

PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
Business Meeting
March 21, 2016
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, and Timothy McDermott. Also in attendance were Terry Wadsworth, Executive Director; Mr. Michael Kauffman, Attorney for the Board; Ann Root and Garnet Pirre, Board staff; Mr. Lee Bruner, Doney Law, and Ms. Papez, Doney Law, Attorney's for the Plaintiff; and Mr. Mark Mattioli, Attorney for the Defendant.

Presiding Officer Roger Noble called the meeting to order at 10:04 am.

Approval of Minutes – August 31, 2015

Mr. Thompson moved to accept the August 31, 2015 minutes as presented. Mr. McDermott seconded. **The motion was unanimously approved.**

Approval of Minutes – January 25, 2016

Mr. Thompson asked if Mr. Breen was signing the minutes from the January 25th meeting because Mr. Noble recused himself from a portion of the meeting to represent his Client, Bank West. Mr. Wadsworth affirmed that Mr. Thompson was correct.

Mr. McDermott moved to accept the January 25, 2016 minutes as presented. Mr. Thompson seconded. **The motion was unanimously approved.**

Percentage Adjustment Dispute, Main Street Service, Facility #39-04312, Release #3666, Deer Lodge

Mr. Wadsworth presented the Board with the background leading to the Staff recommendation that all suspended and future claims be reimbursed at seventy-five percent (75%). Mr. Wadsworth explained that 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 certain provisions of Montana Code Annotated (MCA), as noted in a compliance inspection conducted pursuant to Underground Storage Tank Program requirements. PTRCB staff notified the owner 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, totaling \$7,108.07, have been submitted. 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.

Ms. Angie McCullough, representative of the owner, was present via telephone and explained to the Board how she came to represent the owners, the legal difficulties she was facing at the time the administrative order was issued, her difficulty in understanding all the requirements for remediation, and her continued perseverance and dedication to doing her best to fulfill all an owner's obligations with regard to the operation of the facility. The Board agreed that Ms. McCullough had been diligent in her efforts. She reported the difficulty in paying the fine and the timing of the claim coming in after an AOC had been issued.

Mr. Noble concurred that Ms. McCullough had made every effort to comply with DEQ requirements, and asked the status of the releases at this site. Mr. Wadsworth replied that both releases at the site had been closed as of January 2016. Mr. McDermott cited ARM 17.58.336(e)(iii), which states: "the delay in compliance was caused by circumstances outside of the control of the owner or operator;" and indicated that certainly seemed to be the case in this matter.

Mr. McDermott moved to remove all sanctions for Release #3666 and reimburse all suspended and future claims at 100%. Ms. Cassidy seconded. **The motion was unanimously approved by roll call vote.**

Oral Argument in the Matter of Denial of Applications for Petroleum Releases #3051-C1, 3051-C2, 3051-C3, and 3051-C4 at Cascade County Shop Complex, Facility 07-05708, Great Falls, Montana, Case No. 2014-0705708

The Board listened to Oral Arguments presented by Lee Bruner of Doney Law, Legal Counsel for the Plaintiff, Cascade County and Mr. Bruner’s associate, Ms. Papez of Doney Law. Mr. Mattioli, Agency Legal Services, presented on behalf of the Defendant, Petroleum Tank Release Compensation Board Staff. A complete verbatim transcript, recorded by Lisa Lesofski of Lesofski Court Reporting in Helena, MT, is available as part of the Cascade County Legal record.

Weekly Reimbursements and Denied Claims

Mr. Wadsworth presented the summary of weekly claim reimbursements for the Weeks of January 13, 2016 through February 24, 2016. These 79 claims totaled \$334,716.28, (see table below).

WEEKLY CLAIM REIMBURSEMENTS March 21, 2016 BOARD MEETING		
Week of	Number of Claims	Funds Reimbursed
January 13, 2016	11	\$55,741.18
January 27, 2016	11	\$101,056.67
February 3, 2016	14	\$32,934.78
February 10, 2016	17	\$28,408.23
February 17, 2016	12	\$50,189.91
February 24, 2016	14	\$66,385.51
Total	79	\$334,716.28

Mr. Wadsworth presented the four (4) claims denied by the staff: Claim #20150409H (Heltmes Service Center, Havre) -Work Plan prep exceeds the reasonable hours and was previously reimbursed on claims #20141112A and #20150721B; Claim #20150427C (Farmers Union Oil Co., Circle) - work done without Department approved CAP (75-11-309, MCA); Claim #20160114B (McCurdy Motor, Broadus) - consultant requested claim withdrawal; Claim #20160217D (Sportsman Stop, Nashua) - consultant requested claim withdrawal due to incorrect lab invoice. Discussion ensued concerning the statutes that govern Work Plan approval and Change Order (Form 8). The applicable law that governs Work Plan and Change Order review is found in 75-11-309(d)(i), MCA. The DEQ corrective action plan approval process allows other government entities in the vicinity of a particular site to be involved in the corrective action, if they choose to do so. The Board is not permitted to reimburse costs for corrective action that was conducted without a Department approved CAP. Mr. Wadsworth noted that the law does not contain a separate business process for the Change Order (Form 8) and, therefore, it requires the same review by all the applicable agencies that the Work Plan follows.

Ms. Cassidy moved to accept the Weekly Claims and Denied Claims as presented. Mr. Breen seconded. **The motion was unanimously passed. Mr. Thompson recused himself from voting with respect to any claims regarding CHS sites.**

Board Claims – Claims over \$25,000

Mr. Wadsworth presented the Board with claims for an amount greater than \$25,000 that had been reviewed by Board staff since the last Board meeting, (see table below). There was one remaining claim, after requests had been received to remove Claim #20151223B and Claim #20151223C from the table. The staff recommended ratification of the one remaining claim.

**CLAIMS OVER \$25,000.00 *
March 21, 2016**

Location	Facility Name	Facility-Release ID Numbers	Claim#	Claimed Amount	Adjustments	Penalty	Co-pay	Estimated Reimbursement
Colstrip	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				\$25,036.62				\$17,313.62

Mr. Thompson moved to ratify the claim exceeding \$25,000, as presented. Mr. Breen seconded. **The motion was unanimously approved.**

Board Attorney Report

Mr. Wadsworth presented the Board Attorney Report as of March 4, 2016, (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	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 was heard during oral argument at the Board's March 21, 2016 meeting.

Mr. Wadsworth reported that there was a settlement agreement between the parties to a third-party litigation involving Miles City Short Stop that the litigation was in the process of finalization. As part of that settlement, the MAPA contested case issue between the Board and Mile City Shortstop is to be settled as well.

Cascade County was already discussed during oral arguments earlier in the board meeting.

Mr. Noble asked about Michaels Exxon and Mr. Wadsworth explained that the Michael's Exxon matter was not a Board, (MAPA), contested case, so it was not included in the Board Attorney Report. There is a third-party case,

and the Board is a party to that case through subrogation. Mr. Wadsworth stated that the Board has the right to subrogate in the event of insurance coverage or a legal settlement. In the case of a third party court case, as at Michael's Exxon, the Board is only a party to the settlement negotiations because of its subrogation right, but the case did not involve a MAPA contested case with the Board.

Fiscal Report

Mr. Wadsworth presented the fiscal report to the board for the period ending February 29, 2016. He noted that revenue is down a little and stated it was possibly due to the lack of activity in the Bakken.

Board Staff Report

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

Petroleum Tank Cleanup Section (PTCS) Report

Mr. Mike Trombetta, Bureau Chief, Contaminated Site Cleanup Bureau (formerly Hazardous Waste Site Cleanup Bureau), presented the PTCS report for the time period January 1, 2016 through March 2, 2016. The report shows zero (0) confirmed releases, and seven (7) closed releases from January 25, 2016 through March 2, 2016. Mr. Trombetta noted that the total number of active releases is 1,159, which is the lowest it has most likely been in about 20 years. The overall trend, as he reported, shows more closure of releases.

Mr. Noble asked if the Cascade County site was ready for closure. Mr. Trombetta said that he could not speak specifically to the outstanding work, but he understood there was still quite a bit more work to be done at that site. He said that the work was in a hiatus for a period of time because there was a piece of property that was still being developed and Cascade County was allowed time to relocate the business to permit easier access for remediation purposes. Mr. Noble stated that it looked like there was remedial excavation to undertake at the site. Mr. Trombetta agreed, and indicated that there would be additional monitoring after excavation. Mr. Noble asked that further information regarding the remedial efforts at Cascade County be provided to the Board. Mr. Trombetta agreed to give the Board the information at a later time.

Public Forum

Mr. Earl Griffith, GEC Inc., addressed the Board during this portion of the meeting. The following is a verbatim transcript.

MR. GRIFFITH: Mr. Chairman and members of the board, thank you for allowing me this opportunity to visit with you about some issues I think I have, that have come to my attention in the last few months.

Regrettably, unlike the two attorneys this morning, I'm not from Butte but I do have a little legacy there. My father was born in Butte a hundred years ago but managed to escape to Great Falls in 1928, so I don't have to carry that burden with me.

I have my own consulting firm. I've been doing this business for 26 years, so I have been involved with the program since its inception. And, in fact, I even have clients that I've had since 1990 that I'm still working for. We're getting close, we're not quite here. The benzene seems to be the showstopper there. We're working on it and trying to get it done.

But what I've noticed in the last few months, and it is primarily connected to the adjustments to claims that is my concern. For 25 years I had never, ever had an adjustment to a claim for any task that I performed to take care of my owner/operators. When Paul Hicks, Dave Cattrell, and Brian Kingsbury left, there seemed to be a shift in the way things were assessed. Now, some of the adjustments are, I should call them nickel, dime, they're small. They're annoying, but they're small. Others are upwards of 10 to 12 percent. When you're running a business, 10 to 12 percent is a big deal, especially if the claim is several thousand dollars. That really bites.

And I have made it a practice in my business that I've had for the last eight years to always pay my drillers, my other vendors, whether they're doing my CADD work, whether they're doing laboratory analyses, within 30 days. For a point of information, I've had four claims in since the 25th of January amounting to \$42,500, and I have yet to have a check for any of those claims. Some are on hold, some are in technical review and so on. That I get. But this has been a problem that I'm now starting to see and it's a little bit troubling.

The question I have is what prompted the shift? For example, for 25 years -- I don't have a CADD program, that's not something that I do. So I have a firm -- it used to be my landlord -- do that for me. I've always billed the CADD as an outside professional service provider for me and it always was submitted. But now, starting now, any CADD work that I have performed is considered to be part of the cost of doing the report; whereas, before it was always approved. That was new.

Those are the kinds of things that I find just -- are you going to inform me of these changes so I adapt my business practice to accommodate those changes and not lose money when I complete these jobs? That's a problem.

Also, the discussion came up this morning, and I believe Mr. McDermott addressed that, of how do you set the rates? There is a very interesting situation with regard to setting of rates. We are allowed as consultants a given rate for sampling of a well. It doesn't matter if the well is 15 feet deep and 2 inches in diameter or 65 feet deep and 4 inches in diameter, it doesn't matter, the rate is the same. It doesn't matter who the individual is that is sampling the well, the rate sticks, 175 bucks a well, that's it. All materials, all field equipment that you're using to get the field parameters that are necessary and required by the DEQ, all of that is included. So all of your sunk costs, your maintenance costs for all that equipment are all included in that rate.

What is interesting is the labor rate. And this one I find very interesting. I looked at a work plan for a site in Kalispell submitted by a competing firm in 2013. I just wanted to compare rates and see what the story was. As I found out, they included rates for a principle. I don't even have a principle. I'm just a senior guy. So sure I own the company but that doesn't matter. I've never billed out at that high a rate. But the rates that they were, that they put in their work plan for this particular job in 2013 were higher than the rates that I got this year for 2016 for the upper level. What I find interesting, as well, is that my rates for 2013 in the lower level technical aspects, the laborers at that rate were actually higher than other rates. But I'm thinking if you're going to be setting rates, then why don't you set rates and be done with it? Tell us what each of these labor tasks that you have defined are going to be worth to you and we will all play by the same rules. Because if you're setting the rate for sampling of a well, maybe that ought to be carried over by extension to the labor rates you're paying for whatever labor categories you have defined. That doesn't seem to be the case.

Now I'm going to bring up an example of a job in Wolf Point that's an extraordinarily difficult site. We've got to dig out. It's a tough one. It's 425 miles away from my front door, so I don't go up there very often. I have to rely on the folks that own the property and are helping me operate the system. We have a soil vapor extraction system and so on. I submitted a claim, which is still under review, and there is remaining approximately \$20,000 based on the estimate that I submitted with the corrective action plan. I don't submit a budget, I submit an estimate because I don't know what I'm going to run into up there, nor do I have a really good feeling for how difficult the SVE system is going to be operating. I don't know how much water I'm going to be pulling out. There is just too many unknowns. We deal as consultants in the area of unknowns. We're not a civil engineering firm that's bidding cubic yards of soil, concrete, steel. We're not building bridges. Everything we do is we're pointing at an unknown that we don't know what's going to happen and to try to estimate for, by task, what the costs are going to be to deal with that is virtually impossible.

But here is -- this is interesting. And I'm going to read this verbatim. This is an email. "Including the Form 8 additions, you are currently sitting at roughly 70 percent of the total estimate. The total budget equals \$66,000.00," and some change," with a remaining balance of \$19,000.00," and change. "The staff understands the difficulty of estimating remediation system tasks compared to some of the run-of-the-mill tasks but that doesn't change the fact that a fund cost specialist will continue to analyze each task and their respective budgets." Fine. There may be instances where the staff may look at a remediation system work plan more holistically compared to that of a run-of-the-mill work plan. This particular work plan is a great example of that. Of the 16 tasks listed, 7 of them were over budget. It happens.

I had to go up and replace a blower that went south because it sucked a bunch of water into it and destroyed the \$2,000 blower that I was renting. I'm out 2,000 bucks for a blower. I had to replace it. That wasn't part of the budget. It was an unexpected event.

"In addition to the difficulties of estimating remediation system task budgets, the Form 8 you submitted could arguably be denied based on 75-11-309, MCA." I'm going to be honest with you. I'm not going to read the Montana Codes Annotated to figure out where I'm going to screw up. Quite frankly, I don't have time. I'm a month and a half from 71 and I'm still doing this. Sometimes people ask me why, like Trombetta asked me this morning, and I didn't have a particularly good answer other than to say I've got a lot of people out there that are depending on me.

"Requesting a change of scope after the work is done, invoiced, is inconsistent with 75-11-309(3)(ii), MCA. However, I was able to obtain email communication from the case manager that indicates your intention before the work was implemented. For future reference, please request a change order before the work is implemented in order to avoid denied costs."

Now, here is the bottom line on this one. I submitted estimates for 16 tasks. I've only used 70 percent of the budget that I estimated and, yet, I could be penalized for those tasks for which I exceeded the estimated costs because of a procedural error of not submitting a change order prior to doing the work. Are you kidding me? That's unreasonable. And, therein lies my problem.

I don't know how much communication takes place between the Petroleum Board staff and the DEQ, but the last place I want to be is in the middle of a problem because of a lack of communication between two entities, one the fiduciary, the other the scientific/technical. I don't want to be there. That ain't my problem. If these are issues that need to be settled between these two entities, then, settle them, but don't bring me into the middle of your battle, I don't belong there. I am the guy that has to be tasked with ensuring that the regulations are not violated that Mr. Trombetta has, and trying not to exceed a budget that I have only estimated. And therein lies my concern for you this morning.

I appreciate your time. Thank you.

MR. MCDERMOTT: Mr. Griffith, you said in this particular case that you were being asked to submit a change order prior to finishing the work? I want to make sure I understand. Because there seems to be some inconsistencies there because we just discussed earlier a change order is what you implement, or submit, or pursue, once you get into a project and find that, well, like you blow up this \$2,000 piece of equipment for reasons that you didn't anticipate, sucking in a bunch of water. I'm not in your wheelhouse. I can't even see that happening.

So if I understand you correctly, you're being told that you need to submit a change order before you're done or a change order for components of the budget you estimated? Could you clarify that?

MR. GRIFFITH: Well, I have trouble with it as well, but I think what the case manager is trying to say to me is you cannot have done the work prior to submitting a claim before you submitted the Form 8. My mistake was yes, I did the work and then I kicked in a claim and realized I had to make some adjustments and the Form 8 came in after the claim had been submitted for work that I had already done. But he says, "For future reference, please submit a change order before the work is implemented in order to avoid denied costs." Sometimes we just can't do it.

For example, I was in Wolf Point again two weeks ago. I discovered a well that we could not find. It was on BNSF ground. It was a lease case where a client of mine lost her business over it. It was a really ugly situation. I drilled some wells. BN came in and started using it as a storage area. They're driving trucks with loads in excess of 40 tons out there. Well, our standard flush-mount-type seals for these wells simply will not withstand that kind of loading, and the City also used this area as a place to put snow in the city of Wolf Point. So I have all of these interesting problems going on and there is a bunch of wells out there, not on concrete, they're on gravel.

Well, you lose -- even if you take the best measurements in the world -- I'm in an area that's got steel all over the place so I don't know what I'm reading. I don't know whether I'm finding the top of a flush metal casing or what I'm finding. I went back up two weeks ago. By God, there was Well Number 4. So I went ahead and I sampled it. It wasn't part of the work plan. I was only supposed to sample two wells; drill one, sample both but I found a third

well. So I called the DEQ case manager and the Petroleum Board person and I said, "Look, I'm going to sample this well. I've driven 425 miles. I'm going to sample this baby because I'm here."

And so I did. And I submitted a Form 8 for the cost of the sampling, \$175.00, and the cost of the analytical. Done deal. That works. But don't -- it's the tenor of this that bothers me more than anything. The practicality is also lost a little bit. If we don't have latitude as scientists in the field to adjust the way we're approaching a problem, we're not going to get the problem solved for the DEQ. And that's what our business is, is to solve the problem for the owner/operator. We have to have flexibility in the decisions we make in the field.

I'm going to be a bit sarcastic here. Somehow that helps me survive in this business. I don't know when the last time was a staff member of the Petroleum Tank Board has ever written a report under the format required by the DEQ or done the field work that we have done in the field. Believe me, 30 years ago I was in this building working for the Facility Siting Division right down the hallway. We rewrote the rules of the Facility Siting Act twice in three years. The bottom line in that act, which handled more money in one week than the Petroleum Board handles in a year, was how do we know if our contractors are doing the job? We knew because I was in the field in Colstrip at the 3-4 fly ash ponds around the 500 KB power line watching the contractors to make sure they weren't outside of what the permit allowed them to do. The most important aspect of the whole permitting procedure of the Facility Siting Act was get your people out in the field so they know what's going on.

I have a friend right now who's in New Mexico. He is a consultant hired by the largest remedial environmental insurer in this country, Mid-Continent Insurance. And what is his job? To make sure that the consultants, that are working for the companies insured by Mid-Continent, are doing their jobs right. And he's damn good at it and he gets paid handsomely for it. But the point is, he's out in the field checking what those people are doing, and that, I think, is where we have a problem.

I have projects here in town. I have tremendous difficulty getting people to come see the difficulties that I have in doing these jobs. You've got to have a basic understanding of what we run up against. The six-inch clay tile sewer line that wasn't supposed to be there that served a brewery, that I left open for a weekend and had to figure out what to do with the sewage that accumulated. Those are the things that we deal with on a daily basis. If you want to understand the difficulty of doing the work, come out and see what I do. Don't nickel, dime me on the backside, please. That's what I'm saying. Anything else? Questions?

MR. BREEN: I don't know if this is a question or an observation. But I would guess because of the size of the state of Montana, in Helena, it's not a problem for somebody to come by and take a look, but to have people able to look at everything in the state from Wolf Point to Eureka would be expensive. Is that a true statement?

MR. TROMBETTA: You're looking at me like you want an answer. Mr. Chairman, Board Member Breen. We try to -- I think when you commented about getting in the field, I think it was more directed to the Petro Board staff than the DEQ staff.

The DEQ staff gets out there, but we've had to curtail that in recent years just to get all of the work done to try and close sites. So we get out on those sites that we feel are really important, where we need to provide oversight and when consultants do a good job we don't provide much oversight. But we do try to get out, where we can, to provide oversight when necessary.

MR. MCDERMOTT: Does personnel that conducts these on-site inspections, what kind of turnover do you have? Do you have -- where I'm going with this specifically is if you have, there are certain positions, I'm not saying that it's the case, but hypothetically if you have certain positions where you experience a lot of turnover where they don't have this total prospective context when some of these situations arise, would there be any room for those issues arising where people aren't accustomed to a field problem erupting unexpectedly and then --

MR. TROMBETTA: I get the gist of it. Mr. Chairman, board member McDermott. Our field staff in DEQ, and I'm not speaking for Terry's staff, but for DEQ they're all required to have at least three years' experience working in the environmental field. Sometimes we bring people into training positions which don't have three years of experience. In those cases we partner them up with people that have quite a bit of experience in the field. So we don't send people to the field that don't know what they're doing and if we do, we give them a lot of guidance.

MR. NOBLE: Don't you have a limitation on travel now too? I had a site that was 15 miles away, it was the City Hall in Whitefish. The City called us in, we went up there and took a look at it. And I knew that if I just called it in, nothing would happen. So I went down and I sat in DEQ's office, took the soil in there in a bag to show them how severe it was and that I needed to get somebody to come up to that place and look at it. And they said, "Well, we have to call in and get travel approval. We have limitations on our travel. We can't just come up." If I hadn't gone in and camped in that guy's office, they wouldn't have responded. I know they wouldn't have responded. I've asked them to come look at a land farm that's five miles away and instead of coming out and looking at it, we had to go do sampling. Some of it just makes no sense.

I can echo Earl's comments quite a bit and I echo Earl's comments on the problems with the Form 8 too that they want an approval before the work is done, but sometimes you have to react to an emergency response or an emergency decision in the field, there is no way to even get ahold of somebody sometimes. So there seems to be some, need to be more flexibility and more workable. I've run against the same thing Earl has.

MS. CASSIDY: And I think that's been the case with other divisions within the DEQ. I'm aware of talking to the subdivision program. They aren't allowed to go back in the field to look at these sites that are out their backdoor because they've got to get approval from the higher up. So I don't think it's just this department but it's throughout the whole DEQ.

MR. NOBLE: Thank you, Mr. Griffith, for your comments.

MR. BREEN: Do you two have any suggestions?

MR. GRIFFITH: Jerry, after all these years, trust me. Okay? I've been doing this for 25, 26, years. I'm not going to screw anybody when I do this. I'm a fixer. I fix problems and, therefore, I want the Petroleum Board to talk to the DEQ, to open up this communication. If you're going to make changes that we have to deal with, for example, this business of after 25 years of not getting nicked and dined for small things – if you're going to make changes in what's actually contained in a report, why wouldn't you send me an email and let me know? Or get on the phone or something. But let me know that these are the things that I'm going to be confronting the next time I file a claim so I won't have a claim held up, which is a big deal.

My banker really loves me, because right now, because I'm up at the upper limit of my six-figure borrowing. And he says, "One of these days you're going to be in trouble." And I said, "I already am. I'm up 40 grand. What the hell do you want?" So that's part of the problem. Don't slow down the process.

And I will be the first one to tell you, I have a principle where I do not necessarily submit a claim until the job is completely done. I'm not going to do that anymore. I can't. I can't afford it. I am going to try to get approval for every task right down the line. I'm going to line item this thing. And when the field work is done, I'm going to submit a claim that has all the tasks, except for the report, I'm going to submit that and get it paid and I'll complete the report.

MR. NOBLE: I guess as far as suggestions goes, like Earl is saying, there are standard rates but every year the consultants review their rates internally and then give new rates to the board for approval. So maybe one way to do that would be to do a statistical analysis on all of those rates and develop a standard rate for every consulting firm, just like the sampling rates of \$175.00. So the principle is one hourly rate and staff and project managers is another hourly rate. That might help to equate it.

And then when we bid other projects we throw in a 15 percent contingency line item at the bottom just to account for unknown things. So we could use something like that, or maybe like Earl is saying, maybe some flexibility. If you're not using this part of your budget as much as another part of your budget, you can adjust internally. It's not just going to be a task-by-task set fee. So, those are the kinds of things I would suggest.

MR. GRIFFITH: The task-by-task analysis is very troubling because it just, to me, takes away virtually any flexibility I have to adjust the field conditions and it just makes a mess of it. Every year I submit there is a list of the things that I can bill for. The last four I'm not quite sure why I even have them on there because it doesn't matter. I

have a fixed rate to sample a well whether I use a peristaltic pump, a bailer, a bladder pump, it doesn't matter. So obviously next year those are going away because it doesn't matter what I am allowed to charge for them. I'm not allowed to charge for them because they're covered under the blanket of sampling costs. So it's ridiculous to have them on there.

For example, for this year I wanted \$65 an hour for a word processor. Nope, \$64.50. Staff engineer, \$100 bucks an hour. Nope, \$99 bucks. It goes down the list like this and every year we do this. So I have a lot of No's and a lot of Yes's, usually split about 50/50. I get dinged about 50 percent of the time because I'm coming in too high and other times I get away with what I'm asking.

So standardize it, make it simple. Kind of make us all adhere to the same rates if that's what you want and maybe we'll be more competitive. Who knows?

Because, I told Paul Hicks this over 20 years ago, if you screw around with us, and I didn't necessarily include me in the us, thank you -- with digging us, people are going to figure out how to do an end run on you. And that's exactly what the consulting community did. They figured out a way, I'm going to get dinged on this, I'm going to bill more for this. I'm going to figure out a way to inflate this so I don't get hammered over here. And it becomes a game and it's a game that I am unwilling to play. If I'm going to be straight with you, please be straight with me. Thank you, board.

MR. NOBLE: I think there is a consultants meeting coming up in the near future.

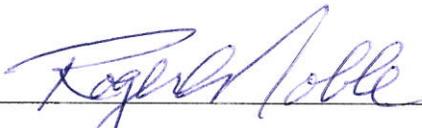
MR TROMBETTA: Yeah, I don't have the date on me, but I think it's in May.

MR. GRIFFITH: 19th of April. Thank you very much.

MR. NOBLE: So that might be a good time to pose some of these questions. Thanks, Earl. Any further public comment? With that, we'll adjourn the meeting. Thank you.

The next Board meeting is scheduled for June 6, 2016.

The meeting adjourned at 1:00 pm.



Roger Noble, Presiding Officer