party identified as Payee in Section 4 on page 1.

11. **An Assent to Audit (Form 2)** is required for each consultant, contractor, or subcontractor who has worked at the release site with billable labor charges.

12. **Owner Certification:** I certify under penalty of perjury that this submitted claim is for work that was actually completed; that the work performed was necessary to clean up the petroleum release at the facility identified in **Section 1**; that the cost of work for which reimbursement is sought is reasonable; and that to the best of my knowledge, all information herein provided is true and correct. **NOTE: If someone is submitting the claim on behalf of the owner/operator, skip Section 12 and complete Section 13. See the Form 3 instructions.**

Owner/Operator Signature _____ Date _____

Typed Name of Owner/Operator _____

RECEIVED

DEC 23 2015

Petroleum Tank Release

State of _____

County of _____

Signed and Sworn before me on this day _____ by _____
Date

(SEAL)

Notary Public _____

Printed or typed _____

Notary Public for the State of _____

Residing at _____

My Commission Expires _____

13. **Claimant Certification:** I certify under penalty of perjury that I am authorized to submit claims on behalf of the owner or operator for this release and the information on this claim form is true to the best of my knowledge. This claim is submitted for work that was actually completed.

Jennifer Steilmann
Claimant Signature

12-18-15
Date

Jennifer Steilmann
Typed Name of Claimant

State of Montana

County of Lewis & Clark

Signed and Sworn before me on this day 12/18/15 by Jennifer Steilmann
Date

JANIE L. DANBROOK
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
June 19, 2019

SEAL

Janie L. Danbrook
Notary Public

Janie Danbrook
Printed or typed

Notary Public for the State of Montana

Residing at Helena, Montana

My Commission Expires 06/19/2019

Submit this completed claim and supporting documents to the following address:
PETROLEUM TANK RELEASE COMPENSATION BOARD
PO BOX 200902, HELENA MT 59620-0902

Petroleum Tank Release Compensation Board

Work Plan Task Costs

Facility ID: 5608671 **FacilityName:** Town Pump Inc Billings 2 **City:** Billings

Release ID: 2007 **WP ID:** 7511 **WP Name:** F-B-WI/OI/GWM **WP Complete:** ☐ **WP Date:** 09/26/2014

Task #	Task Name	Phase	Estimated Cost	Actual Cost	Balance	Comment
1	Work Plan	F	$1,726.50	$1,726.50	$0.00	
2	Remediation System	F	$4,495.20	$4,554.48	($59.28)	
3	Project Management	F	$4,620.00	$1,304.05	$3,315.95	
4	Mobilization	F	$160.80	$171.52	($10.72)	
5	Fieldwork	F	$3,418.56	$3,570.07	($151.51)	
6	Miscellaneous	F	$425.70	$283.80	$141.90	
7	Monitoring Well Installation	F	$11,045.08	$11,140.51	($95.43)	
8	Miscellaneous	F	$1,240.00	$1,634.24	($394.24)	
9	Laboratory Analysis w/fee	F	$1,920.00	$1,837.50	$82.50	
10	Mobilization	F	$212.70	$186.05	$26.65	
11	Remediation System	F	$24,515.00	$23,423.60	$1,091.40	
12	Remediation System	F	$8,368.00	$7,471.91	$896.09	
13	Remediation System	F	$200.00	$336.28	($136.28)	
14	Remediation System	F	$8,619.12	$7,241.49	$1,377.63	
15	Miscellaneous	F	$105.00			
16	Mobilization	F	$61.00	$30.50	$30.50	
17	Remediation System	F	$10,333.20	$2,082.83	$8,250.37	
18	Remediation System	F	$10,000.00	$11,020.50	($1,020.50)	
19	Mobilization	F	$475.80			
20	Remediation System	F	$17,398.00			

Task #	Task Name	Phase	Estimated Cost	Actual Cost	Balance	Comment
21	Remediation System	F	$34,200.00			
22	Remediation System	F	$4,860.00	$74.50	$4,785.50	
23	Remediation System	F	$9,000.00			
24	Mobilization	F	$132.90			
25	Water Level Measurements	F	$234.00			
26	Monitoring	F	$6,120.00			
27	Laboratory Analysis w/fee	F	$8,730.00			
28	Report	F	$4,547.88			
29	Report	F	$3,526.56			
30	Report	F	$3,526.56			
31	Miscellaneous		$200.00			
		Total:	**$184,417.56**	**$78,090.33**	**$106,327.23**	

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BOARD ATTORNEY REPORT

PTRCB Case Status Report as of March 4, 2016.

Location	Facility	Facility # & Release #	Disputed/ Appointment Date	Status
Miles City	Miles City Short Stop	09-04443 Release #4800	Dispute of reduced reimbursement	The owner/operator and other interested parties, including the DEQ, were involved in complex civil litigation. The parties settled following mediation on February 29, 2016 in Billings.
Great Falls	Cascade County Shops	07-05708 Release 3051-C1,3051-C2,3051-C3 AND 3051-C4	Denial of applications	HE issued Findings of Fact, Conclusions of Law & Proposed Decision. The County's and Board's exceptions have been filed. The matter is scheduled for oral argument during the Board's March 21, 2016 meeting.

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Petroleum Tank Release Compensation Fund
Budget Status Report
Operating Statement
February 29, 2016

	Legislative Approp.	Standard Budget	Rev/Exp through 2/29/2016	Projected Rev/Exp	Total FY16 Projected Rev/Exp	Projected Fiscal Year End Balance
Revenues:						
MDT Fee Revenue Estimate	7,296,100	7,296,100	4,352,992	3,000,000	7,352,992	56,892
Estimated STIP interest earnings	1,500	1,500	1,986	1,196	3,182	1,682
Misc Revenue- Settlements	100,000	100,000	0	0	0	(100,000)
Total Revenues:	**7,397,600**	**7,397,600**	**4,354,977**	**3,001,196**	**7,356,173**	**(41,427)**
Expenditures:						
(Includes current year expenses only)						
Board						
Personal Services	391,812	391,812	214,444	150,000	364,444	27,368
Contracted Services	100,000	100,000	33,956	48,175	82,131	17,869
Contingent Contract Services	1,000,000	1,000,000	0	0	0	1,000,000
Operating	150,889	150,889	69,126	77,000	146,126	4,763
Subtotal	1,642,701	1,642,701	317,526	275,175	592,701	1,050,000
DEQ Regulatory						
Personal Services	1,004,829	1,004,829	589,694	415,135	1,004,829	(0)
Contracted Services	100,000	100,000	7,018	92,982	100,000	0
Operating & Equipment	361,589	361,589	208,526	153,063	361,589	(0)
Subtotal	1,466,418	1,466,418	805,238	661,180	1,466,418	(0)
Long Term Database Funding Approved Under HB10	123,436	123,436	121,819		121,819	1,617
Administrative Budget Remaining						**1,051,617**
Claims/Loan						
Regular Claim Payments	5,000,000	4,650,000	1,652,207	1,343,310	2,995,517	1,654,483
Accrual - FY16 for use in FY17		350,000	0	350,000	350,000	0
Loan Repayment (All loans paid in full)		0	0	0	0	0
Subtotal	5,000,000	5,000,000	1,652,207	1,693,310	3,345,517	1,654,483
Total Expenses:	**8,232,555**	**8,232,555**	**2,896,790**	**2,629,665**	**5,526,455**	**2,706,100**
Increase/(Decrease) of Revenues over Exp as of February 29, 2016			**$1,458,187**	**$371,531**	**$1,829,718**	

Accrual Information	Claims
Accrued in FY2015 for use in FY2016	**758,263**
Total Payments	497,087
Accrual Balance	**261,177**

	Fund Balance	Cash Balance
Beginning Balance	-90,143	668,698
Revenues	7,356,173	7,356,173
Expenditures (affecting balance)	5,758,451	5,669,628
Projected Balance at 6/30/16	1,507,579	2,355,243

Revenue		
Revenue & Transportation Interim Committee Revenue Estimate set 11/20/14 for FY16		6,675,000
Biennial Report Revenue Estimate for FY16		7,230,000
MDT FY16 Revenue Estimate		7,296,100
MDT FY16 Revenues Collected	60%	**4,352,992**

Average Monthly Claims	
FY16 to 02/29/16 - Current Year Only	**206,526**
FY16 to 02/29/16 - Current Year + Accruals	**268,662**

Settlements	
Settlements received during FY2016	**0**
Settlements received to date	**2,122,623**

Actual Claims Paid in FY 2016 (Current Year + FY 15 Accruals)	**2,149,294**

At $.0075 per gallon sold, the revenue collected this year is equivalent to ***580.4*** *million gallons sold.*

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3/7/2016
REPORT ITEM
INFORMATIONAL

Cash Flow Analysis - FY16

	Actuals					
	July-14	August-14	September-14	October-14	November-14	December-14
Beginning Cash Balance	**668,697.57**	**282,855.37**	**570,984.36**	**836,782.62**	**1,101,646.65**	**1,325,341.78**
Revenue						
MDT Revenue ($.0075/gallon)	137.33	639,384.67	731,748.00	691,904.81	613,989.10	608,239.17
STIP Earnings	0.00	66.30	122.70	195.24	278.15	333.83
Settlements						
Other Misc Revenue	0.00	0.00	0.00	0.00	0.00	0.00
Total Revenue	**137.33**	**639,450.97**	**731,870.70**	**692,100.05**	**614,267.25**	**608,573.00**
Expenditures						
Petro Board Claims	0.00	162,750.70	175,973.15	280,676.55	225,086.54	414,471.42
Petro Board Staff	12,308.92	36,188.81	58,491.68	39,484.06	44,061.94	37,489.72
Prior Year Adj & Accrual Payments	344,273.56	45,750.77	82,372.91	-2,660.80	19,320.76	1,992.27
HB10 Database Expenditures						
Remediation	29,397.05	106,631.70	149,234.70	109,736.21	102,102.88	103,703.37
Total Expenditures	**385,979.53**	**351,321.98**	**466,072.44**	**427,236.02**	**390,572.12**	**557,656.78**
Ending Cash Balance	**282,855.37**	**570,984.36**	**836,782.62**	**1,101,646.65**	**1,325,341.78**	**1,376,258.00**

3/7/2016
REPORT ITEM
INFORMATIONAL

Cash Flow Analysis - FY16

	Actuals		Projected			
	January-15	February-15	March-15	April-15	May-15	June-15
Beginning Cash Balance	**1,376,258.00**	**1,548,762.30**	**1,633,711.94**	**1,720,245.89**	**1,874,208.89**	**1,975,171.89**
Revenue						
MDT Revenue ($.0075/gallon)	541,264.53	526,323.99	600,000.00	600,000.00	600,000.00	1,200,000.00
STIP Earnings	428.91	560.64	695.95	125.00	125.00	250.00
Settlements						
Other Misc Revenue	0.00	0.00	0.00	0.00	0.00	0.00
Total Revenue	**541,693.44**	**526,884.63**	**600,695.95**	**600,125.00**	**600,125.00**	**1,200,250.00**
Expenditures						
Petro Board Claims	176,648.53	216,600.13	268,662.00	268,662.00	268,662.00	537,324.00
Petro Board Staff	42,005.32	47,496.01	70,500.00	52,500.00	55,500.00	96,675.00
Prior Year Adj & Accrual Payments	582.50	1,540.73	0.00	0.00	0.00	0.00
HB10 Database Expenditures	56,517.26	65,301.30				
Remediation	93,435.53	110,996.82	175,000.00	125,000.00	175,000.00	186,180.00
Total Expenditures	**369,189.14**	**441,934.99**	**514,162.00**	**446,162.00**	**499,162.00**	**820,179.00**
Ending Cash Balance	**1,548,762.30**	**1,633,711.94**	**1,720,245.89**	**1,874,208.89**	**1,975,171.89**	**2,355,242.89**

Petroleum Tank Release Compensation Fund
Budget Status Report
Monthly Expenditure/Projection Summary
February 29, 2016

EXPENDITURE SUMMARY	PERIOD ENDING 07/31/15	PERIOD ENDING 08/31/15	PERIOD ENDING 09/30/15	PERIOD ENDING 10/31/15	PERIOD ENDING 11/30/15	PERIOD ENDING 12/31/15	PERIOD ENDING 01/31/16	PERIOD ENDING 02/29/16	PERIOD ENDING 03/31/16	PERIOD ENDING 04/30/16	PERIOD ENDING 05/31/16	PERIOD ENDING 06/30/16	FY16 TOTALS
REVENUE													
MDT Fees	137.33	639,384.67	731,748.00	691,904.81	613,989.10	608,239.17	541,264.53	526,323.99					4,352,991.60
Stip Earnings		66.30	122.70	195.24	278.15	333.83	428.91	560.64					1,985.77
Misc Revenue													0.00
Total Revenue	**137.33**	**639,450.97**	**731,870.70**	**692,100.05**	**614,267.25**	**608,573.00**	**541,693.44**	**526,884.63**	**0.00**	**0.00**	**0.00**	**0.00**	**4,354,977.37**
BOARD													
Personal Services	11,074.88	26,876.02	38,326.09	27,374.43	27,165.52	27,403.98	27,607.73	28,615.38					214,444.03
Contracted Services			6,707.41	1,232.37	9,281.01	52.50	7,437.14	9,246.04					33,956.47
Contingent Contract Services													0.00
Operating	1,234.04	9,312.79	13,458.18	10,877.26	7,615.41	10,033.24	6,960.45	9,634.59					69,125.96
Subtotal	12,308.92	36,188.81	58,491.68	39,484.06	44,061.94	37,489.72	42,005.32	47,496.01	0.00	0.00	0.00	0.00	317,526.46
CLAIMS													
Regular CY Claim Payments	0.00	162,750.70	175,973.15	280,676.55	225,086.54	414,471.42	176,648.53	216,600.13					1,652,207.02
Subtotal	0.00	162,750.70	175,973.15	280,676.55	225,086.54	414,471.42	176,648.53	216,600.13	0.00	0.00	0.00	0.00	1,652,207.02
DEQ Regulatory													
Personal Services	29,151.13	72,628.81	108,477.54	76,884.87	76,452.85	76,349.34	71,658.08	78,091.58					589,694.20
Contracted Services	41.92	2,244.21	2,071.70	1,779.53	31.07	0.00	21.11	828.32					7,017.86
Operating	204.00	31,758.68	38,685.46	31,071.81	25,618.96	27,354.03	21,756.34	32,076.92					208,526.20
Subtotal	29,397.05	106,631.70	149,234.70	109,736.21	102,102.88	103,703.37	93,435.53	110,996.82	0.00	0.00	0.00	0.00	805,238.26
CURRENT YEAR EXPENDITURE TOTALS	**41,705.97**	**305,571.21**	**383,699.53**	**429,896.82**	**371,251.36**	**555,664.51**	**312,089.38**	**375,092.96**	**0.00**	**0.00**	**0.00**	**0.00**	**2,774,971.74**
PRIOR YEAR EXPENDITURES	**-90.81**	**-60.89**	**-2.29**	**-4,948.42**	**-381.42**	**939.52**							
TOTAL EXPENDITURES	**41,615.16**	**305,510.32**	**383,697.24**	**424,948.40**	**370,869.94**	**556,604.03**	**312,089.38**	**375,092.96**	**0.00**	**0.00**	**0.00**	**0.00**	**2,774,971.74**
Board & DEQ Non-Claim costs	**41,705.97**	**142,820.51**	**207,726.38**	**149,220.27**	**146,164.82**	**141,193.09**	**135,440.85**	**158,492.83**	**0.00**	**0.00**	**0.00**	**0.00**	**1,122,764.72**
Claims Accrual Payments	**344,505.89**	**45,469.91**	**82,327.10**	**2,335.72**	**19,324.67**	**1,000.00**	**582.50**	**1,540.73**					**497,086.52**
													0.00

PROJECTION SUMMARY	PERIOD ENDING 07/31/15	PERIOD ENDING 08/31/15	PERIOD ENDING 09/30/15	PERIOD ENDING 10/31/15	PERIOD ENDING 11/30/15	PERIOD ENDING 12/31/15	PERIOD ENDING 01/31/16	PERIOD ENDING 02/29/16	PERIOD ENDING 03/31/16	PERIOD ENDING 04/30/16	PERIOD ENDING 05/31/16	PERIOD ENDING 06/30/16	FY16 TOTALS
REVENUE													
MDT Fees									600,000.00	600,000.00	600,000.00	1,200,000.00	3,000,000.00
Stip Earnings									695.95	125.00	125.00	250.00	1,195.95
TOTAL REVENUE PROJECTED	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**600,695.95**	**600,125.00**	**600,125.00**	**1,200,250.00**	**3,001,195.95**
BOARD													
Personal Services									45,000.00	30,000.00	30,000.00	45,000.00	150,000.00
Contracted Services									8,500.00	8,500.00	8,500.00	22,675.00	48,175.00
Contingent Contract Services													0.00
Operating									17,000.00	14,000.00	17,000.00	29,000.00	77,000.00
Subtotal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	70,500.00	52,500.00	55,500.00	96,675.00	275,175.00
CLAIMS													
Regular CY Claim Payments									268,662.00	268,662.00	268,662.00	537,324.00	1,343,310.00
FYE16 Accrual												350,000.00	350,000.00
Subtotal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	268,662.00	268,662.00	268,662.00	887,324.00	1,693,310.00
DEQ Regulatory													
Personal Services									120,000.00	80,000.00	120,000.00	95,135.00	415,135.00
Contracted Services									15,000.00	15,000.00	15,000.00	47,982.00	92,982.00
Operating									40,000.00	30,000.00	40,000.00	43,063.00	153,063.00
Subtotal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	175,000.00	125,000.00	175,000.00	186,180.00	661,180.00
PROJECTION TOTALS	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**514,162.00**	**446,162.00**	**499,162.00**	**1,170,179.00**	**2,629,665.00**

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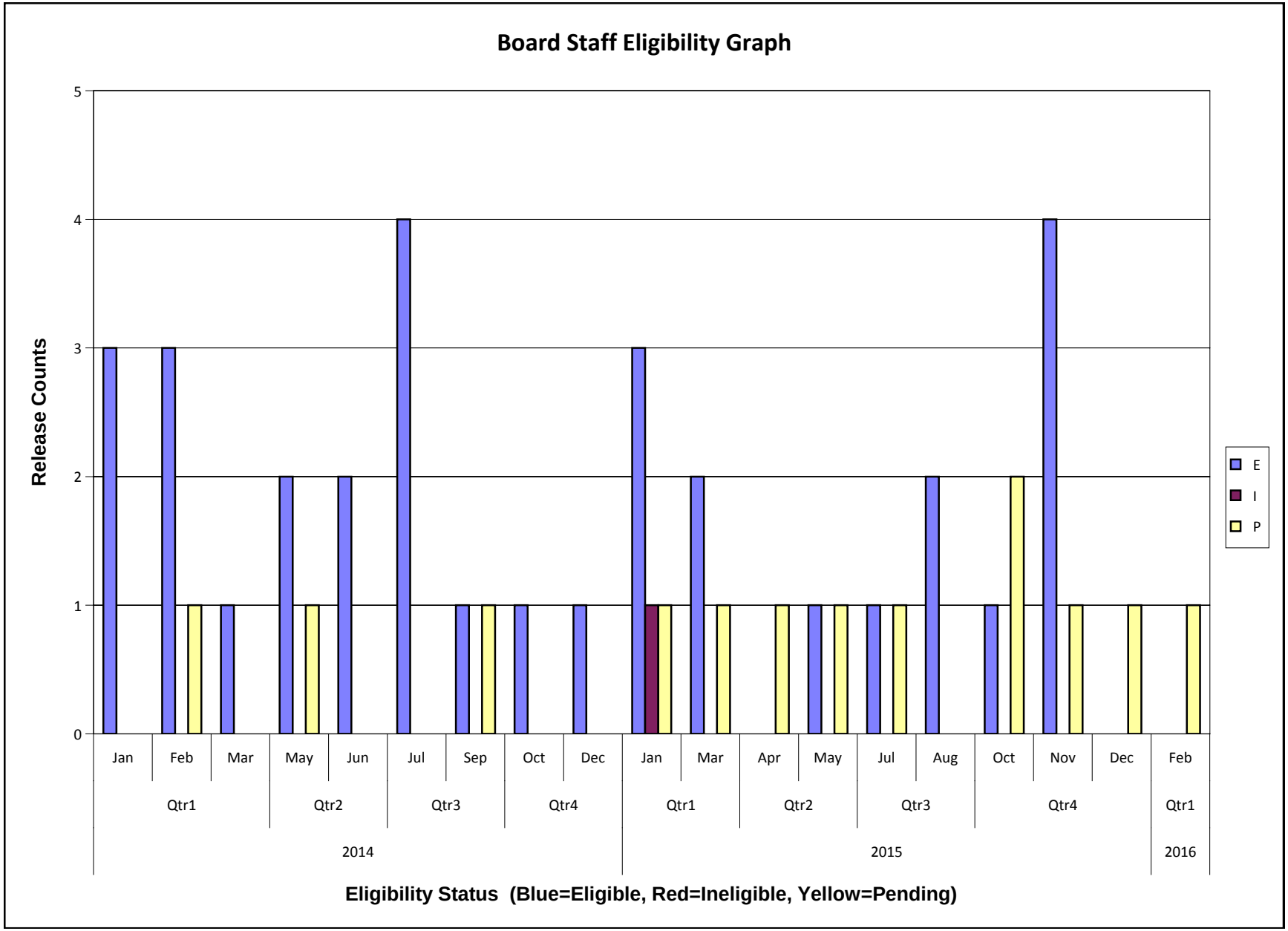

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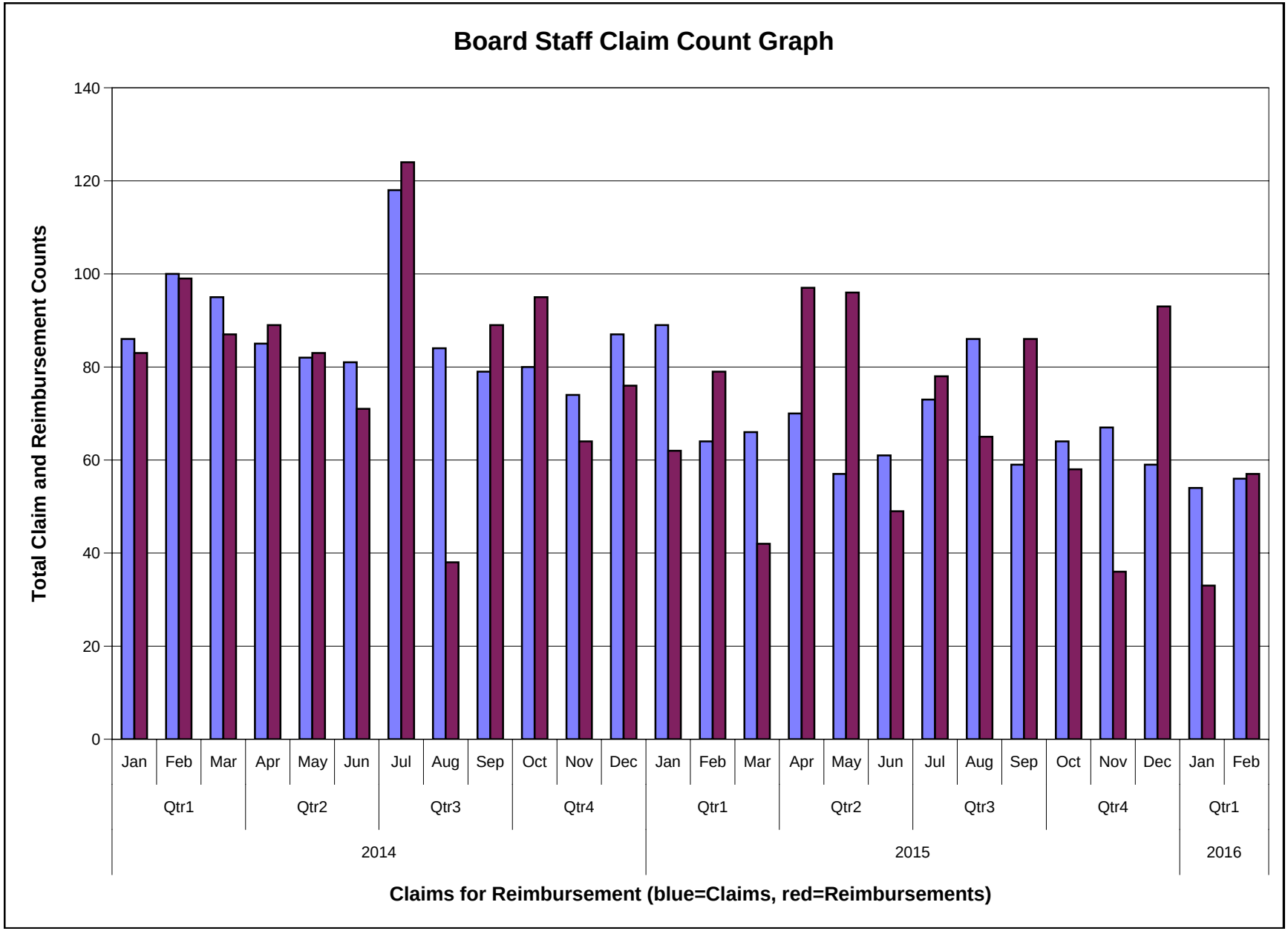
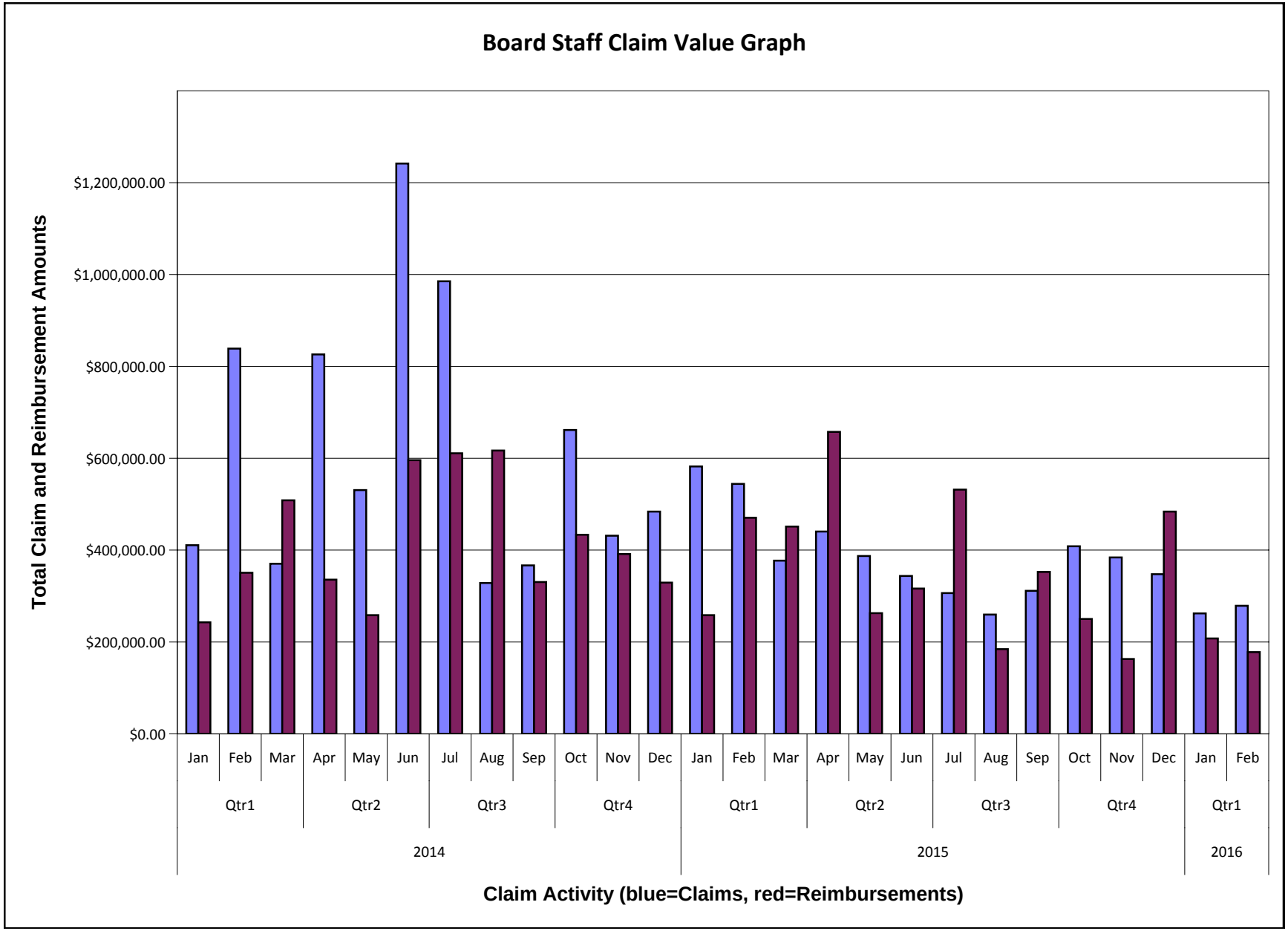

Board Staff Claim Count Graph
Total Claim and Reimbursement Counts
140
120
100
80
60
40
20
0
Jan
Feb
Mar
Apr
May
Jun
Jul
Aug
Sep
Oct
Nov
Dec
Jan
Feb
Mar
Apr
May
Jun
Jul
Aug
Sep
Oct
Nov
Dec
Jan
Feb
Qtr1
Qtr2
Qtr3
Qtr4
Qtr1
Qtr2
Qtr3
Qtr4
Qtr1
2014
2015
2016
Claims for Reimbursement (blue=Claims, red=Reimbursements)


Board Staff Claim Value Graph
Total Claim and Reimbursement Amounts
$1,200,000.00
$1,000,000.00
$800,000.00
$600,000.00
$400,000.00
$200,000.00
$0.00
Jan
Feb
Mar
Apr
May
Jun
Jul
Aug
Sep
Oct
Nov
Dec
Jan
Feb
Mar
Apr
May
Jun
Jul
Aug
Sep
Oct
Nov
Dec
Jan
Feb
Qtr1
Qtr2
Qtr3
Qtr4
Qtr1
Qtr2
Qtr3
Qtr4
Qtr1
2014
2015
2016
Claim Activity (blue=Claims, red=Reimbursements)

March 21, 2016
REPORT ITEM
Informational

Petroleum Tank Release Compensation Board

Work Plans Reviewed and Owner Informed Funds NOT Obligated by Priority as of 3/7/2016

DATE RECEIVED	FACILITY ID	WORKPLAN NAME	WP ID	RELEASE ID	PRIORITY (Proj Officer)		COST EST.	FACILITY NAME	WORKPLAN DATE	REGION
3/1/2016	4002755	C-S-ER/SR	8292013	4948		(Pankratz)	$22,732.83	Farmers Union Oil Bulk Plant	8/30/2013	3
Total $22,732.83		***SubTotal Number of Workplans: 1***								
2/16/2016	4808691	C-B-FPR/GWM	10134	4028	1.2	(Stremcha)	$60,056.00	Town Pump Inc Columbus	12/29/2015	3
Total $60,056.00		***SubTotal Number of Workplans: 1***								
3/7/2016	5613787	F-W-GWM/WA	10188	3151	1.3	(Shearer)	$8,921.05	Former Roberts Exxon	2/17/2016	3
Total $8,921.05		***SubTotal Number of Workplans: 1***								
2/9/2015	9995083	R-B-SB/WI/GWM/RAA	8701	4702	1.4	(Bergum)	$0.00	Gust Hauf Restaurant	10/31/2014	3
8/25/2015	6015228	R-B-RAA	10031	4934	1.4	(Janssen)	$2,122.30	Former Magruder Motor Co	7/16/2015	3
9/10/2015	4209718	C-S-SR/EB/PT	10105	4282	1.4	(McCurry)	$136,459.70	Superpumper Inc 23	9/4/2015	3
2/5/2016	9995040	F-W-GWM/OI	10180	4941	1.4	(Miner)	$14,065.60	Red Lion Hotels	2/4/2016	1
Total $152,647.60		***SubTotal Number of Workplans: 4***								
9/3/2014	3805047	F-W-GWM	7638	337	2.0	(Janssen)	$37,811.68	Park Ave TV McCurdy Motor	9/3/2014	3
3/16/2015	907773	C-S-SR	7631	1669	2.0	(Shearer)	$90,041.00	Miles City Laundry	3/10/2015	3
11/23/2015	2502093	F-W-GWM/IBI	10129	441	2.0	(Janssen)	$6,221.58	Sinclair Retail 25009	11/20/2015	1
Total $134,074.26		***SubTotal Number of Workplans: 3***								
1/28/2016	5600503	F-W-GWM/RAA	10169	3189	3.0	(Shearer)	$8,522.00	Conomart Superstore 4	1/28/2016	3
2/3/2016	502954	C-B-SVE/GWM	10093	2237	3.0	(Stremcha)	$48,941.28	Blacks Service Station	8/24/2015	3
Total $57,463.28		***SubTotal Number of Workplans: 2***								
6/27/2014	904443	C-B-SVE	407037	4800	4.0	(Skibicki)	$876,476.05	The Short Stop Store		3
11/6/2015	904443	F-W-SVE/GWM	10043	4800	4.0	(Skibicki)	$11,309.85	The Short Stop Store	8/24/2015	3
11/23/2015	2501183	F-W-PMZ/GWM	10054	3422	4.0	(Bergum)	$14,247.66	Helena Service Center	10/20/2015	1
12/17/2015	1805813	R-W-GWM	9927	2909	4.0	(Miner)	$8,566.50	P & M Convenience Store 433	11/24/2015	1
2/2/2016	6015226	R-B-SB//WI//GWM	9842	5042	4.0	(Stremcha)	$6,188.00	Former Barry O'Leary Site	11/11/2014	3

DATE RECEIVED	FACILITY ID	WORKPLAN NAME	WP ID	RELEASE ID	PRIORITY (Proj Officer)	COST EST.	FACILITY NAME	WORKPLAN DATE	REGION
3/1/2016	904443	F-W-GWM	10179	4800	4.0 (Skibicki)	$8,397.00	The Short Stop Store	2/9/2016	3
Total $925,185.06		***SubTotal Number of Workplans: 6***							
2/16/2016	5606965	F-W-WA	10178	2774	5.0 (Stremcha)	$1,920.95	Conomart Superstore 3	2/16/2016	3
2/24/2016	4201287	F-W-WA	10200	2469	5.0 (Opp)	$1,239.00	SIDNEY OIL CO	2/24/2016	3
Total $3,159.95		***SubTotal Number of Workplans: 2***							

Total Number of Workplans: 20 ***Total $1,364,240.03***

Board Staff Report

PTRCB ELIGIBLE FACILITIES THAT MAY HAVE SUSPENDED OR ADJUSTED CLAIMS DUE TO SYSTEM VIOLATIONS
As of February 29, 2016

FID	City	Facility Number	Site Name	Order Date	Suspension Letter date	Order Resolved date
643	Dillon	01-05401	Dietrich's College Exxon	10/25/05	8/8/06	
984	Kalispell	15-09820	Mulligan's Conoco	10/14/05	8/22/06	11/13/07
1105	Billings	56-05491	Dons Car Wash Grand Ave	6/12/06	6/15/06	12/8/06
1118	Missoula	32-01356	Frontier Gas and Grocery	10/25/06	10/30/06	9/12/08
1123	Hysham	52-01905	Farmers Union Oil	9/1/06	9/6/06	1/11/07
1469	Wibaux	55-02446	Wibaux County Shop	7/2/08		3/6/09
	Ryegate	19-05338	Ryegate Conoco	Violation letter 8/4/03	8/4/03 DEQ letter	11/8/11
2019	Winifred	14-01870	Ehlert Brothers Service Center	03/02/2011	03/04/2015	02/12/2015
2281	Fairview	42-03914	Mini Mart 714 (Loaf N Jug)	8/25/2014	9/4/2014	9/9/2014
2301	Billings	56-06609	Short Stop	7/25/2014	8/21/14	
2301	Billings	56-04839	Stockton Oil Co	7/25/2014	8/21/14	
2301	Billings	56-05074	Lockwood Interstate Exxon	7/25/2014	8/21/14	
2417	Billings	56-06594	Caseys Corner Store	7/30/2015	9/22/2015	
2313	Deer Lodge	39-04312	Main Street Service	12/29/15	1/7/2016	2/12/2016

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Montana Department of Environmental Quality

Petroleum Tank Cleanup Activity Report

Mar 02, 2016

Summary of Confirmed and Resolved petroleum releases.

Petroleum Release Activity since Last Board Meeting - Jan 25, 2016 to Mar 02, 2016

Release Status	Activity
Confirmed Releases	0
Releases Resolved (Closed)	7

Petroleum Release Activity from - Jan 01, 2016 to Mar 02, 2016

Release Status	Activity
Confirmed Releases	0
Releases Resolved (Closed)	11

Summary of All Petroleum Release Activity to Mar 02, 2016

Total Confirmed Releases	4,643
Total Resolved Releases	3,506
Total Active Releases	1,159
Total Active and Eligible	737
Active Ineligible	106

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