# AGENDA

## PETROLEUM TANK RELEASE COMPENSATION BOARD MEETING

***November 7, 2016***
***9:00 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.

***9:00 Board Meeting***

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*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.*

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### *VII. Adjournment*

# Election of Officers

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# PTRCB BUSINESS MEETING DATES for 2017

Subject: Board Meeting dates for 2017:

| Agenda Closed* | Packet Mailing | **Meeting Date** |
|---|---|---|
| January 4, 2017 | January 11, 2017 | **January 23, 2017** |
| March 8, 2017 | March 15, 2017 | **March 27, 2017** |
| May 17, 2017 | May 24, 2017 | **June 5, 2017** |
| August 23, 2017 | August 30, 2017 | **September 11, 2017** |
| October 25, 2017 | November 1, 2017 | **November 13, 2017** |

REFERENCE:

§75-11-318(3), MCA – Powers and duties of Board

The board shall meet at least quarterly for the purposes of reviewing and approving claims for reimbursement from the fund and conducting other business as necessary.

*****Materials to be included in the Board's packet must be received by the Board staff by this date.

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PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
Business Meeting
August 29, 2016
Department of Environmental Quality
Metcalf Building Room 111, 1520 East 6th Avenue
Helena, MT

Board members in attendance were Jerry Breen, Tim McDermott, Roger Noble, Keith Schnider, and Chuck Thompson. 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 10:07 am.

Mr. Noble asked that the record reflect the Board decision to accept and sign the settlement agreement for Cause #CVD201078.

**Approval of Minutes – June 6, 2016**

Mr. Thompson moved to accept the June 6, 2016 minutes, as presented. Mr. Breen seconded. **The motion was unanimously approved.**

**Building Removal, Flying J, Facility #21-08655, Release #475, Havre**

Mr. Wadsworth provided a summary to the Board for the building removal requested by Leigh Beem of Johnston Leigh, Inc., consultant for the owner, as part of a corrective action plan (work plan or WP) #10084. A summary of the entire proposed work plan was to be reviewed as part of the Petroleum Tank Cleanup Section report. Board rules require that the removal of a building must be approved by the Board, in writing, before the action is performed. The Board staff is not recommending reimbursement for building removal due to several concerns. There is a solvent plume at the site, in addition to the petroleum plume. One concern is the extent to which the solvent plume impacts the cleanup alternatives that have been assessed. In addition, the proposed plan includes a pilot test. The Staff feels the budgeted costs for that pilot test ($166,479.00) are incomplete because they do not get the site to closure. The proposed plan is to use Laser Induced Florescence (LIF) to determine where BOS 200® injections would need to be placed, and then to subsequently inject the product. The proposed budget covers only one injection. Additional injections, likely necessary to bring this site to closure, could cost $85,000.00 each. The Staff also believes nothing in the WP indicates that removal of the building saves or offsets cleanup costs. The building that is being proposed for removal is only 30 feet wide and the WP has not shown that removal of the building, to obtain subsurface investigation results, reduces any estimated cleanup costs or improves the effectiveness of the technology.

Mr. Wadsworth presented the Board with a remedial alternatives table. He indicated that the table was originally produced by Johnson & Leigh and that Board staff expanded the table, adding the following alternatives: Monitored Natural Attenuation (MNA) with monitoring every five years until closure; a Petroleum Mixing Zone (PMZ); and a limited excavation with subsequent PMZ. The staff also included two alternatives that had been previously implemented at the site: in-situ chemical oxidation, and sulfate injections (pilot tests in 2007 and 2008 (WP 7523), approximately $190,000.00); and an in-situ stripping and sparging system (referred to as ART) that is intended to treat the contaminated soil, water, and vapors (installed in 2010). Mr. Wadsworth explained that ART technology uses the well space to effectively pump and treat the contamination. It pumps the water up to the top of the well where it is sprayed and air is used to strip the petroleum. As the water falls back to the water table, the petroleum vapors stripped from the water are removed from the well via vapor extraction. In addition, a previous strategy proposed at this site was an in-situ thermal treatment. The strategy was ultimately rejected by the Department because of concerns that it would interfere with the solvent plume.

Mr. Wadsworth said the staff recommends that the table be updated to include all costs necessary to bring the site to closure for each alternative. He noted that none of the strategies, as proposed, bring the site to closure. Mr. Wadsworth said that after the table is updated, the alternatives presented can then be used to determine how much of

the costs are associated with the impact each strategy would have on the solvent plume and how much of the cleanup costs are associated with just remediation of the petroleum plume. It can also be used to determine whether or not the structure should be removed and reimbursed.

He indicated that he feels there currently is not enough information provided to the Board to determine if the building removal is a cost effective alternative. If the alternative table is not updated, the Staff would recommend a third-party review be conducted of Work Plan #10084 to help the Board determine whether the building removal is necessary, whether all the possible cost effective alternatives at the site have been considered, and what costs are associated with the solvent plume. Mr. Wadsworth indicated that the Fund is to be used only for petroleum cleanup. The Board needs to be provided the costs for remediation of only the petroleum release, without the costs necessary to deal with the solvent plume's impact. He also said that the responsible party for the solvent plume should incur the cost difference between the remediation strategies being proposed that deal with only the petroleum contamination and that deal with both the solvent plume interference and the petroleum contamination.

Mr. McDermott drew attention to a written statement from the remediation alternatives table that indicated the in-situ chemical oxidation and sulfate injections had a safety issue; "This remedy caused the plume to destabilize and move offsite". Mr. McDermott asked if anyone could provide more information about the destabilization of the plume using the in-situ chemical oxidation and sulfate injections, and where the plume had gone.

Mr. Beem said that the plume had not moved off-site and that the wording, as written, was missing something because it should have been stated that it had the potential to move off-site. The chemical oxidation and sulfate injections act like a flush, so there is the potential to move with the ground water if implemented, and that is the destabilizing part. At this point the plume has not moved. Mr. Beem said that the Milk River has a difference in direction of flow depending on the time of year which shows it to be a losing river when it is full, as well as a gaining river when groundwater is discharging to the Milk River, and that could potentially cause the plume to disperse to both the north and south, depending on what time of year it is. Mr. Beem stated that the chlorinated solvent plume bears this out, as their flow maps show the solvent plume migrated to both the north and the south.

Mr. Noble asked, of the solvents sampled (PCE / TCE (perchloroethylene/ trichloroethene)) what concentrations have migrated onto the Flying J property and how much impact there is from the solvent plume? Mr. Beem stated that the wells were sampled in 2011 for a full suite of COC (contaminants of concern) analysis and the samples resulted in detected levels barely above the detection limit in the center of the property and from the wells to the north. He said the levels were at or below action levels. That was the only time that the groundwater was sampled in such a way to get data for chlorinated compounds.

Mr. Noble asked if Ms. Ridenour had any more current information from the CDM investigation that was conducted for DEQ. Ms. Ridenour said she was not prepared to speak to the chlorinated solvent plume. The solvent plume is overseen by another section of the DEQ, but she was responsible to keep the Flying J site from affecting the plume in any way. She did state that about two years ago Shannon Cala, Petroleum Tank Cleanup Section Specialist, had worked with Leigh Beem on corrective actions to be used at the site, and one of the proposed actions was thermal desorption, which would have required significant dewatering that had the potential to pull the chlorinated solvent plume over to the Flying J site. Ms. Ridenour stated that if the solvent plume was pulled over onto the Flying J site due to the remedial actions taken there, it would then put the Flying J owners into CECRA (Comprehensive Environmental Cleanup and Responsibility Act) or Federal jurisdiction and she did not want, as a regulating authority, to set them up for further regulatory actions. She stated that they have looked at many options for this site; the proposed options sent to the Board for this meeting is only half of the story. She said that there was a report prepared March 1, 2015 that showed that many of the other remedial alternatives were not cost effective. For example, excavation was not practical because the size of the footprint of the site would need shoring and the contamination is trapped below groundwater, so there would need to be a very deep dig, and then dewatering would pull the chlorinated solvent over to the Flying J site. Ms. Ridenour stated that the pilot test with the BOS 200® had to be a limited pilot test to see how effective it would be and if it would need another round of injections to be successful. One of the benefits of using BOS 200® is the trap-and-treat component that traps the petroleum contamination to adsorb in the carbon molecules and the oxygen would eat away the petroleum contamination. Ms. Ridenour stated that is was a very attractive alternative.

Ms. Ridenour said that the idea of using MNA was not appropriate for this site because nature is not strong enough to take care of this size of petroleum mass. In order to use MNA, the existing ART system would have to be turned

off. When the ART system was briefly shut down in the past, sampling showed that the plume was moving. In order to use MNA, the ART would have to be shut down and monitoring would only be done every 4 years. She stated that is quite a bit of time to not know what the plume is doing. If it becomes more concentrated and moves, the clean-up will become more costly.

Mr. McDermott asked how much contamination was actually getting into the Milk River. He stated contamination appeared to be seeping into the river, when he looked at the map created by CDM and provided to the Board. Mr. McDermott stated that if the plume is stable and not contaminating drinking water, it could set there 100 years. He said that for MNA to be used, one of the conditions would be for the plume to not contaminate drinking water or get into the ground water.

Mr. Beem stated that the Flying J site had chlorinated solvent samples that were, for the most part, below clean-up level for chlorinated solvent, compounds. He further clarified that the map Mr. McDermott referred to was showing the chlorinated solvent plume, not the petroleum plume. The map shows the location of the Former Flying J to be south of the line that is above clean-up levels for the solvent levels. The Flying J property is, for the most part, below actionable levels. The solvent is tied up in the sand below the site and is also in the water table. The contamination gets trapped into the pores of the sand, like a sponge. Mr. Beem said that was observed in the geoprobe sample. This is called a NAPL (Non Aqueous Phase Liquid) saturation value, which indicates there is a free-phase concentration sample in the water table, and that concentration is high enough to be so toxic the microbes cannot eat up this level of concentration. Mr. Beem said the site's concentration level is not a candidate for MNA.

Mr. McDermott stated that he understood this site was not a candidate for MNA because the concentrations were too high for the microbes to handle.

Mr. Beem stated the plume has not degraded over time, since 1990. The only reason it has decreased by 29% is from the previous injection and the ART system that has been going for six (6) to seven (7) years. He said that projected out, the ART system would take roughly 18 years to bring this site to closure. At an assumed cost of $13,000/year, it would cost $252,000.00 total. This cost is $100,000 over the one injection of BOS 200® that could potentially bring the concentrations down close to closure limits within a year.

Mr. Schnider asked if there was any possibility of getting all the options and costs for each alternative back to the next Board meeting so the Board could make an informed decision. Ms. Ridenour deferred to Mr. Beem. Mr. Beem said that his firm had done that and those are presented in the information to the Board for this meeting as well as a report he previously submitted. Mr. Beem said he could take all his information a step further, but it would take more time. Mr. Schnider said that it would be helpful for the Board to know all the facts and costs to make the best decision. Mr. Schnider said that the Staff recommended more potential alternatives, and it would be good to have those included in the information presented to the Board with the costs included.

Mr. Wadsworth said that his understanding, based on the conversation at this Board meeting, was that excavation and dewatering could not be considered because it could cause movement of the solvent plume. Mr. Wadsworth asked the Board to consider what the costs of just excavation with pumping, without the solvent plume's impact, would be to bring the site to closure. Additionally, he asked what the difference in those costs would be as compared with the BOS 200®, fully acknowledging the number of injections needed to bring the site to closure. The difference in costs between excavation and the BOS 200® is where the responsible party for the solvent plume, would need to be part of the cleanup conversation. The Fund is responsible for the costs of remediation of the petroleum plume only. Mr. Wadsworth said that a comparison of excavation and dewatering followed by MNA with a cost of $150,000.00, and the cost of BOS 200® being $166,479.00 leaves a few thousand dollars difference. Mr. Wadsworth stressed that this BOS 200® proposal was only a pilot test, and there would be an expected second injection of $85,000.00, leaving a much greater cost difference when comparing remedies that bring the site to closure. He feels that an assessment of the impact of the solvent plume needs to be provided, along with what it is doing to the costs for remediation of the petroleum plume. Mr. Wadsworth pointed out that nothing in the proposed alternative clearly stated the full costs to bring the site to closure. As an example, he drew the Board's attention to what Mr. Beem stated regarding the BOS 200® injection, and that it could be used with MNA as a complete remedial alternative. Mr. Wadsworth stated, regarding that possible remedy, it is not shown how many injections would be needed and how much MNA would cost to bring this site to closure. He stated that this total dollar amount is what is needed in order to compare the costs of the alternatives, and that information is necessary for the Board to determine the actual costs the Fund should bear in this remediation for the petroleum plume only.

Mr. Schnider asked what would happen if the responsible party for the solvent did not respond and it further delayed the petroleum clean-up at this site. Ms. Ridenour asked to address the Board, and she responded that bringing up the responsible party for the solvent plume was a red herring. She said that what the Department was trying to do was to keep things focused solely on petroleum clean-up. She further stated that the costs presented to DEQ in the March 1, 2015 plan sent in by Mr. Beem were costs that were for petroleum clean-up only, without any solvent contamination. She stated that the report showed soil excavation with dewatering and treatment to be $600,000.00 to $700,000.00. Ms. Ridenour said that the Board packet did not have all the information and was an incomplete snapshot of what the file and technical issues are at this site. She asked that the Board consider accepting DEQ's approved work plan as it stands and let the workflow process continue forward without being interfered with. She said that the proposed plan is actually shown to help cleanup. Mr. McDermott asked if the work plan was their way of trying to determine how much it would help. Ms. Ridenour indicated that it was. She explained that the BOS 200® was a carbon based slurry injection that had nutrients added to enhance the biological activity at the absorption site and, while Montana has not used this, other states have shown it to be effective.

Mr. Beem said that previously he did a work plan that covered just excavation and the approximate cost was $186,000.00, based on a work plan to just excavate the plume. That cost was without shoring. Mr. Wadsworth asked if the shoring was for the building. Mr. Beem said no, the building would have to come down if excavation were to take place. Mr. Wadsworth said the previous work plan did not include the removal of the building. Mr. Beem apologized for the oversight. Mr. Wadsworth asked what the costs would be if there was no shoring, only excavation and building removal, followed by some in-situ treatment of any remaining petroleum. Mr. Wadsworth indicated he wanted to know what the cost for that alternative would be, and how it compared with the alternatives that had been provided to the Board. Mr. Beem said that excavation could be done without shoring but you would need to dewater continuously because you would be digging beneath the water table. Dewatering in this scenario would have to take place regardless of the plume to the north. That would give you 25 gallons a minute for about 30 days, culminating in six (6) to seven (7) million gallons of water that would have to be treated, since it could not be discharged to the storm drain. Furthermore, the excavation would be roughly the size of the lot, which removes 4,500 cubic yards of over burden and 3,000 cubic yards of source mass. Mr. Wadsworth asked if the larger excavation of 4,500 cubic yards of overburden was cheaper than the costs of drive pilings for shoring. He stated that an answer to these types of questions is what the Board needs to determine whether or not the solvent plume is impacting the costs of a clean-up strategy for the petroleum.

Mr. Noble asked Mr. Beem if he had used BOS 200® before and how effective it was. Mr. Beem said that he had used it, and it had cleaned up most sites to below the action level after the first injection. One of the sites had gasoline spilled from a tanker with a five (5) to six (6) foot saturated zone in sand and one injection brought it down below actionable levels. Another site had clay in the saturation zone and after one injection there were no detectionable levels found. Mr. Beem said the site with the tanker truck was pretty analogous to the Flying J site. Mr. Noble said that the materials before the Board said that one injection of BOS 200® at the Flying J site was designed to bring the benzene levels down to 1 milligram per liter and he wondered if it was supposed to say 1 microgram per liter. Mr. Beem said it was 1 milligram per liter in the area of the pilot test. Mr. Noble said that 1 milligram was 200 times above clean-up levels. Mr. Beem said the injection would bring this down to a level that MNA could be used afterward.

Mr. McDermott asked if the BOS 200® was not being presented as the approach to bring this site to closure, but as a way to bring the concentration down to a manageable level for the microbes to deal with. Mr. Beem said that was one part and at what it would take after this one injection to get the site to closure with BOS 200®. The developers of BOS 200® believe that with this one injection the plume can be brought down to below action levels.

Mr. Wadsworth said that the injection radius of influence of the BOS 200® is shown in the plan to be 15 feet. Mr. Beem said injection would be a 5 foot radius of influence, which translates to 10 feet diameter around each boring. Mr. Wadsworth said the contamination is shown to go 10 feet under the building and the building is 30 feet wide. Mr. Beem said that if you were to inject around the perimeter of the building it would influence only 5 feet under the building. He said this would leave 300 cubic yards of soil uninfluenced, approximately 16,000 gallons of ground water in the smear zone left unaffected. If you put in a curtain wall (via injection of the BOS 200®) it would not always be in the down gradient direction of the water flow. You would have to put a curtain wall all the way around the building because the groundwater flows different ways at different times. The curtain wall would have to have three to four times the concentrations (volume of BOS 200®) to limit migration through the wall because they are

designed as a wall, not an area application, and it would cost more to effectively install the curtain wall via injections than to remove the building.

Mr. Noble said that it did not appear that the packet was complete and did not appear to contain all the maps that show the full contamination and position of the petroleum plume.

Mr. Schnider asked Mr. Beem if he could possibly break down the costs from the staff questions. Mr. Schnider said that the responsible party for the solvent plume could still be an unknown factor. Mr. Beem said that costs for excavation and dewatering, yes the responsible party for the solvent plume could still be a factor. With shoring, and disposal it would be better, but it would potentially impact the solvent plume, but the costs to add shoring would significantly increase the alternative. Mr. Schnider asked if Mr. Beem could have those costs by the November 7th Board meeting. Mr. Beem said yes.

**Mr. Schnider made a motion to table the decision** until all costs are provided and the Board can then make a decision about what is most cost effective.

Mr. Breen asked if the chlorinated solvent plume was known to be on the Flying J site, and if it was understood what clean-up of the petroleum plume would do to the solvent plume. Mr. Noble said that the map showed the chlorinated solvents to be on the Flying J site but they are below actionable levels. Mr. Noble asked if the BOS 200® injection would treat the chlorinated solvent as well. Mr. Beem said that some of the residual effects of the injection would. Mr. Noble asked if it would sequester it and allow it to be degraded also. Mr. Beem did not answer.

Ms. Jenny Chambers, Remediation Division Administrator for DEQ, presented the Board with insight on the Burlington Northern site and their responsibility under CECRA, and the chlorinated solvent site. The chlorinated solvent site is from Roxy's, an old dry cleaner business. The responsible parties do not have money to clean up the solvent and the remediation at that site (Roxy's) is being cleaned up through Orphan Share monies. The solvent plume is trying to be contained through a soil vapor extraction (SVE) system and there is active in-situ injection to clean up the solvent. Efforts are being made to contain the solvents at Roxy's property and keep it from moving further onto the Burlington Northern property or the Flying J property. Burlington Northern is responsible for clean-up of different contaminants at their site. The solvent site is being cleaned up using SB98 (Orphan Share) money. Flying J is being required to clean up their petroleum release, as it is above actionable levels, and to keep it from moving; however Flying J is not being required to clean up solvent, as it is below an actionable level. Ms. Chambers stated that a lot of information was presented today, and that Ms. Ridenour and her staff looked at this site very technically and that Ms. Ridenour's department was responsible to ensure there was the most cost effective clean-up and approach moving forward. Ms. Chambers further stated that they apologized if the Board staff needed additional information or had questions based upon the technical review that was provided, and that her staff would have been more than happy to provide that information up front prior to coming to the Board if there were questions that existed. She said she was aware that a scoping meeting took place with the consultant and Ms. Ridenour, Ms. Cala and a person from the Board staff. Ms. Chambers' wish was that any questions could have been answered during that scoping meeting so the issues would be resolved. Ms. Chambers said that they were standing behind the DEQ decision to use the approved work plan, because all the technical research has been completed and has been provided. Ms. Chambers requested if the Board chose to table the decision, they would provide her staff with questions that clearly articulate what the Board is looking for so that they would be better prepared at the November meeting.

Mr. Noble stated that he did not know there were two other separate contaminated sites until Ms. Chambers had brought that out.

Mr. McDermott asked if the building would have to come down in order to use the BOS 200® technology and that the staff recommendation was only regarding the removal of the building. Mr. Wadsworth said that the work plan did not show any cost benefit to tearing the building down, and recommended that the alternative analysis be changed to show if the remediation method proposed would effectively bring the site to closure. Mr. Wadsworth stated the Fund is responsible for petroleum only, and he admonished the Board that they need evidence regarding any increased costs for clean-up related to other contaminants near the site. This would help the Board address possible future liabilities.

Mr. Mattioli indicated that there is a liability problem with the movement of the solvent plume to all parties if remediation causes its movement.

Mr. Noble asked how much does the building removal cost. Mr. Beem said about $26,000.00. Mr. Noble said that this sounded like an interim action, not a closure action. It sounded like it was a large scale pilot study that appeared to have been effective before. Mr. Noble restated that there was still a motion on the floor to table the decision.

**Mr. Thompson seconded Mr. Schnider's motion to table the decision pending further information to be presented to the Board at the November 7th meeting**.

Mr. Noble agreed with Ms. Chambers that questions needed to be formulated so that the Department and consultant know what they needed to provide. Mr. McDermott suggested that it would be good to have the best three options provided. Mr. Wadsworth said that it would be great to have the top three provided along with all the others already listed. Mr. Thompson indicated that he was confused by the plume; he wanted to know how the smear zone of the petroleum relates to the overlay presented. Mr. Schnider said that from his standpoint, Mr. Noble had the technical experience to formulate questions from an environmental science point of view. Mr. Noble said that it would be appreciated if DEQ could assist with the Board's assessment of potential liability. Additionally, he would like a couple of maps in larger scale, which showed the petroleum plume as well. He wanted more technical information to further evaluate the situation.

Mr. McDermott asked for a key to all the acronyms in the document so it would be easier to understand. There was some discussion about the motion. **Mr. Schnider said his motion was to table the matter and request further information based on questions to be presented to DEQ for them to answer at a another Board meeting**.

Mr. Noble encouraged the Board staff to work with DEQ and Johnston Leigh on questions and that the Board would also submit some questions. **The motion was approved by a unanimous roll call vote.**

**<u>Non-Obligation Letter, Keenan and Associates, Facility 56-13771, Release #3034, Work Plan #10202</u>**

Mr. Wadsworth indicated that there appears to be a hazardous substance beneath this site. Any petroleum from their eligible tank system may be augmented with more than a *de minimis* amount of a hazardous substance. If that is the case, there would be limited reimbursement from the Fund. Any petroleum in the subsurface may have been in the tank with a hazardous substance, resulting in the tank system being ineligible. The eligibility was based upon the assumption that what was in the tank was petroleum. Under these conditions, the owner cannot receive assistance from the Fund. During staff research, they found that the Underground Storage Tank Program's database records indicate the substance stored in Tanks #1 and #2 is unknown. The tank closure forms indicate that the substance was perhaps gasoline or diesel. This facility was used as a bakery. Most bakeries used gasoline as their fuel, thus making it likely gasoline was the stored substance. However, page 3 of the October 9, 1996 24-hour report, filed with DEQ, indicates that there was possibly creosote in the tank basin. It was also reported that the creosote was possibly from the neighboring salvage yard, Pacific Hide and Steel. Some investigation at this site shows that an up gradient sample has been shown to exceed the risk based screening levels (RBSLs). The gas chromatography results indicate high carbon chain lengths eluting in the analysis. The gasoline range is primarily from C2 to C13, the diesel range is usually from C8 to C24, and the creosote range is from C14 to C16. The sample results, taken from the tank removal and the soil borings conducted as part of a limited remedial investigation, appear to be eluting in the C14 to C38 range, as shown in the October 22, 1996 Maxim Technical Report. The EPA has given creosote the hazardous waste number of U051. The staff does not know for sure what is in the subsurface. The work plan is asking for some finger printing to be done at this site, which may help determine what is beneath the subsurface. There is evidence that indicates that any costs incurred to assess the contamination beneath this site may, perhaps, be ineligible or not reimbursable at this site. This information was provided to the owner in the non-obligation letter sent by staff, so that we would not be giving them any false hope. Staff recommends the Board inform the owner that only costs associated with petroleum, from the eligible tanks, that is not augmented with more than a *de minimis* amount of another substance, will be eligible for reimbursement.

Mr. Sherman Supola, representing Keenan and Johnson, addressed the Board. He stated that the site is about two blocks south of the Metra area, or Fairgrounds, in Billings and that he understands that the site is eligible and Keenan and Johnson is mandated to investigate the contamination there. Built in the early 1950's, it was a bakery for Eddy's Bread. In the mid1980s, Keenan and Johnson purchased the property and ran a news business from

there. Beginning in the mid-1990s, Keenan and Johnson leased the site to American Medical Response until 2013. Since 2013, Elevation Church has leased the property and made extensive renovations to the building. The bakery installed the underground tanks and they were not used by Keenan and Johnson or any of their lessees, since their ownership in the property. Keenan and Johnson had the tanks removed 20 years ago. Elevation Church wants to exercise their option to purchase the property, and the question of contamination is a mitigating factor in the purchase. Mr. Supola stated their understanding was that Keenan and Johnson's initial costs would be $17,500.00, and they have already paid that out and the investigation is not complete. He further said that Petro Board staff has denied claims from Keenan and Johnson's environmental consultant, Tetra Tech. Additionally, the staff sent out a non-obligation letter, and he is confused how the staff can determine that this site does not qualify for reimbursement when the investigation is not yet complete. Mr. Supola stated that they had hired Tetra Tech to represent their interests and introduced Jeff Rice, Tetra Tech, Environmental Group Manager and Pam Reed, Tetra Tech, Project Scientist. He said they were there to answer technical questions and explain the work proposal.

Mr. Rice spoke to the Board about Work Plan #10202, which is strictly to investigate just the eligible petroleum tanks from this site. Tetra Tech is not investigating the up-gradient Superfund site. They don't know for sure if there are impacts on the property, they only know that there were two tanks there and that they leaked. The previous DEQ site manager stated that there was creosote on the surface. Mr. Rice said that all they were trying to do is look underneath the storage tanks to determine what contamination is there and what impacts it has on the groundwater. He said that the groundwater flow in that area is very tricky and it is an area where the gradient splits off and goes into two different directions. The work plan proposed is just to determine the scope of the contamination and its impacts for a tank system that has already been granted eligibility from the Fund.

Mr. Mike Trombetta, Bureau Chief, DEQ, said he was flabbergasted by the letter the Supolas received from PTRCB Staff. He said that it was a difficult position to put the owner in, because it is common practice to investigate the contamination at a site and to put in an upgradient well when doing so. He didn't understand why Staff had said that payment for the investigation would be determined on what type of contamination was found on the site. It is common for investigation into an upgradient source to find contamination upgradient and Mr. Trombetta stated that DEQ has a very solid track record in going after upgradient parties to take responsibility for their part of the contamination. He further stated that DEQ has some funds to pursue the other responsible parties and a strong legal authority to make the other parties investigate the source themselves. He restated that DEQ has a very strong track record in making responsible parties pay their portion. Mr. Trombetta said that before they can go after an upgradient responsible party, they need to know that the source area is coming from an upgradient source. In order to do that, they always investigate the site in front of them. There is a known release here, the tanks were perforated and have been pulled and there was contamination underneath, as noted by DEQ's representative that was on-site at that time. He said that there is a Superfund site next door, as well as a former railroad line next door and there sure could be contamination coming from them, but he assured the Board that if there was contamination coming from either of those sources, DEQ would sure take action against the upgradient party. Before any source can be determined though, the investigation that is being proposed in work plan #10202 needs to be completed. DEQ is asking the Keenans, under their responsibility under Federal law, to investigate their site. He also stated the federal law that mandates tank owner to have $1,000,000.00 coverage for underground tanks, and the Fund's existence is to provide that financial responsibility under Federal Law. Mr. Trombetta said that if the Fund did not pay for the investigation, they would not be fulfilling their obligation of financial responsibility under federal law. He said it brings to question whether the Fund is fulfilling their obligation of financial responsibility under Federal Law. He said the EPA has been looking at this Fund and Montana very closely for the last several years. He said that the EPA wants to find out if the Fund is solvent and is meeting its financial responsibilities, so it is a pretty important factor to fulfill that. Mr. Trombetta said that the bottom line was that DEQ was only asking these folks to investigate their petroleum release, but if they do find upgradient contamination the Board can be assured the department will take action against those other sources.

Mr. Thompson asked if the creosote was coming from the Superfund site. Mr. Rice said no, it was just an observation made by the folks pulling the tanks at the time, that there was creosote on the surface nearby. Creosote elutes in the lab testing range which overlap with lab testing found in the gasoline. Also there is no evidence that there was creosote stored on site. There is a possibility that there are impacts from nearby sites, but Mr. Rice did not have any evidence to positively state that either way. Mr. Rice said that from the finger printing they had done so far, there was only evidence of gasoline, diesel and perhaps waste oil on this site.

Mr. Noble asked if the laboratory analysis would be able to tell if there was creosote onsite. Mr. Rice said it was difficult to test for that. Ms. Reed said the last lab result showed 70% gasoline and 30% of a heavier hydrocarbon so there is no evidence of creosote. She further said that there has been no testing done for creosote but there was only a field observation and there is no reason to believe there is creosote on site or impacts from an up gradient site.

Mr. Noble asked if the Tetra Tech work plan includes EPH samples and Mr. Rice said yes. It was discussed that if there was a hit in this sampling method, they would be able to run a full scan and see if anything was there.

Mr. McDermott asked what the Staff recommended. He wanted to know if this was informational only. Mr. Rice said he wanted obligation for the Work Plan and that the tasks proposed are standard tasks and costs for an investigation.

Mr. Thompson asked if costs have already been incurred and Mr. Rice affirmed that the owners had already spent money on initial investigation.

Mr. Breen asked Mr. Wadsworth, if they discovered something other than petroleum, diesel or waste oil, would those other substances potentially not be covered. Mr. Wadsworth said that it would be up to the owner to pay for the costs of remediating any other substance than just petroleum. Mr. Breen asked if Work Plan (WP) #10202 was asking the Board to pay all the bills on all the assessment of the property to see what is there. Mr. Wadsworth responded that was why the Staff had concerns about the investigation; because one investigation has already been done and concentrations have been found upgradient of the petroleum plume. Mr. Breen asked if the Board was being asked to investigate the upgradient sources. Mr. Rice said that the WP was focused only on-site, specifically in the tank basin to identify what came out of those tanks and what is underneath that tank basin.

Mr. Schnider said that DEQ would step in if there were other sources. Mr. Noble said that the Board would be trying to sort that out and that this work plan could give the information to see if there is anything else going on at this site and that information would be available to DEQ also.

Mr. Rice said the first round of investigation was inconclusive because they could not get into the tank basin they wanted to get into due to a power line in the way. They have a contract with a company from Wyoming to help them with that problem.

Mr. Trombetta said this was just the first investigation phase and if there is found to be contamination from an outside source, there will not be costs incurred by the responsible parties in the room, but that future costs would be split between the identified responsible parties. So there would be more work plans. He said they hoped that maybe they could determine there is no release from this site, and then the Board could be done, if the source is coming from off site.

Mr. Schnider made a motion to obligate funds for WP #10202 as presented to the Board. Mr. McDermott seconded the motion. **The motion was unanimously approved with a roll call vote.**

**<u>Eligibility Ratification</u>**

Mr. Wadsworth presented the Board with the applications for eligibility that were before them (see, table below). There was (1) application that was recommended to be eligible.

| *Board Staff Recommendations Pertaining to Eligibility From May 19, 2016 through August 10, 2016* | | | | |
|---|---|---|---|---|
| *Location* | *Site Name* | *Facility ID #* | *DEQ Release#* | *Eligibility Determination – Staff Recommendation Date* |
| Reserve | Community Oil | 9995156 | 5029 | Recommended eligible. Reviewed 03/21/2016. |

Mr. Schnider moved to ratify the staff eligibility recommendation as 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 May 25, 2016 through August 10, 2016, and recommended the Board ratify the reimbursements. These 165 claims totaled $712,294.52 (see, table below).

| WEEKLY CLAIM REIMBURSEMENTS<br>August 29, 2016 BOARD MEETING | | |
|---|---|---|
| **Week of** | **Number of Claims** | **Funds Reimbursed** |
| May 25, 2016 | 20 | $50,210.18 |
| June 1, 2016 | 9 | $45,988.82 |
| June 8, 2106 | 10 | $215,887.27 |
| June 15, 2016 | 14 | $53,994.34 |
| June 22, 2016 | 16 | $35,929.40 |
| June 29, 2016 | 32 | $74,106.00 |
| July 13, 2016 | 21 | $78,088.81 |
| July 27, 2016 | 13 | $38,694.69 |
| August 3, 2016 | 12 | $57,608.33 |
| August 10, 2016 | 18 | $61,786.68 |
| **Total** | 165 | **$712,294.52** |

Claim #20160513E was requested to be held back from ratification pending a Board Appeal for the adjustment. Denied Claim #20160225A remained tabled at the request of the consultant, James Rolle of West Central Environmental Consulting. There are still some questions about the submission of Claim #20160225A as a Form 3 (Claim Reimbursement) or as a Form 3T (Third-Party Claim Reimbursement).

Mr. Schnider motioned to ratify the claims with the exception of Claim #20160513E and Denied Claim #20150225A, as stated. Mr. McDermott seconded. **The motion was unanimously approved.**

**Board Claims – Claims over $25,000**

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

| **Location** | **Facility Name** | **Facility-Release ID #'s** | **Claim #** | **Claimed Amount** | **Adjustments** | **Penalty** | **Co-Pay** | **Estimated Reimbursement** |
|---|---|---|---|---|---|---|---|---|
| Whitefish | Town Pump Inc. | 1510105 - 4155 | 20151223B | $32,854.24 | -0- | -0- | | $32,854.24 |
| Circle | Farmers Union Oil | 2906376 - 3689 | 20160516B | $53,005.59 | -0- | -0- | $14,311.75 (copay met with this claim) | $38,693.84 |
| **Total** | | | | **$85,859.83** | | | | **$71,548.08** |

Mr. Schnider moved to accept the Claims over $25,000 as presented. Mr. Thompson seconded. **The motion was unanimously approved.**

**Discussion Items**

***ASTs and Eligibility***

Mr. Wadsworth updated the Board on the discussion he had with the Petroleum Marketers Association (PMA) and the desire to get a work group together to formulate a plan for creating an eligibility path for Aboveground Storage Tank (AST) owners. Mr. Wadsworth had asked Mr. Mattioli, Agency Legal Services, to also review the statutes and rules and provide his input regarding possible rule changes. Currently, there is recognition that the ASTs do not have the same path to eligibility as the Underground Storage Tanks (USTs). In the past, the Board and PMA worked together with the Legislature to change the laws for the USTs. If there are any violations found for an AST, they can't be eligible and additionally, they do not have permitting or inspection requirements that tie into eligibility to the Fund, as do the USTs. The staff sent out postcards in the past to let AST owners know there was a checklist on the Board's website, and they could use that to be sure they were in compliance with Board requirements. PTRCB also offered to train Fire Marshalls to do AST compliance inspections. The group considered the possibility that the inspection would correspond to a guarantee for eligibility to the Fund for a time period of three (3) years from the date of the inspection. The issue of addressing violations would still exist, and with ASTs found out of compliance that noncompliance could still negatively impact reimbursement. The PMA and PTRCB would like to formulate a process and plan to allow the AST owners to have clearer eligibility requirements, but would also allow the Board to impose percentage penalties for noncompliance, instead of the noncompliance totally negating their eligibility. There may need to be an inspection process, and the group may need to figure out who would provide oversight and track the inspection cycles and compliance issues. The goal of the workgroup is to discuss all the surrounding issues and formulate recommendations.

Mr. Thompson asked if the Fire Marshall did these inspections now. Mr. Wadsworth said that the Fire Marshall did not have the man power to perform the inspections. He stated that there are AST owners that are active, aware and trying to stay in compliance. There is another group that is totally unaware and would have a difficulty obtaining eligibility to the Fund.

Mr. Wadsworth stated that the Board's rules require that a facility be in compliance with today's standards, not the standards in place at the time of the AST's installation. The Fire Marshall does not check for these violations. There is no framework in place to encourage owners with old tanks to come into compliance with today's regulatory standards. The Boards rules are updated to stay in step with the Fire Marshall standards; for example, the Fire Marshall statutes recently changed from the Uniform Fire Code to the International Fire Code.

Ms. Ronna Alexander, Petroleum Marketers Association (PMA), Executive Director, addressed the Board on behalf of the PMA. She stated that they started working on this issue about six (6) years ago. She said that in the past they worked to put an eligibility framework together and the checklist came out of that work, but the plan got hung up on the inspection process. Ms. Alexander said that she felt it was inappropriate for the Fire Marshall to be involved in inspections using the checklist, because it has things specific to environmental concerns and outside of Fire Marshall's purview. She felt that a third party inspector, like the ones already in the field conducting UST inspections, would be the best ones to do this and she didn't feel they would need training for this. From PMA's perspective, the whole intent was to level the playing field so that AST owners were being treated the same way as UST owners with regard to eligibility to the Fund. This would be rewarding the facility owners that have stayed up with compliance and brought their facilities up to today's standards. Ms. Alexander referred to GM Petroleum's case that had recently been before the Board, and it was very tough to grant them eligibility within the current framework for ASTs. She felt the Board would be seeing more of those situations that are difficult for an AST owner to gain and maintain eligibility due to the all-or-nothing laws currently in place.

She recommended that an inspection process be put into place, under the Board purview, to monitor the AST owners that wish to be in compliance and possibly eligible to the Fund. The third party inspection form would be submitted to the staff and she felt there would be fewer than fifty sites that would do this, because it would be totally voluntary. Ms. Alexander believed that the Board could do this through Board rule, but recognized Mr. Mattioli, Board legal counsel, would have further thoughts on this. She didn't feel it would work unless it was handled within the Board staff. She said that if the inspection procedure was created as another regulatory process, there would be push back from other industries and it would turn into a political issue.

Mr. Schnider asked about farmers with dyed diesel tanks and the fee collected for that. Ms. Alexander said that if the question was if the farmers would want to participate, then her answer would be no. Mostly dealers would be the people that would want to participate. Mr. Wadsworth and Mr. Noble clarified that a fee is collected on all petroleum fuels, including dyed diesel, however the dyed diesel does not pay the road tax.

Ms. Jenny Chambers addressed the Board about the thoughts of forming a work group for ASTs. She said she was not prepared to speak on this subject because she didn't know what was going to be covered when she saw that it was going to be discussed at this Board meeting. She said that her impression from the June Board meeting was that there was going to be a work group formed, and DEQ provided names of two participants to represent DEQ. She did not believe there had been any meetings scheduled or coordinated, but said that they would be happy to participate and bring information for the Board to consider on how to look at regulating ASTs. She agreed with Ms. Alexander that we did not want to create too much regulatory framework, because it would not go over well, but felt that the department would be able to help with understanding how to balance compliance determinations, like the UST program. She felt that typically this type of decision making was not able to be done through Board rule unless there was some type of statutory framework allowing it. She advised the Board that, regardless of whatever path taken, they would need to have time for public input and some type of public process through these Board meetings or a rulemaking in order to have that public comment, if there was going to be the need for any legislative action to move it forward. She felt that these discussions could be done more openly if they had time to prepare comments ahead of time.

***Executive Planning Process/DEQ Budget Review Presentation***

Mr. Wadsworth presented the Board with information from a memorandum send out from Dan Villa, Budget Director, Office of Budget and Program Planning, dated April 21, 2016. Mr. Wadsworth said the budgeting process has changed in the last biennium with regards to determining the base budget. In the past, the State government would take a snap shot of expenditures from a window of time within the last biennium and would use that to set program budgets. Now, the budgeting committee is using the actual expenditures from the last biennium to form the base budget for each program. Any changes to the base have to be considered as a new proposal. The Board staff will be requesting our standard language appropriation as a new proposal. The Board's language requests that the Board have the authorization to reimburse subrogation costs, if incurred. The Department has indicated they will not be requesting any new budget proposals. The topic had been placed on the agenda to allow the Board an opportunity to review and comment on any budget proposal.

***Proposed Board Meeting Dates for 2017***

The proposed meeting dates for 2017 were presented to the Board per §75-11-318(3) MCA, Powers and Duties of the Board. The Board will ratify the meeting dates for 2017 at the November 7, 2016 meeting.

**Board Attorney Report**

Mr. Mattioli, Agency Legal Services, presented the Board Attorney's Report, as shown in the table below. He updated the information presented in the table regarding Cascade County Shops. Mr. Brunner, Doney Law, and Mr. Mattioli agreed on a briefing schedule that has been filed with the District Court. Mr. Brunner will file a brief on October 3, 2016 and Mr. Mattioli will file a November 1, 2016 brief. Following that, a reply brief will be filed and the District Court will then decide if the Board decision was correct.

| Location | Facility | Facility # & Release # | Disputed/ Appointment Date | Status |
|---|---|---|---|---|
| Miles City | Miles City Short Stop | 09-04443 Release 4800 | Dispute of reduced reimbursement | Order Dismissing Contested Case Proceedings with Prejudice was signed on April 25, 2016. |
| Great Falls | Cascade County Shops | 07-05708 Release 3051-C1,3051-C2,3051-C3 AND 3051-C4 | Denial of applications | Board Decision was rendered at June 6, 2016 meeting and Petition for Judicial Review was filed by Lee Brunner at Montana First Judicial District Court, Lewis and Clark County on June 30, 2016. |

**Fiscal Report**

Mr. Wadsworth presented the financial report for fiscal year-end 2016 and the financial report ending July 30, 2016 the start of fiscal year 2017. He drew the Boards attention to the line item for contingent contracted services. There is nothing new there and that is tied into the appropriation language that was discussed during the budget process review in the discussion portion of this meeting. The key thing on the year-end report is that the numbers for the appropriated budget and actual expenditures are shown. The financial report ending July 30, 2016 is mostly projected amounts, because it is the first reporting period of the new fiscal year and not much has happened yet.

**Board Staff Report**

Mr. Wadsworth presented the Board staff report. There were no comments or questions.

**Petroleum Tank Clean Up Section (PTC) Report**

Rebecca Ridenour, DEQ PTC Section Supervisor, presented the PTC report, and stated that from the beginning of 2016 DEQ has confirmed 12 new releases and resolved 64. The total number of active releases is at 1,123 and 708 of those are eligible for the Fund. The three (3) following work plans totaling over $100,000 were presented to the Board in summary by Ms. Ridenour.

*Bob's Chevron, Harlowton, Facility #54-05552, Release #719, Work Plan #10136, Priority2.0*
This Work Plan (WP) is needed to move Release 719 toward closure. WP #10136 includes the removal and landfarm remediation of petroleum-impacted soil from the Former Bob's Chevron facility. An estimated 180 cubic yards of impacted soil will be excavated from the Facility and will undergo landfarm treatment. Six (6) soil borings, three (3) of which will be completed as monitoring wells, will be installed to define the horizontal extent of soil contamination associated with the former dispenser islands and determine the impact to groundwater. High and low groundwater monitoring will be conducted to evaluate seasonal variations in groundwater elevations, groundwater flow direction, and contaminant concentrations. The area to be excavated (former dispenser islands) and the proposed well locations are identified on the attached Figure. The total estimated cost to complete this WP is $110,000.

*Flying J Inc., Havre, Facility #21-08665, Release #475, Work Plan #10084, Priority 1.4*
This Work Plan (WP) is required to move Release 475 toward closure. WP #10084 was discussed earlier in the meeting. It includes the continued operation of the current in-situ system known as an ART (Accelerated Remediation Technologies) system, advanced investigation using LIF, pilot testing the selected cleanup alterative (BOS 200®, a carbon injection technology), and monitoring and reporting. The ART system is an in-well air stripper, air sparge (AS), and soil vapor extraction (SVE) system. The ART system has been effective in keeping groundwater contamination limited to the facility boundaries. An LIF is required to determine where the remaining source mass is, which continues to significantly contribute to the degraded groundwater quality. An old building exists on-site, and based on groundwater numbers, it is believed that a significant source exists under the building. The LIF will attempt to define the source mass under the building, the information gained will be used to properly design a full-scale cleanup plan, and also assess the effectiveness of all other cleanup techniques used to date. The total estimated cost to complete this WP is $167,500.

*Fort Lolo Hot Springs, Lolo, Fac #32-09722, Releases #4280, Work Plan #9966, Priority 1.4*
DEQ briefed the board in January 2016 on a WP for this release to excavate up to 1,000 cubic yards of petroleum contaminated soil. That work plan was approved by DEQ in August 2015. Per DEQ's request, the consultant originally submitted an excavation work plan in April 2015 that was for a larger excavation (up to 1,500 cubic yards) and the installation of a passive hot water system (naturally heated geothermal groundwater). After the August approval of the smaller excavation, DEQ engaged in discussions with the consultant over the next several months and determined that the former WP (the April, not the August 2015 approved WP) would be the best alternative for removing the source mass and moving the release to closure.

The estimated cost for this WP is $310,710.73. This WP consists of excavation of up to 1,500 cubic yards of soil, installation and operation of a thermal remediation system, installation and/or replacement of monitoring wells and two years of semiannual groundwater monitoring. The impacted soil will be transported to the Allied Waste facility in Missoula. Overburden will be stockpiled onsite for reuse as fill during reconstruction. Trees, asphalt and fencing

removal will be conducted during overburden removal and replaced during reconstruction. This WP will remove the bulk of the source mass and move the release toward closure.

A remedial alternatives analysis (RAA) was completed for the site. The RAA indicated that excavation, followed by groundwater monitoring, was the most effective remedy for this site. In addition, installation of a thermal treatment system may decrease groundwater monitoring activities at the site by as much as two years.

Ms. Chambers took the podium to express some concerns she had regarding government efficiencies and the ability for DEQ and Petro Board staff to effectively do their jobs. She used the examples of Flying J and Keenan & Associates that were disputed at the start of the Board meeting to highlight where Department staff have tried to work closely with Petro Board staff to try and work through some of the issues and concerns that the Department had while also trying to provide assistance to the their stakeholders, which are the owners and operators, as well as the consultants in Montana. She did not feel that DEQ and or Petro Board staffs, as far as representing the State of Montana, are effectively doing their jobs. She said that presenting the Board with information on the technical level, or in the weeds of what DEQ is working on, is not within the purview of the Board, nor is it their obligation as members of the Board to review that in order to make decisions. She would like to find a better way that we could collectively do a better job of presenting needed information in order to make decisions. Ms. Chambers said that the Board member roles, as defined by statute or rule, do not require the deeper technical level of information. She felt it was a DEQ responsibility, working with the Petro Board staff, to present the Board with the information they are really looking for. Ms. Chambers said that over the past year DEQ and their stakeholders, particularly Petro Board stakeholders, particularly consultants, owner and operators, have struggled with changes in the past practices and general issues that are coming to the table. She did not feel that DEQ and Petro Board were collaboratively working through some of those issues to figure out how we move forward to get the focus of clean-up and closures of those sites. Ms. Chambers had a lot of examples and just wanted to bring the topic to the table today, without getting too far into the weeds. She said DEQ could certainly have a role in trying to bring a better mechanism to support their customers in the State. She requested additional time on the November 7, 2016 agenda to make the topic more transparent and allow for the public to wade in and present, as needed, some of the examples and challenges DEQ is trying to work through. She said that some of the Board decisions that are indicated back to DEQ staff could certainly have been presented and been Board practices in the past, but she felt there was new make-up of the Board members, so stopping and taking a breath to see whether or not there is still a Board, decision might help DEQ staff in moving forward and have a little more concrete decision making by the Board and have an ability of how to move forward and get sites that have been a challenge closed (inferred in the circular conversation). She stated that every site should not be a struggle and every site should not have technical difficulties, and we shouldn't be trying to be spending as much time on some of these to accomplish what we are all trying to accomplish. She thanked the Board for their consideration and for giving her time on the next agenda.

Mr. Noble spoke about the cost control work group that is being formed and that Ms. Chambers had appointed two DEQ staff members to participate in the work group, and had offered to hire a facilitator to help the group work. Mr. Noble had been soliciting consultants to participate, and he hoped by the next Board meeting that work group will have met.

**Public Forum** Joe Murphy (JM), Aaron Perry (AP), Roger Noble (RN), Ronna Alexander (RA)

JM: Mr. Chairman; members of the Board; my name is Joe Murphy, Big Sky Civil and Environmental, I'll have a reintroduction or introduction for those of you who I have not met. I sat on the Board for a term and have a great deal of experience there, but also an appreciation for what you guys are doing up there and I appreciate the time you take. This presentation is really only for informational purposes only, obviously it is not an action item on your Agenda--, just want to bring you up to speed on what is going on, on a site that I am involved with. My client is West Bank, LLC and they currently own the property that is just west of the Missouri river in Great Falls. You guys refer to it as the County Shops and other items. There are two (2) releases at this site, well excuse me, there is one (1) release at this site on the North end of the site, which is referred to as the solid waste district site. I'm sorry I need to introduce a representative of my client Aaron Perry, who is here with me today and may have some things to add at the conclusion of my discussion. And you guys may have some questions for him. Look the property was only operated as a refinery, it began as a refinery, I think, about 1928 and for a three (3) or four (4) year period ended its operation in the early 30's. Cascade County Shops, -, Cascade County took the property over and operated it as a Road and Bridge Department/Solid Waste District for a number of decades. They relocated their

complex to the Public Works Facilities for the County back in 2006 and they left the property pretty much in its state that West Bank, LLC purchased the property. West Bank purchased the property in 2014 and at this point they are moving forward with some redevelopment plans and are trying to revitalize that property, put it towards a good use at this time. There was a petroleum release clean-up that was done there back in 2008 and they are--, the new developers are continuing with the petroleum clean-up. Those of you familiar with Great Falls may have seen that ongoing. They are making great strides to getting the property cleaned up. The--, the Solid Waste District site had its own release. There was a plume of contamination there and I'll--,in fact, I'll just lay that here and I've got a few little hand-outs. So on the sheet you're are looking on there, there's a blue--, sorry, there's a blue plume that is shown there that is a pretty well defined petroleum release that occurred back during the County's operation and ownership--, back. And I think it was discovered in 1994, if I'm not mistaken, and there are a number of phases of investigation to better understand what the extent of the tank damage is. So that plume, while I don't believe that there has been any recent data, I think that the plume is pretty well in existence in the fashion that it's shown there. In about 2004 or 2005, somewhere in there, there was a phase II environmental site assessment conducted on the property and it was determined that there had been a wooden bridge deck treatment operation where the County had been using diesel--, that had pentachlorophenol (Penta) in the diesel to treat the bridge timbers and as a result of that, the clean-up associated with old Solid Waste site never really went forward. We had discussions with the DEQ and also with Petro Board Staff about possibly moving forward with that and it just didn't make any sense in anybody's mind to try to move forward with the Petroleum release until we addressed the Penta and back in the--, about 2009, about 2010 timeframe, we had been working with the DEQ on getting the Penta, the first phase Penta, clean-up going. The County secured funds to move forward with that clean-up. So that's the black line that delineates, that is shown in this exhibit, the outer black line was a three (3) foot deep excavation and then there is another rectangle inside of that, that shows it's, I think, about a ten (10) foot deep excavation. All of that clean-up was completed back in, I believe, 2011 or 2012, --, 2011 was when the clean-up was completed. The source area of that penta-chlorophenal was excavated and removed and hauled out to a local landfill in Great Falls. It took DEQ to get a nonhazardous waste designation for that Penta and at the conclusion of that work, we took a number of samples and we, --, to determine if all the Penta was removed from that area. There are a few red clouds that are shown on that exhibit, they were very minor exceedances, penta-chlorophenals above the action levels that still existed, but those areas are very low and we think, again, that we should be able to work with DEQ to be, get a determination to haul that out to the landfill. What I would like to come forward with, at some point in the near future, and the reason I'm bringing this to you here today is that our client had a goal to try and move forward with their clean-up in a fairly timely fashion and you guys don't meet till November, so we just wanted more than anything to bring you guys up to speed. We will be working with the DEQ to try to devise a plan to clean-up both the residual Penta and petroleum, if at all possible, during the next phase of the work. The site has already been deemed eligible for petroleum reimbursement and, I guess that I would like to say that the clean-up that we're proposing to do would cost no more money with that penta involved out there than it would if there was just the petroleum. There will be some sampling and analytical costs and if we have to haul off any of the Penta that isn't impacted by petroleum, --, then those soils would be covered by the developers, we wouldn't look for any money from the Petro Board for that. But, to address that petroleum release, we will be trying to work with the DEQ and the Petro Board staff to get that site removed, so, with that, I guess I will just ask if Aaron has anything to add to this or if you have any questions for me at this time.

RN: Thanks, Joe.

AP: Mr. Chairman, Members of the Board, my name is Aaron Perry. I represent the developer, West Bank, LLC and am a member of that group. I guess my only comment, I will keep it very brief, is that we are very excited about taking this Brownfield, redeveloping it, putting a blighted property back to good use for the community of Great Falls. And, I think we've had some very good momentum developed with the State, the Montana Department of Environmental Quality, over the last few months, --, which has again allowed us to proceed and continue with the clean-up that we are doing right now. And, we aim to a short, a short time frame, probably a month, to reengage that discussion with the DEQ, specifically regarding the Penta contamination that's left on this site. So we are hopeful that we'll get that support from you all and hopefully we'll be able to look for some updates at your next meeting. Thank You.

RN: Thank you. Any questions? Alright, it's still public forum? Anybody else want to address the Board?

RA: One more time.

RN: Just can't pass it up.

RA: Well, what I really wanted to do was introduce the Board, and I know Brad's met some of the DEQ staff, to the new Executive Director. It's Brad Longcake and we're excited to have him coming onboard. And I also really wanted to thank the Board. Not only for that great picture, which was a total surprise and I did spend a lot of time up there. I don't know whose idea it was, but it was very appropriated. I just wanted to thank the Board for what you do. This is kind of a thankless job, most people don't even know you perform this service. I try to give my marketer members some press when we mention things in magazine articles, but really the rest of you don't probably get very much thanks, but it's an important service that you perform and from the Industry's perspective, it is very much appreciated. I've been impressed with the Board over the last few years, I think that you've made very thoughtful decisions and I was pretty much in agreement with every single one of them, so you are high up on the list. So, thank you very much. Thank you Terry and staff, you have always been very accommodating whenever I ask for something, being there, getting it for me. So, I appreciate it, thank you very much.

The next Board meeting is scheduled for November 7, 2016.

The meeting adjourned at 1:10 pm.

Roger Noble – Presiding Officer

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November 7, 2016
ACTION ITEM

**Oelkers Service Center – Culbertson**
**Facility ID # 43-00030, DEQ Release # 5086**

# EXECUTIVE SUMMARY

**TYPE OF ACTION:** Board review of the eligibility application for DEQ release # 5086, Facility ID # 43-00030 located at 4 East 6th Street, Culbertson, MT.

**SUMMARY OF ACTIONS REQUESTED:** Request the Board to review the facts and circumstances pertaining to the violations and Administrative Order on Consent (FID #2375) for the Facility.

**ISSUE:** Owner requested to have the staff recommendation, that release # 5086 be eligible with 0% reimbursement, heard by the Board.

**FACTS:** On April 22, 2015, release # 5086 was discovered and reported while work was being done under DEQ permit 15-0060 to re-pipe the entire site. Contaminated soils were discovered when the islands were removed.

Oelkers Service Center was under an Administrative Order (AO) when the released was discovered. The AO came about due to an inspection that was conducted on August 28, 2014 when multiple tank system violations were identified. The UST systems were re-inspected on December 30, 2014 as a follow-up to the inspection conducted on August 28, 2014. The re-inspection identified 5 tank system violations. Since the requirements for the September 2014 Corrective Action Plan were not fulfilled, an AO was issued and made effective on February 6, 2015. On December 23, 2015, (320 days later) the department made a written determination that Oelkers Service Center satisfied the requirements of the AO, thus resulting in more than 180 days of non-compliance.

**STATUTES AND RULES:**

**75-11-308(1)(i) Eligibility**
(1) An owner or operator is eligible for reimbursement for the applicable percentage as provided in 75-11-307(4)(a) and (4)(b) of eligible costs caused by a release from a petroleum storage tank only if:

> (i) an underground storage tank, as defined in 75-11-503, that was in compliance with 75-11-509 at the time that the release was discovered.

**75-11-309(2) Procedures for reimbursement of eligible costs – corrective action plans**
(2) If an owner or operator is issued an administrative order for failure to comply with requirements imposed by or pursuant to Title 75, chapter 11, part 5, or rules adopted pursuant to Title 75, chapter 11, part 5, all reimbursement of claims submitted after the date of the order must be suspended. Upon a written determination by the department that the owner or operator has returned to compliance with the requirements of Title 75, chapter 11, part 5, or rules adopted pursuant to Title 75, chapter 11, part 5, suspended and future claims may be reimbursed according to criteria established by the board. In establishing the criteria, <u>the board shall consider the effect and duration of the noncompliance</u>.

**ARM 17.56.309(1)(a) & (9)(b) REQUIREMENTS FOR COMPLIANCE INSPECTIONS**

(1) The owner or operator of an underground storage tank system shall have all active underground storage tank systems inspected by a licensed compliance inspector, licensed pursuant to ARM 17.56.1402(3), at least every three years for compliance with the operation and maintenance requirements of this chapter. The inspections must:

(a) be completed at least 90 days before the expiration date of the operating permit issued pursuant to ARM 17.56.308; and

(9) The owner or operator shall submit to the department a follow-up inspection report either:

(b) within another time frame determined by the department.

**ARM 17.56.401(1)(a), (b), & (c) GENERAL REQUIREMENTS FOR ALL UST SYSTEMS**

(1) Owners and operators of new and existing UST systems shall provide a method, or combination of methods, of release detection that:

(a) can detect a release from any portion of the tank and the connected underground piping that routinely contains product;

(b) is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; 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. In addition, methods used after December 22, 1990, except for methods permanently installed prior to that date, must be capable of detecting a leak rate or quantity specified for that method in ARM 17.56.407(1)(b) through (d) or 17.56.408(1)(a) and (b) with a probability of detection of 0.95 and a probability of false alarm of 0.05.

**ARM 17.56.402(1)(a) REQUIRMENTS FOR PETROLEUM UST SYSTEMS**

(1) Except as provided in (3), owners and operators of petroleum UST systems shall provide release detection for tanks and piping as follows:

(a) tanks must be monitored at least every 30 days for releases using one of the methods listed in ARM 17.56.407(1)(d) through (h) except that:

**ARM 17.56.823(1) RECORDKEEPING**

(1) Owners or operators must maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this subchapter for an underground storage tank until released from the requirements of this subchapter under ARM 17.56.825. An owner or operator must maintain such evidence at the underground storage tank site or the owner's or operator's place of business. Records maintained off-site must be made available upon request of the department.

**ARM 17.56.1502(4) OPERATOR TRAINING**

(4) If the department determines that an UST system does not meet EPA's significant operational compliance (SOC) requirements for release prevention and release detection measures, the appropriate operators, as determined by the department, must be retrained. Retraining must include the subjects in which the UST system was found to be not in significant compliance. Retraining must occur within 90 days after the department's determination that an UST system does not meet EPA's SOC requirements for

release prevention and release detection measures, or within a longer time frame established by the department in writing, on a case-by-case basis. For purposes of this chapter, the department adopts and incorporates by reference the EPA SOC requirements dated March 2005. Copies of the documents incorporated by reference may be obtained from the Department of Environmental Quality, P.O Box 200901, Helena, MT 596020-0901.

**ARM 17.58.336(7)(a) & (b) REVIEW AND DETERMINATION OF CLAIMS FOR REIMBURSEMENT**

(7) Claims subject to the provisions of 75-11-309(2) or (3)(b)(ii), MCA, must be reimbursed according to the following:

(a) Except as provided in (7)(e), such claims must be paid pursuant to the following schedule:

| **Period of Noncompliance** | **Percent of allowed claim To be reimbursed** |
|---|---|
| 1 to 30 days | 90% |
| 31 to 60 days | 75% |
| 61 to 90 days | 50% |
| 91 to 180 days | 25% |
| Greater than 180 days | No reimbursement |

(b) For claims subject to the provisions of 75-11-309(2), MCA, the period of noncompliance must begin on the date upon which the department issues an administrative order to the owner or operator. The period of noncompliance must end on the date upon which the owner or operator has satisfied the administrative order, as determined by the department in writing.

**BOARD STAFF RECOMMENDATION:** Consistent with ARM 17.58.336(7)(a), the staff recommends that release # 5086 be eligible for 0% reimbursement of all suspended and future claims.

**BOARD OPTIONS:**

1) Ratify the staff recommendation.
2) Reject the staff recommendation and propose alternative motion based upon provisions of the above mentioned law and rules.
3) Provide rationale for decision if the staff recommendation is rejected.

**CHRONOLOGY:**

**7/20/14** Permit due to DEQ 90 Days prior to operating permit expiration.

**8/11/14** A certified Warning Letter is sent to Oelkers Service Center, notifying that the department has not received a required underground storage tank (UST) compliance inspection 90 days prior to the expiration of the current Operating Permit. The current Operating Permit expires October 18, 2014. The warning letter advises the owner that they are in violation of ARM 17.56.309(1).

**8/28/14** An inspection was conducted and the following violations were identified.

- Failure to submit a re-inspection demonstrating correction of two major UST record violations within the allotted timeframe established by the department (ARM 17.56.309).
- Failure to provide approved release detection method for tank (ARM 17.56.401)
- Failure to conduct leak detection monitoring (ARM 17.56.402).
- Failure to meet EPA's significant operational compliance requirements for leak detection and leak prevention (ARM 17.56.1502).

**9/11/14** A certified Warning Letter and Corrective Action Plan sent to Oelkers Service Center. The Warning Letter notified Oelkers Inc. of violations issued as a result of the compliance inspection conducted on August 28, 2014 by Thomas Pointer.

**10/7/14** USTS issues the owner a Violation Letter for violations listed in the 8/28/14 inspection report, a modified Corrective Action Plan, and an operating permit.

**12/30/14** A re-inspection was conducted as a follow-up to the inspection conducted on August 28, 2014. The re-inspection identified the following violations. The owner/operator should have been able to correct at least 4 monthly readings for tank leak detection for missing leak detection records discovered during the 8/28/14 inspection.

- Failure to correct violations within the allotted timeframe established by the Department (ARM 17.56.309).
- Failure to conduct monthly tank leak detection monitoring (ARM 17.56.402).
- Failure to maintain copies of the financial assurance mechanism(s) and certification of those mechanism(s) as meeting UST requirements (ARM 17.56.823).

**1/6/15** USTS issues the owner a Violation Letter for violations identified during the re-inspection on 12/30/14.

**1/21/15** Enforcement Division's letter notifying the owner of a proposed Administrative Order on Consent, FID 2375.

**2/6/15** Enforcement Division's letter notifying the owner that the effective date of the Consent Order (FID 2375) is February 6, 2015. (Paragraph 28 was satisfied, payment received in the amount of $960.00.)

**2/23/15** Owner's letter to DEQ (letter not dated, was received on 2/23/15) that provides all available monthly tank monitor records for nine months prior to the February effective date. The letter also states that the owner has no reports for June, 2014 for dipping records comparing daily tank dipping's with pump meter totals. The records were thrown out since USTS supposedly told him that the records were not acceptable.

| | |
|---|---|
| **3/30/15** | Owner's letter to DEQ that provides monthly tank release detection monitoring records for the three consecutive months following the effective date of the Consent Order (satisfy paragraph 22 of AOC). |
| **4/22/15** | Release was discovered and reported while work was being done under DEQ permit 15-0060 to re-pipe the entire site. Contaminated soils were discovered when the islands were removed. |
| **10/19/15** | Board staff received the Application for Petroleum Release Eligibility, Form 1-R. |
| **12/15/15** | A re-inspection is conducted by Thomas Pointer and no violations are noted. |
| **12/21/15** | Owner's letter to Shasta Steinweden (letter not dated, was received on 12/21/15) that provides at least two daily readouts for the past twelve months and that Tank Management Systems will be there in a few days for an inspection (re-inspection was conducted on 12/15/15 with no violations). |
| **12/23/15** | DEQ's Enforcement Division's closure letter to owner stating that the facility has satisfied the requirements of the February 6, 2015 Administrative Order on Consent (FID 2375). |

# OELKERS SERVICENTER/BULK CENTER

P.O. Box 272, Culbertson, MT 59218
Phone: 406-787-5315

September 13, 2016

RECEIVED
SEP 16 2016
Petroleum Tank Release
Compensation Board

Petroleum Tank Release Compensation Board;

Oelkers Inc. of Culbertson would like to appeal the compensation ruling of the staff regarding the contaminated soil found under our old fuel islands during a project to replace these islands. (Facility ID #43-00030 DEQ Release #5086)

As stated in my previous letter, in northeast Montana, we are used to waiting extended periods of time for any maintenance, but during the height of the oil boom I was told by Marketing Specialties that we could not even get put on their calendar because of all the major projects they were completing in the oil patch of western North Dakota and eastern Montana.

Eventually we expanded our repair project to include new piping, containment, and two fuel islands. At this point, we were able to also replace our in tank probe that was faulty.

Oelkers Inc. requests your consideration to fund the sniffer wells that we need to put on our service station lot.

Sincerely,

Ron Oelkers

Ron Oelkers

DEQ
Montana Department of Environmental Quality

February 6, 2015

Ronald Oelkers
Oelkers, Inc.
P.O. Box 272
Culbertson, MT 59218

RE: Executed Administrative Order on Consent, Docket No. UST-15-03 [Facility ID 43-00030; FID 2375]

Dear Mr. Oelkers:

Enclosed is the executed copy of the Administrative Order on Consent (Consent Order). Please note that the effective date of the Consent Order is February 6, 2015.

According to the terms of the Consent Order, you are required to complete corrective actions described in Section III. On February 6, 2015, we received your check for $960 which satisfies Paragraph 28 of the Consent Order.

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
Redge Meierhenry, DEQ WUTMB
Julie DalSoglio, EPA-Montana
Roosevelt County Sanitarian



#7-824

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY

OF THE STATE OF MONTANA

| | |
|---|---|
| IN THE MATTER OF:<br>VIOLATIONS OF THE MONTANA UNDERGROUND STORAGE TANK ACT BY OELKERS, INC. AT OELKERS SERVICE CENTER, CULBERTSON, ROOSEVELT COUNTY, MONTANA. [FACILITY ID 43-00030; FID 2375] | ADMINISTRATIVE ORDER ON CONSENT<br><br>Docket No. UST-15-03 |

## I. NOTICE OF VIOLATION

Pursuant to the authority of Section 75-11-525, Montana Code Annotated (MCA), the Department of Environmental Quality (Department) hereby gives notice to Oelkers, Inc. (Oelkers) 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. Oelkers notified the Department that it owns four underground storage tank systems (UST) which have been designated by the Department with Tag Nos. 1774, 1775, 1776, and 1777. The aforementioned USTs are located at Oelkers Service Center, 4 6th St. E., Culbertson, Roosevelt County, Montana, (Facility) and are used to store and dispense petroleum products. Oelkers is, therefore, an "owner" as defined in ARM 17.56.101(47)(c)(i).

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

***Failure to obtain compliance inspection in a timely manner***

5. The owner or operator of an 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. *See* ARM 17.56.309(1)(a).

6. The Facility's previously-issued Operating Permit expired on October 18, 2014. Oelkers, therefore, was required to obtain a compliance inspection by July 20, 2014.

7. On September 8, 2014, the Department received the results of a compliance inspection conducted at the Facility on August 28, 2014 (August Inspection). Therefore, Oelkers had a compliance inspection of its Facility USTs completed 39 days past the deadline.

8. Oelkers 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 previously-issued Operating Permit.

***Failure to conduct leak detection monitoring***

9. 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."

10. 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.

11. ARM 17.56.402(1) requires owners and operators to provide release detection for tanks and piping and to monitor tanks and piping at least every 30 days for a release.

12. 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.

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

14. The August Inspection noted that the Facility was missing the previous 9 months of tank leak detection records for the tank with Tag No. 1775.

15. On September 11, 2014, the Department sent a Violation Letter and Corrective Action Plan (September CAP) to notify Oelkers that the August Inspection identified violations of the Act caused by the failure to conduct and maintain 12 months of leak detection on tank Tag No. 1775. The 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 4, 2014.

16. Oelkers violated ARM 17.56.402(1) 9 times by failing to monitor for a release every 30 days during the months of September 2013, and January, February, March, April, May, June, July, and August 2014.

***Failure to correct violations within the allotted timeframe***

17. ARM 17.56.309(9) states that the owner or operator shall submit to the Department a follow-up inspection report within the timeframe determined by the Department.

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18. Oelkers was given the September CAP that listed necessary corrective actions with timeframes for completing the corrective actions. As of December 9, 2014, Oelkers has not completed the corrective actions listed in the September CAP.

19. Oelkers violated ARM 17.56.309(9) by failing to conduct the corrective actions listed in the September CAP within the Department-allotted timeframe.

## III. ADMINISTRATIVE ORDER ON CONSENT

This Administrative Order on Consent (Consent Order) is issued to Oelkers 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 OELKERS AGREES AS FOLLOWS:

20. Upon the effective date of this Consent Order, Oelkers shall initiate such actions as are necessary to fulfill the requirements of the September CAP. Specifically, Oelkers shall conduct release detection monitoring at least once every 30 days on all Facility tanks.

21. Oelkers shall record and maintain the results of all monthly release detection monitoring in accordance with ARM 17.56.409.

22. For purposes of complying with this Consent Order, Oelkers shall submit to the Department, within 120 days of the effective date of this Consent Order, monthly tank release detection monitoring records for the three consecutive months following the effective date of this Consent Order.

23. In addition to the monthly tank release detection monitoring records required in Paragraph 22, Oelkers may submit all available consecutive monthly tank release detection monitoring records for the nine months preceding the effective date of this Consent Order.

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24. Within 15 days of completing and submitting 12 consecutive months of tank detection monitoring, Oelkers shall obtain a reinspection to determine compliance with the corrective actions required under the September CAP.

25. Within 15 days of obtaining the reinspection required under Paragraph 24, Oelkers shall submit to the Department the results of the reinspection. The reinspection report must be signed by the licensed compliance inspector and by an authorized representative of Oelkers.

26. All documents required in Paragraphs 22-25, and any other 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

27. Oelkers is hereby assessed a $2,400 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 $960 of the $2,400 assessed penalty provided that Oelkers fully complies with all requirements of this Consent Order.

28. Within 45 days from the effective date of this Consent Order, Oelkers shall pay to the Department an administrative penalty in the amount of $960 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:

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

29. In the event Oelkers fails to comply fully with the requirements of this Consent Order, the Department may require Oelkers 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.

30. 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

31. Oelkers 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.

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

33. 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.

34. 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.

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

36. Oelkers 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 Oelkers fails to fully and satisfactorily comply with the terms of this Consent Order.

37. 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**

2/6/15
Date

IT IS SO AGREED:

OELKERS, INC.

Ronald K. Oelkers
Signature

Ronald K. Oelkers
Print Name

Pres.
Title

2-3-15
Date

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November 7, 2016
ACTION ITEM

**Express Way – Huntley**
**Facility ID #56-00627, DEQ Release #5138**

# EXECUTIVE SUMMARY

**TYPE OF ACTION:** Board review of the eligibility application for DEQ Release #5138 at 135 Northern Avenue, Huntley, MT.

**SUMMARY OF ACTIONS REQUESTED:** Request the Board to review the facts and circumstances pertaining to release #5138.

**ISSUE:** Owner requested to have the staff ineligibility recommendation heard by the Board.

**FACTS:** The owner has identified five tanks that are or were at this facility. The owner indicated on the application for reimbursement received on June 15, 2016 that the source of the contamination was not known. The owner also noted on the 30-Day report that he does not have a reason to believe the contamination came from tanks 3, 4, or 5. The owner in 1998 obtained a permit from DEQ to line tanks 1 and 2. While attempting to line the tanks in June of 1998 they discovered that tank #2 had perforations; however the owner failed to notify the department of the perforations. It was not until November of 1998 that the owner removed/replaced the tanks (Permit #0359). The removal report stated that tank #2 was last used in October 1998, indicating that a tank that had been shown to be perforated in June was being used by the owner for approximately four months. The source of contamination discovered at the site is shown to be unknown; however, the owner has requested an eligibility determination. Because the owner indicated that the release is not likely from tanks 3, 4, or 5 and there is evidence indicating that a perforated tank that was known to contain fuel for a period of four months (tank #2), the staff believe that tank 2 is the likely source of the contamination, or has at least contributed to the release. Since Tank #02 was not in compliance with the applicable state and federal laws and rules at the time the release was discovered the staff has recommended the release ineligible for assistance from the Fund. Please also refer to the memorandum provided by Agency Legal Services Bureau. *(references in this document and the memorandum refer to the Tank #'s in the first column labeled UST DB Tank #)*

| UST DB Tank # | Capacity | Type | Contents | Installed | Last Used | App. Tank # |
|---|---|---|---|---|---|---|
| 01 | 10,000 | UST | Gas | 5/2/1985 | 10/98 | #4 |
| 02 | 10,000 | UST | Gas | 5/2/1985 | '10/98 | #5 |
| 03 | 5,000 | UST | Gas | 11/98 | '8/16 | #1 |
| 04 | 5,000 | UST | Diesel | 11/98 | '8/16 | #3 |
| 05 | 10,000 | UST | Gas | 11/98 | '8/16 | #2 |

**STATUTES AND RULES:**

**75-11-302(1). Definitions.**

(1) "Accidental release" means a sudden or nonsudden release, neither expected nor intended by the tank owner or operator, of petroleum or petroleum products from a storage tank that results in a need for corrective action or compensation for third-party bodily injury or property damage.

**75-11-308(1)(b)(ii) & (1)(c). Eligibility.**

(1) An owner or operator is eligible for reimbursement for the applicable percentage as provided in 75-11-307(4)(a) and (4)(b) of eligible costs caused by a release from a petroleum storage tank only if:

(b) the release occurred from:

(ii) a petroleum storage tank, as defined in 75-11-302, that was in compliance with the applicable state and federal laws and rules that the board determines pertain to the prevention and mitigation of a petroleum release from a petroleum storage tank at the time that the release was discovered; or

(c) the release was an accidental release.

**75-11-510(1). Underground storage tank leak report – inspections – sampling.**

(1) If an owner or operator of an underground storage tank discovers or is provided with evidence that a tank may have leaked, the owner or operator shall immediately notify the department that a leak may exist.

**ARM 17.56.502(1) REPORTING OF SUSPECTED RELEASES**

(1) Owners and operators, any person who installs or removes an UST, or who performs subsurface investigations for the presence of regulated substances, and any person who performs a tank tightness or line tightness test pursuant to ARM 17.56.407 or 17.56.408, must report suspected releases to a person within the Remediation Division of the department and the implementing agency or to the 24-hour Disaster and Emergency Services officer available at telephone number (406) 324-4777 within 24 hours of discovery of the existence of any of the following conditions:

**BOARD STAFF RECOMMENDATION:**

Deny the eligibility of release #5138.

**BOARD OPTIONS:**

1) Ratify the staff recommendation.
2) Reject the staff recommendation and propose alternative motion based upon provisions of the above mentioned laws and rules

**CHRONOLOGY:**

| | |
|---|---|
| 4/6/1998 | Application for Permit # 0632 to line Tank #01 and #02. |
| 5/21/1998 | UST program issues Permit #0632 to the owner for tank lining. The permit specifically states that any holes, perforations, or rust plugs that penetrate the metal must be immediately reported to DEQ (444-1417). |
| 6/15/1998 | Permit #0632 lining checklist indicates that an internal inspection revealed tank bottom to have perforations on Tank #02. Tank #01 was put back into service. |
| 9/28/1998 | Application for Permit #0359 for tank closure of Tank #01 and #02 and to install 3 new tanks and piping. |
| 10/12/1998 | The date Tank #02 was last used to store gasoline. |
| 11/10/1998 | UST program issues Permit #0359 to the owner for installation and closure of underground storage tanks and piping. |
| 11/11/1998 | Craig Stagner's (UST representative) individual activity report indicates that he was on site during the UST removal and the soil in the bottom of the excavation was slightly discolored with faint gasoline odor but may not become a leak site. |
| 11/12/1998 | Date of piping/tank closure for Tank #01 and #02 according to Closure Report. |
| 11/27/1998 | UST paperwork review for Permit #0632 indicates that a licensed I/R liner did not report perforations to DEQ so the UST staff reviewer reported a suspect release to LUST on 11/27/1998. |
| 11/27/1998 | Vicki Lynn's (UST representative) individual activity report indicates that during her file review, one of the tanks (Tank #02) had perforations with the re-lining not completed and perforations were not reported to DEQ. Vicki further stated the tank that had perforations was not reported six months ago and it should be a suspect release but would defer her decision to Bill Hammer (UST representative). |
| 11/30/1998 | Bill Hammer (UST representative) writes an email to the Billings Petroleum Tank Cleanup (PTC) section stating that a suspect file needs to be created if not already done. |
| 11/30/1998 | Marla Stremcha's (PTC representative) individual activity report states that the tanks (Tank #01 and #02) were removed on 11/11/1998, Craig Stagner was on site, Marketing Specialties (Todd Bernhardt) was the I/R on site, and she is waiting for the sample results. |
| 12/14/1998 | Tank/Piping Closure Report |
| 1/6/1999 | Susan McAnally's (UST representative) individual activity report indicates that the soil samples were left in the refrigerator for almost 2 months (requirement not to exceed 2 weeks) and requested that Todd Bernhardt re-sample. |

| | |
|---|---|
| 3/26/1999 | Susan McAnally's (UST representative) individual activity report indicates that the new USTs have been installed and there was discussion of the soil boring placement. |
| 5/11/1999 | Craig Stagner's (UST field representative) individual activity report shows a site diagram of a soil boring placement roughly 5 feet west of pump island with a soil sample collected 14.5 ft bgs. |
| 6/1/1999 | UST letter from Susan McAnally to the owner stating that the department has received the soil sample test results and has determined that no further action is required under Permit #0359. |
| 8/24/1999 | Craig Stagner's (UST field representative) individual activity report indicates that lab analysis of the soil sample taken in the soil boring revealed to have a TPH value of 3.1 ppm, therefore not a leak site. |
| 5/3/2016 | Suspect release is discovered during an Environmental Phase II site assessment and reported to the department within 24 hours. |
| 5/26/2016 | The analytical lab report confirms a release. |
| 6/13/2016 | Application for Petroleum Release Eligibility Form 1-R. |

Bernard Greenfield 1126 Yorktown Street Billings, MT 59105

October 12, 2016

RECEIVED
OCT 14 2016
Petroleum Tank Release
Compensation Board

Mr. Ross Eaton. Fund Cost Specialist
Petroleum Tank Release Compensation Board
P.O. Box 200902
Helena, MT 59620

RE: Express Way, 135 Northern Avenue, Huntley, MT
Facility ID #56-00627, DEQ Release #5138

Dear Mr. Eaton,

Please let this letter serve as my formal response to your 10/11/16 letter in which the PTRCB staff makes a recommendation to the Board that "release #5138 is not eligible for reimbursement from the Cleanup Fund." With all due respect, I wish to appeal the staff recommendation and therefore request this matter be placed on the Board's 11/7/16 agenda, so that I may have an opportunity to discuss this matter directly with the members of the board.

Do not hesitate to call me if you have any questions or concerns.

Sincerely,

Bernard Greenfield

Bernard Greenfield

**F. SOURCE AND CAUSE OF RELEASE**

1. Source of Release. **Check One:**

- [ ] Tank
- [ ] Piping (product, vent, fill, or vapor recovery lines). **Identify type of piping.**
- [ ] Dispenser
- [ ] STP - Submersible Turbine Pump
- [ ] Delivery Problem
- [ ] Sumps
- [x] Other (describe sources and circumstances):

test drilling

2. Cause of Release. **Check One:**

- [ ] Spill
- [ ] Overfill
- [ ] Physical or Mechanical Damage (puncture, broken, swollen, elongated)
- [ ] Corrosion
- [ ] Installation or Repair Problem
- [x] Other (describe cause and circumstances):

unknown, found by test drilling

- [ ] Unknown (describe possible cause and circumstances):

3. Detailed Source of Contamination **TANK SYSTEMS**

Identify or describe all tank systems that are sources (or possible sources) of contamination in the table with the corresponding tank identification numbers from DEQ's list of known active and out-of-use USTs. If the source tank system has not previously been reported to the DEQ, please complete the information on a DEQ Non-Notifier Form. For a copy of this form, contact the DEQ at (406) 841-5000. none* Facility # 5600627

| Tank Number (from enclosed list) | Capacity/Age (gallons/years) | Specify UST or AST | Date Last Used or "Active" | Current or Last Product Stored | Previous Products Stored |
|---|---|---|---|---|---|
| 3660 | 5,000/15 years | UST | Active | P.U.L. | same |
| 3662 | 10,000/15 years | UST | Active | U.L. | same |
| 3661 | 5,000/15 years | UST | Active | Diesel | same |



* As owner I don't have a reason to believe the contamination came from the tanks.

Rev. 6/95

Montana Department of Environmental Qu.

# UNDERGRO.. D STORAGE TANK PERMIT PERMIT NUMBER 98-0632

Pelican Expressway IS GRANTED A PERMIT TO:
(owner/operator name)

_____ install
_____ close
Internal Lining modify
_____ repair

UNDERGROUND STORAGE TANK(S) AND/OR PIPING AT:

Huntley, MT
(site address/location)

Facility ID # 56-00627 Proposed work date(s): June 1998

Licensed Installer/Remover: Doug Stephens IL-1196-080

Inspector: _____

PERMIT CONDITIONS: Tanks must be properly inerted or purged before removal. Soil samples must be received by the lab within 2 weeks of sampling in lab-approved containers. Submit completed paperwork within 30 days.

--Notify DEQ (444-5970) the week before starting work. Give permit and facility numbers.
--Permit modification required from DEQ (444-1417) for any changes from permit proposal.
--Submit completed paperwork within 30 days from job completion.
--Work must comply with MT UST regs, permit conditions, PEI RP100-94, mfg specs.
--Tank lining to be per NLPA631, API631, or uniform fire codes.
**--Any holes, perforations, or rust plugs that penetrate the metal must be immediately reported to DEQ (444-1417). DEQ or Fire Prevention Investigation Bureau (FPIB) may wish to visit the site to access the holes. The Petroleum Release Section of the DEQ Remediation Division or the FPIB may require closure of tanks with holes, perforations, or rust plugs that penetrate through the metal.**
--After lining the tank must be tightness tested to the overfill level, or a high voltage holiday test performed.
--Corrosion protection must be installed within 6 months of lining. A separate permit is required to install the corrosion protection system.

Permit Issued By Jeff L. Tolan Date: 5/21/98
*(Permit is valid for 6 months unless otherwise stipulated)*

I certify that the work for which this permit was issued was conducted in accordance with all applicable statutes and rules, and the conditions specified in this permit.

LICENSED INSTALLER/REMOVER: [signature] 6/15/98
(signature) (date)

I certify, that to the best of my knowledge, the work for which this permit was issued and that I witnessed being conducted, was completed in accordance with all applicable statutes and rules, and the conditions specified in this permit.

INSPECTOR: _____ _____
(signature) (date)

Comments:

RECEIVED
JUN 17 1998
Department of Environmental Quality
Remediation Division

No. of Hours on Inspection: _____

**THIS PERMIT MUST BE AT THE WORK SITE WHEN WORK IS BEING CONDUCTED.**

*Installer Copy — White; Inspector Copy — Yellow; Department Copy — Pink; Owner Copy — Goldenrod*

## *UNDERGRO ) STORAGE TANK LINING CHECKLIS ontinued)*

| **Lining** | Yes | No |
|---|---|---|
| 1. Lining material is applied to surface within 8 hours of blasting? | na | |
| 2. Lining is a minimum of 100 mils and a nominal 125 mils thick? | na | |

**Testing**

| | | |
|---|---|---|
| 1. Holiday test performed at a minimum of 10,000 volts? Describe results of test below or attach report: | na | |
| 2. Lining thickness test performed? Describe results of test below or attach report: | na | |
| 3. Hardness test performed? Describe results of test below or attach report: | na | |

**Closure**

| | | |
|---|---|---|
| 1. Acceptable cover plate or manway installed? | x | |
| 2. Cover plate seal pressure-tested to 3 to 5 psi with soap solution? | na | |

**Corrosion Protection**

1. Corrosion protection system must be designed by corrosion expert and installed under UST Permit. Must have corrosion protection installed within 6 months of lining.

Comments: Internal inspection reveiled tank bottom to have perforations on tank #2. cleaned tank bottoms out of tank #1, installed lid, put tank back in service.

*"I certify that the above information is correct and that this tank lining was completed according to specifications of the lining material manufacturer, NLPA 631 and/or API 1631."*

RECEIVED JUN 17 1998 Department of Environmental Quality

Signature of Licensed Tank Liner: [signature] Date: 4-15-98

Signature of Inspector *(if on-site)*: _____ Date: _____

*WITHIN 30 DAYS OF LINING, SUBMIT COPIES OF CHECKLIST, AND SIGNED PERMIT TO:*
*MT DEPARTMENT OF ENVIRONMENTAL QUALITY, UST PROGRAM, PO BOX 200901, HELENA, MT 59620-0901*

*Department — Original; Owner — Yellow Copy; Installer/Inspector — Pink Copy*

# PAPERWORK REVIEW - INSTALL MODIFY REPAIR

Owner / Operator: Pelican Oil Permit # 98-0632
Address: City Hardley
Facility ID # 56-00627 I/R Name & #

**GENERAL**

✓ VL Permit signed & dated by I/R
✓ VL Certification of Compliance: Completed
Matches Notification Form Matches application
✓ VL Notification Form complete Matches application
✓* VL Permit requirements met
✓ VL Fees paid
NA Inspector required yes no - Fee paid yes no
NA Data base information checked for accuracy

**INSTALLATION - TANKS & OR PIPING**

Installation Checklist matches application
Cathodic protection readings within limits
Fiberglass tank deflection readings within limits
Vapor well baseline readings within limits
Tags transferred from old tanks to new tanks

**MODIFICATIONS**

Tank release detection: ATG GWMW Vapor wells
Monitoring well checklist complete and matches applicat'n
Pipe release detection: LLD Interstitial
Spill containment
Overfill prevention
Lining
Lining checklist meets NLPA 631 & API 1631
Tank integrity proven (ARM 16.45.202)
Impressed current installed within 6 months
Corrosion protection
Designed by corrosion expert
Tank integrity proven (ARM 16.45.202)
✓ VL Other: Describe no lining done - perf. found in one tank.

**REPAIRS**

Repair described on permit
Leak site: yes no
Soil samples received
Emergency permit issued
Permit application received: yes no
Permit fee paid

REVIEWED BY: V. Lane 11/27/98
NAME DATE

**COMMENTS:**

* Licensed I/R never did not report perforations to DEQ so I reported suspected release to LUST on 11/27/98. V.L.

review complete; no letter

# TANK/PIPING CLOSURE FORM

*(One form per tank/pipe closed)*

Facility ID# 56-00627 Permit No. 99-0359 Tank No. 2

**TANK OWNER'S NAME & ADDRESS**

Pelican Oil
1819 Montana Ave.
Billings MT 59101

Phone 406-245-4531

**FACILITY NAME & ADDRESS**

Express Way
Huntley MT 59032

Phone 406-348-9209

1. **TANK CAPACITY** *(gallons)*: 10,000
2. **PRODUCT STORED:** Premium gas
3. **DATE TANK LAST USED:** 10-12-98
4. **DATE OF CLOSURE:** 11-12-98
5. **TYPE OF TANK/PIPE CLOSURE:** X Removed from ground
   ____ Closed-in-place; inert solid used: ____
6. **TANK — CONDITION & MATERIAL** *(Check all that apply)*

   Condition: X Pitted ____ Perforated ____ Cracked X Rusted ____ Good Condition
   ____ Contained Water

   Material of Construction: X Steel ____ Cathodically Protected ____ Concrete ____ Fiberglass
   ____ Composite ____ Other

   **COMMENTS:**

7. **PIPING — CONDITION & MATERIAL** *(Check all that apply)*

   Condition: X Pitted ____ Perforated ____ Cracked X Rusted ____ Crushed
   ____ Good Condition

   Material of Construction: X Bare Steel ____ Galvanized Steel ____ Cathodic Protected
   ____ Fiberglass ____ Other, specify

   Length of piping removed: 50 ft. — Pipe diameter 1 1/2 inch
   Was all underground piping removed (including vent lines)? X Yes ____ No — If not, why? ____

   Length of piping closed-in-place: ____ ft. — Pipe diam. ____ inch
   Was piping capped? ____ Yes ____ No — Plugged? ____ Yes ____ No

   Secondary Containment? ____ Yes ____ No — If yes, describe its condition and material of construction below.

   **COMMENTS:**

RECEIVED
MAR 08 1999

Department of
Environmental Quality
Remediation Division

STATE OF MONTANA
DEPARTMENT OF JUSTICE
AGENCY LEGAL SERVICES BUREAU

Tim Fox
Attorney General

1712 Ninth Avenue
P.O. Box 201440
Helena, MT 59620-1440

# MEMORANDUM

To: Terry Wadsworth

From: Mark Mattioli MM

Date: October 7, 2016

Re: Express Way (Release No. 5138)

You have asked me to address whether Release No. 5138 at the Express Way site in Huntley, Montana is eligible for reimbursement from the Petroleum Tank Release Cleanup Fund. In particular, Board staff question whether the likely source of contamination (a perforated tank removed in 1998) was in compliance at the time Release No. 5138 was discovered. Having reviewed the DEQ and PTRCB files for this site, in my opinion Release No. 5138 is not eligible for reimbursement from the Fund.

## FACTUAL BACKGROUND

1998-1999

The available record indicates that in April 1998, the owner (Pelican Oil) applied for a permit from the DEQ to line two 10,000 gallon storage tanks, indicating that the work was expected to commence in June. The permit (No. 98-0632), which was issued on May 21, 1998, stated: "Any holes, perforations, or rust plugs that penetrate the metal must be immediately reported to DEQ (44-1417)." *Underground Storage Tank Permit (No. 98-0636).* On June 15, 1998, the installer certified that the work for which the permit was issued had been performed. *Id.*

The *Underground Storage Tank Lining Checklist*, dated 4/15/1998, was returned to the DEQ on June 17, 1998. The *Checklist* stated that upon inspection the bottom of Tank #2 had perforations. *Id.* Although the *Checklist* suggests that Tank #2 was placed out of service—because the *Checklist* states that Tank #1 was placed back into service—the *Tank/Piping Closure Form* states that Tank #2 (the perforated tank) was last used on October 12, 1998. Thus, the record contains conflicting information regarding whether

TELEPHONE: (406) 444-2026 FAX: (406) 444-4303

Tank #2 was used after the perforations were discovered. Regardless, Tank #2 was not removed until November 1998.

Permits to close the tanks, and to install three new tanks, were issued in November 1998. *Permit #0359*. At the time of removal "the soil in bottom of excavation was slightly discolored w/ faint gasoline odor." *Individual Activity Report*, dated 11/11/98. As discussed above, the record indicates that Tank #2 had numerous perforations. However, the *Tank/Piping Closure Forms* for both tanks state only that they were pitted and rusted. In addition, drilled soil samples had to be obtained because the samples taken when the tanks were removed were left in the refrigerator well past the two-week analysis deadline. *Letter from DEQ to Marketing Specialists*, dated 3/26/99. After receiving and reviewing the core sample results, the DEQ changed the status of the tanks to "closed." *Letter from DEQ to Marketing Specialist*, dated June 1, 1999.

In an *Individual Activity Report*, dated 11/27/98, it was noted that although the documentation in the file indicated that perforations were observed when the tanks were opened, the tank was not relined and "the perforated tank was not reported to DEQ." In an email, dated November 30, 1998, Bill Hammer of DEQ asked whether the Billings Office was ever notified that when "[t]wo 10,000 gallon gasoline USTs were being prepared for lining . . . 12 to 14 perforations were discovered in one of them."

Hammer's email states only that the perforations "may have been reported to the DEQ June 10, 1998." However, there exists no actual documentation revealing that a perforated tank or a suspected release was immediately reported to the DEQ upon discovery. While the record suggests that the work was completed by June 15, 1998, it does not reveal when the work commenced, when the tanks were opened, or when the perforations in Tank #2 were discovered. There is no 24-Hour Release Report in the file and the DEQ did not create a suspected release file prior to Hammer's November 30, 1998 email.

<u>2016</u>

In May 2016, the Owner reported a suspected release to DEQ the same day petroleum contamination was discovered. According to the Owner's initial 30-day *Petroleum Release Notification* (dated June 3, 2016), samples of the contamination "smelled like old gas . . ." and the release did not appear to originate from any of the three, actively operating tanks at the site. *Id.* at 2, 4. Because it was not known whether the source of the contamination originated with one or more of the three tanks currently in operation at

the site, the eligibility determination was suspended by Board staff. *Letter from Ross Eaton to Bernard Greenfield*, dated July 26, 2016.

## LEGAL ANALYSIS

According to the record as it exists at the present time, it is unlikely that one of the three USTs currently operating at the site is the source of the petroleum contamination. Rather, it is likely that the source of the contamination is Tank #2, which was removed in November 1998. Although the drilled samples collected after the installation of three new tanks did not result in discovery of or confirmation of a release, at the time of the tank's removal—several months after the perforations had been discovered—the soil was discolored and had the faint odor of gasoline. Unfortunately, the original soil samples could not be tested because they were left in a refrigerator for an extended period of time. However, when the release was discovered in 2016, the soil smelled like "old gasoline."

Of course, if further investigation or clean up reveals that one of the three new USTs is the source of the contamination, Release No. 5138 would be eligible for reimbursement from the Fund. *See* Mont. Code Ann. § 75-11-308(1). However, it is likely that old Tank #2 is the source of the contamination.

Release No. 5138 is not, at this time, eligible for reimbursement from the Fund because the record does not support the conclusion that the Owner immediately reported tank perforations or a suspected petroleum release, as required by the Permit No. 98-0636 and as required by statute and rule. *See, e.g.*, Mont. Code Ann. § 75-11-308(1)(b)(ii) (eligibility criteria); § 75-11-309(1)(a) (owner or operator must immediately notify the DEQ that a release may have occurred); § 75-11-510(1) (if an owner or operator has evidence that a tank may have leaked, the owner or operator must immediately notify the DEQ that a leak may exist). *See also* ARM 17.56.502 (requiring reporting within 24 hours).

If Tank #2 had remained in operation until May 2016 and had been found to have perforations, the Owner or Operator would be legally required to immediately notify the DEQ. Consequently, the failure to immediately notify the DEQ of a perforated tank in June 1998 is a prior non-correctable violation: Tank #2 was not in compliance when the release was discovered. In addition, because the Owner failed to immediately notify the DEQ in June 1998 that Tank #2 was perforated, the discovery of a petroleum release in May 2016—assuming the likely source of the release is Tank #2—cannot be considered an accidental release for purposes of Mont. Code Ann. § 75-11-308(1)(c) (eligibility

criteria). An "accidental release" is a release which is not expected by an owner or operator. Mont. Code Ann. § 75-11-302(1). Here, the release was not unanticipated from the owner's perspective because the release could have been confirmed in 1998 if the perforations in Tank #2 had been timely reported to DEQ or if the soil samples from the excavation had been properly handled and tested. The bore sampling, which resulted in the DEQ determining that a release had not occurred, took place *after* the three new tanks had been installed.

## CONCLUSION

Based upon current available information and evidence, Release No. 5138 is not eligible for reimbursement from the Fund. If, however, further investigation or remediation reveals that the petroleum contamination is from one or more of the newer USTs in operation at the site, the Release would be eligible.

This conclusion comports with the primary purpose of the Fund, which is to "protect public health and safety and the environment by providing prompt detection and cleanup of petroleum tank releases[.]" Mont. Code Ann. § 75-11-301(6)(a). Prompt reporting of possible releases and unusual operating conditions is required by statute and rule because such reporting is vital to achieving the goal of prompt detection and cleanup. Although the Owner acted promptly in May 2016, the Owner did not do so in June 1998.

mwm/clr

Back to Agenda

Back to Agenda

November 7, 2016
ACTION ITEM

# Bobs Chevron
# Facility ID #54-05552, Release #719,
# Work Plan # 10136

## SUMMARY

**TYPE OF ACTION:** The owner of Bob's Chevron is asking the Board for a guarantee of reimbursement for the actual, reasonable, and necessary costs associated with work plan #10136.

**SUMMARY OF ACTION REQUESTED**: Request Board review and approve the Guarantee of reimbursement request.

**ISSUE:** Snowy Mountain Development Corporation is issuing a Revolving Loan Fund loan to the property owner to finance corrective action at the property which involves excavation of petroleum contaminated soils. Snowy Mountain Development Corporation will be designated to receive the reimbursement of actual, reasonable, and necessary costs associated with DEQ approved workplan #10136, approximately 24 months from the date the claim is properly filed with the PTRCB.

ARM 17.58.335 (2) states The Board must find, before guaranteeing reimbursement, that the owner or operator is eligible for reimbursement pursuant to 75-11-308 (1), MCA, and that any estimated eligible cost not yet incurred is one that is reasonably certain to occur.

1. Release 719 is eligible for reimbursement. There are no penalties associated to this release.

ARM 17.58.335 (3) states in guaranteeing reimbursement for an estimated eligible cost not yet incurred, the board shall include a provision within the guarantee that the reimbursement is subject to adjustment in conformity with 75-11 309 (3) MCA, after the costs have been incurred.

1. Section 6 of Guarantee of reimbursement form states that the costs must be actual, reasonable, and necessary, in order to be reimbursed.

**WORK PLAN 10136**: The work plan consists of; excavation and landfarning of contaminated soil, installation of three (3) groundwater monitoring wells, and conducting two (2) groundwater monitoring events. This workplan has been approved by the Department of Environmental Quality, and was Briefed to the Board at the August 29, 2016 Board meeting. This workplan contains $13,730.73 in Brownfields expenses that are not Petro fund eligible. The loan amount will be based on the Petro Fund eligible expenses only. The Board Staff has reviewed the workplan and has recommended total eligible expenses in the amount of $78,499.30 for the completion of the associated work. Petro Fund copay at this site was met when LUST expenses were allocated to the copay at the request of the owner.

**BOARD STAFF RECOMMENDATION:** Board staff recommends the guarantee of reimbursement be approved.

**REFERENCES:**
***75.11.308 (1), MCA (2015)***
***75.11.309 (3) & (6), MCA (2015)***
***ARM 17.58.335 (2015)***

# Petroleum Tank Release Compensation Board

STATE OF MONTANA

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

## Application for Guarantee of Reimbursement
## Form 4

This form should be used by an owner or operator to obtain a guarantee of reimbursement of eligible costs that have been approved by the Board, but for which money is not currently available, or a guarantee of estimated eligible costs not yet approved by the Board. The staff will prepare a recommendation to the Board from this request. The owner or operator will be advised of the Board determination. This guarantee is subject to all requirements and provisions imposed by or pursuant to Title 75, Chapter 11, Part 3, Montana Code Annotated (MCA) or rules, policies or proceedures adopted pursuant thereto. The owner is responsible for the copay as found in subsection §75-11-307(4), MCA, and must remain in compliance with requirements pursuant to Title 75, chapter 11, part 5, MCA or rules adopted pursuant thereto (§75-11-307, MCA).

The completion of this form does not negate the requirement to submit claims for reimbursement of corrective action or third party costs. **This guarantee is not intended to affect the order in which money in the fund is obligated under subsection §75-11-309(5), MCA.** This form is intended to be used for a single release; therefore, a separate form must be completed for each Department of Environmental Quality petroleum release.

If you require assistance, contact the Board Staff at 406-444-9710

1. **Owner or operator Information**

| | |
|---|---|
| Name: | Wheatland County Chamber of Commerce |
| Street Address: | 117 A Av SE |
| City/State/Zip Code: | Harlowton, MT 59036 |
| Attn: | Lauri Teig |
| Phone number: | 406-632-4694 |
| Fax number: | |
| Email address: | lteig@live.com |

2. **Facility and Release Information**

| | |
|---|---|
| Facility Name: | Bob's Chevron |
| Street Address: | 201 N Central |
| City/State/Zip Code: | Harlowton, MT 59036 |
| DEQ Facility Identification number: | 5405552 |
| DEQ Petroleum Release number: | 719 |

DRAFT

**Facility Name: Bob's Chevron** **Facility # 54-05552** **Release # 719**

3. **Corrective Action Plan Information**

| | |
|---|---|
| Corrective Action Plan (CAP) ID number: | 10136 |
| CAP Date: | January 15, 2016 |

**4. Expected Corrective Action Plan Tasks**

| Task Name | Actual or Estimated Costs | Anticipated date claim will be submitted (Month/Year) |
|---|---|---|
| **Work Plan** | **$2,400.00** | |
| **Project Management – Soil Removal** | **$4,614.40** | |
| **Soil Removal** | **$29,320.48** | |
| **Mobilization** | **$595.40** | |
| **Fieldwork** | **$3,384.00** | |
| **Equipment** | **$288.00** | |
| **Laboratory Analysis w/Fee** | **$2,705.00** | |
| **Lodging/Per Diem** | **$515.00** | |
| **Mobilization – Well installation** | **$595.40** | |
| **Fieldwork** | **$3,384.00** | |
| **Well Installation** | **$7,917.47** | |
| **Equipment** | **$2,544.63** | |
| **Laboratory Analysis w/Fee** | **$2,130.00** | |
| **Lodging/Per Diem** | **$515.00** | |
| **Survey** | **$1,605.00** | |
| **Mobilization – Monitoring** | **$1,112.80** | |
| **Monitoring** | **$2,340.72** | |
| **Laboratory Analysis w/Fee** | **$5,820.00** | |
| **Lodging/Per Diem** | **$292.00** | |
| **Report – RIR-02 + AR-04** | **$4,760.00** | |
| **Report – MR-01** | **$1,660.00** | |
| **TOTAL** | **78,499.30** | |
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DRAFT

**Facility Name: Bob's Chevron** **Facility #54-05552** **Release #719**

**5. Certification**

Have you, as the owner/operator of the tank that leaked, been convicted of a substantial violation of state or federal law or rule that relates to the installation operation, or management of petroleum storage tanks?

☐ **Yes** ☒ **No**

I, the owner or operator of this facility, certify the information contained within this form is true and correct. I fully understand that any fraudulent or erroneous information may jeopardize the reimbursement from the Petroleum Tank Release Cleanup fund for this release. With my signature, I authorize the Petroleum Tank Release Compensation Board to visit the site, to verify the information contained within this form, at a time mutually agreed upon by both parties.

DRAFT

_____ _____
Owner/Operator Signature Date

State of _____

County of _____

Signed and Sworn before me on this day _____ by _____
Date Name of owner

_____
Notary Public Signature

(Seal) _____
Printed or typed

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

**6. Guarantee Provisions**

The Board will guarantee the reimbursement of claimed eligible costs that were actually, necessarily and reasonably incurred for the preparation and implementation of the aforementioned Department-approved corrective action plan with the following provisions:

Snowy Mountain Development Corporation will be designated by the owner to receive reimbursement for all actual, reasonable, and necessary costs uder the department approved corrective action plan. Reimbursement shall occur approximately 24 months from the date the claim(s) is properly filed with the PTRCB.

The 20% Brownfields match requirement under SMDC's EPA RLF Cleanup Grant has been met through other SMDC cleanup projects.

DRAFT

**7. This section is for PTRCB review and approval.**

Board Review Date: _____

Board Comments:

Board Approval Date: _____

Signature: _____ Date: _____

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

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November 7, 2016
ACTION ITEM

# Former Hilger Country Store
# Facility ID #14-02289, Release # 4653,
# Work Plan # 10349

## SUMMARY

**TYPE OF ACTION:** The owner of the former Hilger Country Store is asking the Board for a guarantee of reimbursement for the actual, reasonable, and necessary costs associated with work plan #10349.

**SUMMARY OF ACTION REQUESTED**: Request Board review and approve the Guarantee of reimbursement request.

**ISSUE:** Snowy Mountain Development Corporation is issuing a Revolving Loan Fund loan to the property owner to finance corrective action at the property which involves excavation of petroleum contaminated soils. Snowy Mountain Development Corporation will be designated to receive the reimbursement of actual, reasonable, and necessary costs associated with the DEQ approved workplan #10349. They request that the reimbursement occur 24 months from the date the claim is properly filed with the PTRCB.

ARM 17.58.335 (2) states The Board must find, before guaranteeing reimbursement, that the owner or operator is eligible for reimbursement pursuant to 75-11-308 (1), MCA, and that any estimated eligible cost not yet incurred is one that is reasonably certain to occur.

1. Release 4653 is eligible for reimbursement. There are no penalties associated to this release.
2. This workplan has been approved by the Department of Environmental Quality, and will be Briefed to the Board at the November 7, 2016 Board meeting.

ARM 17.58.335 (3) states in guaranteeing reimbursement for an estimated eligible cost not yet incurred, the board shall include a provision within the guarantee that the reimbursement is subject to adjustment in conformity with 75-11 309 (3) MCA, after the costs have been incurred.

1. Section 6 of Guarantee of reimbursement form states that the costs must be actual, reasonable, and necessary in order to be reimbursed.

**WORK PLAN 10349:** A grocery store and fueling station operated on the property from 1983 to 1986. The USTs were removed in 1985. The Property was sold to the current owner, who is operating the facility as Hilger Meats. Petroleum contamination was discovered during an MDT road re-alignment project and release number 4653 was assigned. Brownfields eligibility was grated for an investigation to determine the nature and extent of contamination. The investigation resulted in the submittal of costs for Copay allocation. The workplan costs are greater than $100,000 and details are provided in the PTCS Report section of the packet.

**BOARD STAFF RECOMMENDATION:** Board staff recommends the guarantee of reimbursement be approved.

**REFERENCES:**
***75.11.308 (1), MCA (2015)***
***75.11.309 (3) & (6), MCA (2015)***
***ARM 17.58.335 (2015)***

# Petroleum Tank Release Compensation Board

STATE OF MONTANA

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

## Application for Guarantee of Reimbursement
## Form 4

This form should be used by an owner or operator to obtain a guarantee of reimbursement of eligible costs that have been approved by the Board, but for which money is not currently available, or a guarantee of estimated eligible costs not yet approved by the Board. The staff will prepare a recommendation to the Board from this request. The owner or operator will be advised of the Board determination. This guarantee is subject to all requirements and provisions imposed by or pursuant to Title 75, Chapter 11, Part 3, Montana Code Annotated (MCA) or rules, policies or proceedures adopted pursuant thereto. The owner is responsible for the copay as found in subsection §75-11-307(4), MCA, and must remain in compliance with requirements pursuant to Title 75, chapter 11, part 5, MCA or rules adopted pursuant thereto (§75-11-307, MCA).

The completion of this form does not negate the requirement to submit claims for reimbursement of corrective action or third party costs. **This guarantee is not intended to affect the order in which money in the fund is obligated under subsection §75-11-309(5), MCA.** This form is intended to be used for a single release; therefore, a separate form must be completed for each Department of Environmental Quality petroleum release.

If you require assistance, contact the Board Staff at 406-444-9710

1. **Owner or operator Information**

| | |
|---|---|
| Name: | Laurence Bielen |
| Street Address: | 102 2nd Ave |
| City/State/Zip Code: | Hilger, MT 59451 |
| Attn: | Laurence (Larry) Bielen |
| Phone number: | 406-538-2619 |
| Fax number: | |
| Email address: | hilgermeats@gmail.com |

2. **Facility and Release Information**

| | |
|---|---|
| Facility Name: | Former Hilger Country Store |
| Street Address: | 14762 US Highway 191 |
| City/State/Zip Code: | Hilger, MT 59451 |
| DEQ Facility Identification number: | 14-02289 |
| DEQ Petroleum Release number: | 4653 |

DRAFT

**Facility Name: Former Hilger Country Store** **Facility #14-02289** **Release #4653**

3. **Corrective Action Plan Information**

| | |
|---|---|
| Corrective Action Plan (CAP) ID number: | 10349 |
| CAP Date: | August 25, 2016 |

**4. Expected Corrective Action Plan Tasks**

| Task Name | Actual or Estimated Costs | Anticipated date claim will be submitted (Month/Year) |
|---|---|---|
| **Work Plan** | **$2,400.00** | |
| **Project Management** | **$1,845.76** | |
| **Mobilization** | **$4,068.90** | |
| **Fieldwork** | **$6,580.00** | |
| **Soil Removal** | **$85,873.41** | |
| **Soil Removal** | **$3,702.20** | |
| **Well Installation** | **$5,337.16** | |
| **Survey** | **$1,070.00** | |
| **Monitoring** | **$2,340.72** | |
| **Equipment** | **$672.00** | |
| **Laboratory Analysis w/fee** | **$16,482.00** | |
| **Lodging/Per Diem** | **$1,076.00** | |
| **Report: RIR-02 + AC-04** | **$4,760.00** | |
| **Report: MR-01** | **$1,660.00** | |
| **TOTAL** | **$137,868.15** | |
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DRAFT

**Facility Name: Former Hilger Country Store** **Facility #14-02289** **Release #4653**

**5. Certification**

Have you, as the owner/operator of the tank that leaked, been convicted of a substantial violation of state or federal law or rule that relates to the installation operation, or management of petroleum storage tanks?

☐ **Yes** ☐ **No**

I, the owner or operator of this facility, certify the information contained within this form is true and correct. I fully understand that any fraudulent or erroneous information may jeopardize the reimbursement from the Petroleum Tank Release Cleanup fund for this release. With my signature, I authorize the Petroleum Tank Release Compensation Board to visit the site, to verify the information contained within this form, at a time mutually agreed upon by both parties.

DRAFT

_____ _____
Owner/Operator Signature Date

State of _____

County of _____

Signed and Sworn before me on this day _____ by _____
Date Name of owner

_____
Notary Public Signature

(Seal) _____
Printed or typed

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

**6. Guarantee Provisions**

The Board will guarantee the reimbursement of claimed eligible costs that were actually, necessarily and reasonably incurred for the preparation and implementation of the aforementioned Department-approved corrective action plan with the following provisions:

Snowy Mountain Development Corporation will be designated by the owner to receive reimbursement of all actual, reasonable, and necessary costs uder the department approved corrective action plan. Reimbursement shall occur approximately 24 months from the date the claim(s) is properly filed with the PTRCB.

The 20% Brownfields match requirement under SMDC's EPA RLF Cleanup Grant has been met through other SMDC cleanup projects.

DRAFT

**7. This section is for PTRCB review and approval.**

Board Review Date: _____

Board Comments:

Board Approval Date: _____

Signature: _____ Date: _____

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

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November 7, 2016
ACTION ITEM

# ELIGIBILITY RATIFICATION

| *Board Staff Recommendations Pertaining to Eligibility From August 11, 2016 through October 19, 2016* | | | | |
|---|---|---|---|---|
| *Location* | *Site Name* | *Facility ID #* | *DEQ Release # Release Year* | *Eligibility Determination – Staff Recommendation Date* |
| Billings | Former Husky Oil Bulk Plant Service Station (Marvin Teylor) | 5609874 | Voluntary Registration | Recommended Voluntary Registration be approved. |
| Culbertson | Oelkers Service Center | 4300030 | 5086 | Recommended eligible with 0% reimbursement due to violations. Reviewed 3/25/2016. |
| Huntley | Express Way | 5600627 | 5138 | Recommended Ineligible. Reviewed 7/19/2016. |
| Virginia City | Village Pump Gas Station | 2805399 | 5137 | Recommended eligible. Reviewed 09/12/2016. |

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# RATIFICATION OF WEEKLY REIMBURSEMENTS

| WEEKLY CLAIM REIMBURSEMENTS<br>November 7, 2016 BOARD MEETING | | |
|---|---|---|
| **Week of** | **Number of Claims** | **Funds Reimbursed** |
| August 17, 2016 | 16 | $41,023.26 |
| August 24, 2016 | 17 | $53,288.43 |
| August 31, 2016 | 7 | $88,491.27 |
| September 7, 2016 | 13 | $48,663.34 |
| September 14, 2016 | 18 | $50,820.34 |
| September 21, 2016 | 12 | $64,093.80 |
| October 5, 2016 | 16 | $61,477.24 |
| October 12, 2016 | 14 | $373,828.59 |
| **Total** | 113 | **$781,686.27** |

# Petroleum Tank Release Compensation Board

## Weekly Reimbursement Summary for 8/17/2016

Org Unit: 993050
Account: 67201

| Claim ID | Facility ID | Release ID | Facility Name | City | Initial Claim | Reimbursement | Cumulative Reimb | Adjustments | Task Description |
|---|---|---|---|---|---|---|---|---|---|
| 20160523A | 3613519 | 2573 | Greens Sales Inc | Malta | 5/27/1997 | $2,117.50 | $87,640.91 | | Report |
| 20160525A | 812588 | 3806 | Scooters Sinclair | Big Sandy | 2/23/2000 | $11,887.42 | $531,016.88 | $224.41 | Laboratory Analysis w/fee |
| 20160531C | 6015014 | 4435 | Superior Lube | Havre | 10/7/2005 | $2,463.19 | $341,584.52 | | Report |
| 20160708E | 6015014 | 4435 | Superior Lube | Havre | 10/7/2005 | $1,899.56 | $341,584.52 | | Miscellaneous |
| 20160803H | 1509705 | 5036 | Cenex Harvest States Kalispell | Kalispell | 1/14/2016 | $850.50 | $13,288.95 | | Monitoring |
| 20160211A_CA | 3805047 | 337 | Park Ave TV McCurdy Motor | Broadus | 8/5/2008 | $0.00 | $10,397.51 | $7,102.50 | Lab + |
| 20160803L | 1504428 | 1034 | Stacey Oil Co | Whitefish | 3/19/1992 | $932.99 | $648,689.48 | $103.67 | Monitoring |
| 20160803P | 1501678 | 4402 | Former Valcon Bulk Plant East | Kalispell | 12/16/2005 | $2,004.00 | $112,211.00 | | Report |
| 20160804E | 5604534 | 4284 | Former Walters Bulk Plant | Billings | 9/24/2008 | $400.20 | $63,520.60 | | Monitoring |
| 20160804G | 403467 | 4342 | MRL Bulk Plant Former Visocan Petroleum | Townsend | 10/14/2004 | $1,975.56 | $180,191.60 | | Monitoring |
| 20160804H | 5608671 | 2007 | Town Pump Inc Billings 2 | Billings | 1/19/1994 | $338.18 | $318,198.25 | | Remediation System |
| 20160804I | 5608671 | 2007 | Town Pump Inc Billings 2 | Billings | 1/19/1994 | $2,923.20 | $318,198.25 | | Monitoring |
| 20160804J | 2813572 | 2601 | Wagon Wheel Motel | Twin Bridges | 12/7/1995 | $2,649.00 | $259,904.36 | | Report |
| 20160808E | 3600573 | 2763 | Saco Conoco | Saco | 2/5/1996 | $877.32 | $6,598.62 | | Report |
| 20160804D | 1510105 | 4155 | Town Pump Inc Whitefish 2 | Whitefish | 6/24/2003 | $7,909.43 | $860,842.45 | | Monitoring |
| 20160809A | 209709 | 3593 | Camp Custer Service | Hardin | 8/4/2000 | $1,795.21 | $48,666.71 | | Miscellaneous - Report |

**16 claims in the report** **Total Reimbursement: $41,023.26**

**Reviewed for Reimbursement by:** [signature] **Date** 8/23/16

**Approved for Reimbursement by:** [signature] **Date** 8/26/16

# Petroleum Tank Release Compensation Board

## Weekly Reimbursement Summary for 8/24/2016

**Org Unit: 993050**
**Account: 67201**

| Claim ID | Facility ID | Release ID | Facility Name | City | Initial Claim | Reimbursement | Cumulative Reimb | Adjustments | Task Description |
|---|---|---|---|---|---|---|---|---|---|
| 20160527N | 1510105 | 4155 | Town Pump Inc Whitefish 2 | Whitefish | 6/24/2003 | $10.37 | $860,852.82 | $15.17 | Miscellaneous |
| 20160803A | 4002755 | 2619 | Farmers Union Oil Bulk Plant | Terry | 8/31/1995 | $14,230.12 | $141,547.90 | | Remediation System |
| 20160803B | 4002755 | 4948 | Farmers Union Oil Bulk Plant | Terry | 4/27/2015 | $7,213.82 | $17,697.52 | | Remediation System |
| 20160803Q_CA | 4410824 | 5038 | GM Petroleum Distributors | Forsyth | 8/3/2016 | $0.00 | $0.00 | $17,500.00 | Allocation to Copay |
| 20160805A | 1510895 | 2577 | Glacier Center | Coram | 3/1/1996 | $122.00 | $94,153.85 | | Report |
| 20160808C | 1512499 | 1081 | City Parking Lot | Whitefish | 6/30/1992 | $485.75 | $262,304.81 | | Work Plan |
| 20160811A | 306475 | 3824 | Pehrson Service Exxon | Chinook | 5/26/2005 | $1,320.70 | $129,956.07 | | Laboratory Analysis w/fee |
| 20160811C | 408727 | 811 | Town Pump Inc Townsend 306 Front St | Townsend | 7/1/1991 | $390.00 | $52,995.19 | | Work Plan |
| 20160811B | 306204 | 1547 | Conoco C Store | Chinook | 9/3/2013 | $1,821.75 | $216,667.49 | | Laboratory Analysis w/fee |
| 20160811D | 5605323 | 3765 | Langs Cemetery Service Inc | Billings | 11/15/1999 | $6,460.19 | $20,611.41 | | Soil Removal |
| 20160811E | 5605323 | 3765 | Langs Cemetery Service Inc | Billings | 11/15/1999 | $3,789.16 | $20,611.41 | | Report |
| 20160811G | 300035 | 3019 | Jamieson Motors Inc | Chinook | 5/13/2005 | $1,582.45 | $234,249.73 | | Laboratory Analysis w/fee |
| 20160811H | 403467 | 4342 | MRL Bulk Plant Former Visocan Petroleum | Townsend | 10/14/2004 | $3,308.20 | $183,499.80 | | Laboratory Analysis w/fee |
| 20160812A | 1610356 | 3937 | Econo Mart | West Yellowston | 1/2/2001 | $2,086.80 | $62,207.49 | $22.00 | Laboratory Analysis w/fee |
| 20160812E | 403456 | 3946 | Town Pump Inc Townsend | Townsend | 10/20/2000 | $9,022.59 | $104,080.43 | | Monitoring Well Installation |
| 20160815A | 2201822 | 206 | Montana City Store LLC | Clancy | 6/13/1990 | $979.53 | $131,105.35 | | Project Management |
| 20160816A | 4209718 | 4282 | Superpumper Inc 23 | Sidney | 1/26/2004 | $465.00 | $15,210.73 | | Work Plan |

**17 claims in the report** **Total Reimbursement: $53,288.43**

**Reviewed for Reimbursement by:** [signature] **Date** 9/2/2016

**Approved for Reimbursement by:** Tony Wadsworth **Date** 9/12/16

# Petroleum Tank Release Compensation Board

## Weekly Reimbursement Summary for 8/31/2016

Org Unit: 993050
Account: 67201

| Claim ID | Facility ID | Release ID | Facility Name | City | Initial Claim | Reimbursement | Cumulative Reimb | Adjustments | Task Description |
|---|---|---|---|---|---|---|---|---|---|
| 20151221G | 4600762 | 3619 | Prairie States Coop Terminal | Dagmar | 8/31/2000 | $1,613.41 | $335,881.61 | $2,229.11 | Laboratory Analysis w/fee |
| 20151223B | 1510105 | 4155 | Town Pump Inc Whitefish 2 | Whitefish | 6/24/2003 | $32,854.24 | $893,707.06 | $0.00 | Remediation System |
| 20160516B | 2906376 | 3689 | Farmers Union Oil Co Circle | Circle | 4/15/2015 | $39,681.84 | $43,858.09 | $0.00 | Miscellaneous |
| 20160711C | 2811508 | 2715 | Madison Realty Inc | Ennis | 12/6/1996 | $4,623.20 | $480,364.45 | | Report |
| 20160805B | 1504503 | 4249 | Manions Implement Dealership | Kalispell | 1/5/2004 | $3,400.44 | $340,897.73 | | Laboratory Analysis w/fee |
| 20160818A | 502954 | 2237 | Blacks Service Station | Belfry | 12/13/1995 | $4,828.14 | $102,858.58 | $555.78 | Miscellaneous TO |
| 20160823G | 205856 | 3653 | L & B Last Stop | Hardin | 4/18/2016 | $1,490.00 | $1,990.00 | | Report |

**7 claims in the report** *Total Reimbursement:* **$88,491.27**

**Reviewed for Reimbursement by:** [signature] **Date** 9/2/16

**Approved for Reimbursement by:** Terry Wadsworth **Date** 9/13/16

# Petroleum Tank Release Compensation Board

## Weekly Reimbursement Summary for 9/7/2016

Org Unit: 993050
Account: 67201

| Claim ID | Facility ID | Release ID | Facility Name | City | Initial Claim | Reimbursement | Cumulative Reimb | Adjustments | Task Description |
|---|---|---|---|---|---|---|---|---|---|
| 20160623F | 306221 | 1410 | Town Pump Inc | Chinook | 11/30/1992 | $72.00 | $205,077.41 | $15.75 | Monitoring |
| 20160808B | 706614 | 335 | Bills Soco | Great Falls | 12/11/1990 | $404.38 | $192,965.88 | $1,699.50 | Monitoring Well Installation |
| 20160811F | 701418 | 3212 | Keiths Country Store | Great Falls | 10/5/2000 | $5,605.36 | $473,639.80 | | Mobilization |
| 20160815B | 705751 | 4697 | Yellowstone Truck Stop Great Falls | Great Falls | 11/17/2010 | $20,000.00 | $85,666.50 | | Soil Removal |
| 20160822A | 2404530 | 873 | Cenex Supply & Marketing Ronan | Ronan | 7/27/1992 | $2,610.51 | $334,472.53 | $16.68 | Monitoring |
| 20160823A | 2412285 | 4456 | Big Arm General Store | Big Arm | 4/25/2007 | $2,553.48 | $171,150.25 | | Laboratory Analysis w/fee |
| 20160823B | 2503918 | 4063 | Noons 438 | Helena | 12/12/2001 | $6,599.55 | $194,520.67 | | Laboratory Analysis w/fee |
| 20160823C | 3708692 | 1277 | Town Pump Inc Conrad | Conrad | 9/16/1992 | $965.70 | $133,333.99 | | Mobilization |
| 20160823D | 708700 | 2584 | Town Pump Inc Great Falls 1 | Great Falls | 8/14/2000 | $546.90 | $110,089.83 | | Mobilization |
| 20160823F | 306221 | 1410 | Town Pump Inc | Chinook | 11/30/1992 | $1,241.25 | $205,077.41 | | Laboratory Analysis w/fee |
| 20160825A | 3805046 | 4162 | Park Super Service | Broadus | 8/11/2014 | $553.50 | $30,193.80 | | Report |
| 20160829D | 4002755 | 2619 | Farmers Union Oil Bulk Plant | Terry | 8/31/1995 | $3,755.36 | $145,303.26 | | Remediation System |
| 20160829E | 4002755 | 4948 | Farmers Union Oil Bulk Plant | Terry | 4/27/2015 | $3,755.35 | $21,452.87 | | Remediation System |

**13 claims in the report** **Total Reimbursement: $48,663.34**

**Reviewed for Reimbursement by:** _____ **Date** 9/12/16

**Approved for Reimbursement by:** Terry Wadsworth **Date** 9/22/16

# Petroleum Tank Release Compensation Board

## Weekly Reimbursement Summary for 9/14/2016

Org Unit: 993050
Account: 67201

| Claim ID | Facility ID | Release ID | Facility Name | City | Initial Claim | Reimbursement | Cumulative Reimb | Adjustments | Task Description |
|---|---|---|---|---|---|---|---|---|---|
| 20160620C | 1302648 | 4216 | Larrys Service Center | Baker | 4/18/2000 | $10,006.36 | $148,060.69 | | Laboratory Analysis w/fee |
| 20160711H | 9995160 | 5046 | Tony Hoyt Residence | Arlee | 7/11/2016 | $2,712.50 | $2,712.50 | $300.00 | Soil Removal |
| 20160725B | 704772 | 4325 | Rapley Property | Great Falls | 11/21/2007 | $3,856.90 | $375,814.60 | $243.98 | Report |
| 20160728B | 505655 | 4239 | Ray Judd Ford Inc | Red Lodge | 7/24/2001 | $1,492.33 | $6,193.09 | | Report |
| 20160804A | 6015135 | 4723 | Tire-Rama Found Tanks | Havre | 7/14/2009 | $2,555.60 | $182,605.77 | | Monitoring |
| 20160804C | 9995133 | 4901 | First Interstate Bank | Great Falls | 3/1/2013 | $1,086.71 | $27,240.60 | | Monitoring |
| 20160816B | 704772 | 4325 | Rapley Property | Great Falls | 11/21/2007 | $513.75 | $375,814.60 | $293.86 | Project Management |
| 20160816C | 3602359 | 4957 | Packys | Malta | 7/15/2014 | $147.99 | $52,998.70 | $409.21 | Report |
| 20160825B | 2106481 | 3453 | Heltnes Service Center | Havre | 10/27/1999 | $600.00 | $167,661.81 | | Project Management |
| 20160825D | 5605746 | 1570 | Kwik Way 19 | Billings | 4/2/1997 | $3,378.00 | $144,143.44 | | Well Abandonment |
| 20160826A | 700004 | 1728 | Black Eagle Cenex | Great Falls | 11/4/1994 | $2,527.00 | $133,576.81 | | Laboratory Analysis w/fee |
| 20160826B | 702988 | 3533 | Pro Lube 2 | Great Falls | 8/7/2001 | $1,235.92 | $2,502.39 | | Soil Borings |
| 20160829A | 804017 | 499 | Robertson Oil Co Big Sandy | Big Sandy | 11/26/1991 | $768.00 | $700,489.84 | | Project Management |
| 20160829B | 9995133 | 4901 | First Interstate Bank | Great Falls | 3/1/2013 | $2,067.00 | $27,240.60 | $24.00 | Laboratory Analysis w/fee |
| 20160829C | 6015135 | 4723 | Tire-Rama Found Tanks | Havre | 7/14/2009 | $3,168.00 | $182,605.77 | $36.00 | Laboratory Analysis w/fee |
| 20160829G | 2906376 | 3689 | Farmers Union Oil Co Circle | Circle | 4/15/2015 | $6,168.00 | $50,026.09 | | Miscellaneous |
| 20160804F | 2501025 | 4031 | Allen Oil Bulk Plant | Helena | 9/26/2005 | $1,878.75 | $48,978.02 | $780.00 | |
| 20160831A | 6015101 | 3912 | Former Dodson Conoco | Dodson | 5/19/2009 | $6,657.53 | $35,398.19 | | Mobilization |

**18 claims in the report**

***Total Reimbursement:*** **$50,820.34**

| Claim ID | Facility ID | Release ID | Facility Name | City | Initial Claim | Reimbursement | Cumulative Reimb | Adjustments | Task Description |
|---|---|---|---|---|---|---|---|---|---|

**Reviewed for Reimbursement by:** _____ **Date** 9/21/16

**Approved for Reimbursement by:** _____ **Date** 9/23/16

# Petroleum Tank Release Compensation Board

## Weekly Reimbursement Summary for 9/21/2016

Org Unit: 993050
Account: 67201

| Claim ID | Facility ID | Release ID | Facility Name | City | Initial Claim | Reimbursement | Cumulative Reimb | Adjustments | Task Description |
|---|---|---|---|---|---|---|---|---|---|
| 20160527K | 2501025 | 4031 | Allen Oil Bulk Plant | Helena | 9/26/2005 | $11,735.92 | $60,713.94 | $8,030.66 | Monitoring Well Installation |
| 20160808F | 4706099 | 4250 | Bruces Quick Lube Inc | Butte | 3/4/2005 | $8,692.41 | $145,068.90 | | Miscellaneous |
| 20160823E | 2503466 | 3677 | Conoco Pop Inn | Helena | 3/23/1999 | $5,876.86 | $653,403.14 | $30.00 | Lab |
| 20160825C | 1800137 | 3076 | Cut Bank Municipal Airport | Cut Bank | 11/30/2012 | $4,819.93 | $35,764.17 | | Laboratory Analysis w/fee |
| 20160829F | 1804137 | 3424 | Ben Taylor Inc | Cut Bank | 5/17/1999 | $1,917.19 | $392,453.71 | | Mobilization |
| 20160829K | 2108068 | 3537 | Holiday Stationstore 272 | Havre | 4/16/1999 | $6,715.24 | $83,360.44 | $8.86 | Report |
| 20160831B | 6015101 | 3912 | Former Dodson Conoco | Dodson | 5/19/2009 | $12,114.81 | $47,513.00 | | Soil Removal |
| 20160906A | 9995040 | 4941 | Red Lion Hotels | Kalispell | 11/15/2013 | $2,198.60 | $186,476.63 | | Laboratory Analysis w/fee |
| 20160906B | 502954 | 2237 | Blacks Service Station | Belfry | 12/13/1995 | $1,607.04 | $104,465.62 | $183.04 | Miscellaneous |
| 20160907A | 3704038 | 411 | MDT 32 Conrad Site | Conrad | 10/6/1992 | $6,163.30 | $32,497.16 | $459.45 | Laboratory Analysis w/fee |
| 20160913A | 4808691 | 4028 | Town Pump Inc Columbus | Columbus | 7/19/2001 | $1,325.00 | $436,646.36 | | Mobilization |
| 20160915D | 4808691 | 4028 | Town Pump Inc Columbus | Columbus | 7/19/2001 | $927.50 | $436,646.36 | | Free Product Activities |

**12 claims in the report** — ***Total Reimbursement:*** **$64,093.80**

**Reviewed for Reimbursement by:** _____ **Date** 9/21/16

**Approved for Reimbursement by:** _____ **Date** 9/26/16

# Petroleum Tank Release Compensation Board

## Weekly Reimbursement Summary for 10/5/2016

Org Unit: 993050
Account: 67201

| Claim ID | Facility ID | Release ID | Facility Name | City | Initial Claim | Reimbursement | Cumulative Reimb | Adjustments | Task Description |
|---|---|---|---|---|---|---|---|---|---|
| 20160311A | 5405552 | 719 | Bobs Chevron | Harlowton | 1/16/1992 | $2,249.52 | $13,469.00 | | Work Plan |
| 20160914B | 9995036 | 4436 | Wells Fargo Bank & Parking Lot | Kalispell | 6/7/2006 | $390.00 | $49,419.18 | | Work Plan |
| 20160919A | 5605323 | 3765 | Langs Cemetery Service Inc | Billings | 11/15/1999 | $6,900.00 | $27,511.41 | | Miscellaneous |
| 20160919D | 3708692 | 1277 | Town Pump Inc Conrad | Conrad | 9/16/1992 | $728.25 | $134,062.24 | | Laboratory Analysis w/fee |
| 20160919I | 5608671 | 2007 | Town Pump Inc Billings 2 | Billings | 1/19/1994 | $2,983.19 | $321,181.44 | | Laboratory Analysis w/fee |
| 20160919J | 5604534 | 4284 | Former Walters Bulk Plant | Billings | 9/24/2008 | $2,283.20 | $65,803.80 | | Report |
| 20160311F | 4002755 | 4948 | Farmers Union Oil Bulk Plant | Terry | 4/27/2015 | $460.00 | $21,912.87 | | Work Plan |
| 20160804B | 6015014 | 4435 | Superior Lube | Havre | 10/7/2005 | $1,506.96 | $343,091.48 | | Monitoring |
| 20160808A | 1513373 | 4494 | Department of Military Affairs | Kalispell | 3/1/2010 | $1,986.15 | $91,106.06 | | Monitoring |
| 20160808D | 9995145 | 4962 | Whitefish Credit Union | Kalispell | 1/8/2014 | $6,174.10 | $41,300.62 | | Laboratory Analysis w/fee |
| 20160812B | 403456 | 3946 | Town Pump Inc Townsend | Townsend | 10/20/2000 | $8,498.00 | $112,578.43 | | Rem Sys Install |
| 20160829I | 4209718 | 4282 | Superpumper Inc 23 | Sidney | 1/26/2004 | $6,633.93 | $38,532.65 | | Monitoring Well Installation |
| 20160829J | 4209718 | 4282 | Superpumper Inc 23 | Sidney | 1/26/2004 | $16,688.00 | $38,532.65 | $1,037.39 | Laboratory Analysis w/fee |
| 20160914A | 5613787 | 3151 | Former Roberts Exxon | Roberts | 9/28/2001 | $2,940.00 | $54,646.87 | | Well Abandonment |
| 20160915E | 4905153 | 104 | Oie Motor Co Inc | Big Timber | 10/21/1999 | $527.97 | $350,845.40 | $2.00 | Miscellaneous |
| 20160915F | 4905153 | 4213 | Oie Motor Co Inc | Big Timber | 7/30/1999 | $527.97 | $128,094.37 | $2.00 | Miscellaneous |

**16 claims in the report** — ***Total Reimbursement:*** **$61,477.24**

**Reviewed for Reimbursement by:** [signature] **Date** 10/5/16

**Approved for Reimbursement by:** [signature] **Date** 10/11/16

# Petroleum Tank Release Compensation Board

## Weekly Reimbursement Summary for 10/12/2016

Org Unit: 993050
Account: 67201

| Claim ID | Facility ID | Release ID | Facility Name | City | Initial Claim | Reimbursement | Cumulative Reimb | Adjustments | Task Description |
|---|---|---|---|---|---|---|---|---|---|
| 20160923A | 5605087 | 347 | Kwik Way 11 | Billings | 11/15/1991 | $10,836.50 | $757,814.49 | | Well Abandonment |
| 20160923E | 907083 | 2938 | Cenex Harvest States | Miles City | 10/27/1997 | $242.00 | $795,330.83 | | Laboratory Analysis w/fee |
| 20160923H | 4611342 | 4615 | Herman Oil Inc Homestead | Homestead | 2/18/2014 | $5,364.54 | $42,311.34 | | Monitoring |
| 20160713B | 706926 | 2051 | Flying J Inc Great Falls | Great Falls | 5/2/1996 | $2,466.08 | $268,312.27 | | Report |
| 20160923J | 4002755 | 2619 | Farmers Union Oil Bulk Plant | Terry | 8/31/1995 | $60.50 | $145,363.76 | | Laboratory Analysis w/fee |
| 20160927B | 4611342 | 4615 | Herman Oil Inc Homestead | Homestead | 2/18/2014 | $1,930.00 | $42,311.34 | | Laboratory Analysis w/fee |
| 20160812D | 1605753 | 294 | Flying J Inc | Belgrade | 7/11/1990 | $2,954.75 | $92,992.12 | $19.00 | Report |
| 20160829L_CA | 5202352 | 973 | Sanders General Store | Sanders | 8/29/2016 | $0.00 | $0.00 | $10,911.02 | |
| 20160913B | 5604959 | 3065 | Yellowstone Boys & Girls Ranch | Billings | 4/10/2003 | $4,671.59 | $15,044.98 | | Well Installation |
| 20160919K | 5613941 | 3855 | Chevron Gas Station & Bulk Plant | Miles City | 7/19/2013 | $658.63 | $14,704.36 | $175.00 | Monitoring |
| 20160922A | 5604951 | 760 | West Parkway | Billings | 2/12/1992 | $306,236.17 | $389,277.78 | $306.88 | Soil Removal |
| 20160922B | 5604951 | 4496 | West Parkway | Billings | 12/18/2006 | $31,965.37 | $35,495.32 | $30,700.34 | Soil Removal |
| 20160906C | 209709 | 3593 | Camp Custer Service | Hardin | 8/4/2000 | $1,778.86 | $50,445.57 | | Miscellaneous |
| 20160922C | 5605087 | 347 | Kwik Way 11 | Billings | 11/15/1991 | $4,663.60 | $757,814.49 | | Report |

**14 claims in the report** **Total Reimbursement: $373,828.59**

**Reviewed for Reimbursement by:** _____ **Date** 10/20/16

**Approved for Reimbursement by:** _____ **Date** 10/24/16

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Back to Agenda

November 7, 2016
ACTION ITEM

**CLAIMS OVER $25,000.00 ***
**November 7, 2016**

| Location | Facility Name | Facility-Release ID Numbers | Claim# | Claimed Amount | Adjustments | Penalty | Co-pay | Estimated Reimbursement |
|---|---|---|---|---|---|---|---|---|
| Miles City | The Short Stop Store | 904443 - 4800 | 20140627A | $876,476.05 | $58,390.00 | $613,564.54 (75%) | $16,608.48 (copay is met with this claim) | $187,913.03 |
| Miles City | The Short Stop Store | 904443 - 4800 | 20150609A | $38,035.48 | $7,058.55 | $23,232.70 (75%) | -0- | $7,744.23 |
| **Total** | | | | **$914,511.53** | | | | **$195,657.26** |

* 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** 10/24/16

**Board Approval by:** _____ **Date** _____

# Petroleum Tank Release Compensation Board

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

September 21, 2016

The Short Stop Store (OWNER)
Frank Ngo
16 N 7th St
Miles City, MT 59301 - 3110

Location Miles City
Facility ID 904443
Facility Name The Short Stop Store

**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: 20140627A Release ID: 4800 Ordinal: 1

Claim Amount: $876,476.05 Reimbursement To-date: $891.52

**Adjustments:**

| Action | Amount | Comment |
|---|---|---|
| Reduced | $541.00 | 2012 - Principal charges reduced to project manager rate DEQ Invoice #1300002 |
| Reduced | $48.26 | 2014 - Principal charges reduced to project manager rate DEQ Invoice #1200005,7 & 15 |
| Reduced | $250.90 | 2013 - Principal charges reduced to project manager rate DEQ Invoice #1200005,7 & 15 |
| Reduced | $703.33 | 2012 - Principal charges reduced to project manager rate DEQ Invoice #1200005,7 & 15 |
| Reduced | $795.30 | 2011 - Principal charges reduced to project manager rate DEQ Invoice #1200005,7 & 15 |
| Reduced | $838.44 | 2010 - Principal charges reduced to project manager rate DEQ Invoice #1200005,7 &15 |
| Reduced | $48.26 | 2014 - Principal charges reduced to project manager rate DEQ Invoice #1400007 |
| Reduced | $55.76 | 2013 - Principal charges reduced to project manager rate DEQ Invoice #1400007 |
| Reduced | $22.40 | 2011 - Principal charges reduced to project manager rate DEQ Invoice #1400007 |

| | | |
|---|---|---|
| Reduced | $83.64 | 2013 - Principal charges reduced to project manager rate DEQ Invoice #1400004 |
| Reduced | $216.40 | 2012 - Principal charges reduced to project manager rate DEQ Invoice #1300011 |
| Reduced | $111.52 | 2013 - Principal charges reduced to project manager rate DEQ Invoice #1300017 |
| Reduced | $135.25 | 2012 - Principal charges reduced to project manager rate DEQ Invoice #1300017 |
| Denied | $9,312.81 | DEQ indirects - on DEQ Personnal Services |
| Denied | $42,733.63 | All other undocumented direct DEQ personnel labor charges (Credit given to Aaron for travel time) |
| Denied | $242.17 | Invoice #1200005. Celluar phone charges are not reimburseable. |
| Denied | $20.67 | Invoice #1200005. Postage and mailing charges are not reimbursable. |
| Denied | $156.82 | Invoice #1200015. Postage and mailing charges are not reimbursable. |
| Denied | $3.00 | Invoice #1300007. Postage and mailing charges are not reimbursable. |
| Denied | $3.46 | Invoice #1300017. Postage and mailing charges are not reimbursable. |
| Denied | $620.00 | Invoice # 1200007. Org 482105. Account #62512 - Storage<br>This was actually laboratory charges that have not been documented. |
| Denied | $22.23 | 2013 Admin Support - DEQ Invoice #1300017 |
| Denied | $21.59 | 2012 Admin Support - DEQ Invoice # 1300017 |
| Denied | $1.61 | Invoice #1300011. Postage and mailing charges are not reimbursable. |
| Denied | $10.78 | 2012 Admin Support - DEQ Invoice #1300007 |
| Denied | $118.72 | 2012 Admin Support - DEQ Invoice #1300002 |
| Denied | $20.84 | 2011 Admin Support - DEQ Invoice #1300002 |
| Denied | $22.23 | 2013 Admin Support - DEQ invoice #1200005,7 & 15 |
| Denied | $188.96 | 2013 Admin Support - DEQ invoice #1200005,7 &15 |
| Denied | $183.47 | 2012 Admin Support - DEQ invoice $1200005,7 & 15 |
| Denied | $385.45 | 2011 Admin Support - DEQ invoice $1200005,7 & 15 |
| Denied | $172.00 | 2010 Admin Support - DEQ Invoice #1200005,7 & 15 |
| Denied | $22.23 | 2014 Admin Support - DEQ Invoice # 1400007 |
| Denied | $77.81 | 2013 Admin Support - DEQ Invoice # 1400007 |
| Denied | $20.84 | 2011 Admin Support - DEQ Invoice # 1400007 |
| Denied | $66.69 | 2013 Admin Support - DEQ Invoice # 1400004 |
| Denied | $75.55 | 2012 Admin Support - DEQ Invoice # 1300011 |
| Denied | $6.00 | Aaron Anderson expense voucher dated Feb 2011 - Purchase of tire rotation |

| | | |
|---|---|---|
| Denied | $19.99 | Aaron Anderson expense voucher dated Dec 2010 - Purchase of work gloves |
| Denied | $9.99 | Aaron Anderson expense vouched dated Nov 2010 - Purchase of fuel can |
| Penalty | $613,564.54 | A 75% adjustment has been made to this claim due to an Administrative Penalty Order issued 9/12/2011 and resolved 9/12/2011. |

**Total Adjustment** $671,954.54

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

Sincerely,

Ross Eaton
Fund Cost Specialist

20140627A

**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 406-841-5094 or e-mail jaadolph@mt.gov .

| **1. Facility and Petroleum Release Information** | |
|---|---|
| Name of Facility: | Short Stop |
| Street Address: | 16 N. 7th Street |
| City: | Miles City MT |
| DEQ Facility Identification Number: | 09-04443 |
| DEQ Petroleum Release Number: **(only one release #)** | 4800 |

| **2. Owner – Name and Address** | | **3. Operator – Name and Address** | | **4. Payee – Name and Address** | |
|---|---|---|---|---|---|
| Frank Ngo and Frank's Short Stop | | Frank Ngo and Frank's Short Stop | | MT DEQ LUST Trust Program | |
| 16 N. 7th Street | | 16 N. 7th Street | | PO Box 200901 | |
| Miles City MT 59301 | | Miles City MT 59301 | | Helena MT 59620-0901 | |
| Attn: | Kelly J. C. Gallinger (attorney) | Attn: | Kelly J. C. Gallinger (attorney) | Attn: | Jeff Kuhn |
| Phone Number: | (406) 247-2824 | Phone Number: | (406) 247-2824 | Phone Number: | (406) 841-5055 |
| Fax Number: | | Fax Number: | | Fax Number: | |
| Email Address: | kgallinger@brownfirm.com | Email Address: | kgallinger@brownfirm.com | Email Address: | jkuhn@mt.gov |
| 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** | |
|---|---|---|---|---|---|
| MT DEQ LUST Trust Program | | Olympus Technical Services, Inc. | | Patrick Skibicki | |
| PO Box 200901 | | 765 Colleen Street | | PO Box 200901 | |
| Helena MT 59620-0901 | | Helena MT 59604 | | Helena MT 59620-0901 | |
| Attn: | Jeff Kuhn | Attn: | Alan Stine | Attn: | Patrick Skibicki |
| Phone Number: | (406) 841-5055 | Phone Number: | (406) 443-3087 | Phone Number: | (406) 841-5054 |
| Fax Number: | | Fax Number: | | Fax Number: | |
| Email Address: | jkuhn@mt.gov | Email Address: | | Email Address: | pskibicki@mt.gov |
| 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):** | $876,476.05 |
|---|---|

E-MAILED
6-27-14
Ngo, Gallinger
Kuhn, Skibicki

*PTRCB Form 3 – Revised 9/17/2013*

**Facility Name:** Short Stop **Facility #** 09-04443 **Release#** 4800

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 # see below CAP Date: _____

**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 |
|---|---|---|---|---|
| | DEQ LUST Trust Invoice 4B1200005 | | $557,991.34 | See Attachments |
| | DEQ LUST Trust Invoice 4B1200007 | | $25,547.80 | See Attachments |
| | DEQ LUST Trust Invoice 4B1200015 | | $38,984.40 | See Attachments |
| | DEQ LUST Trust Invoice 4B1300002 | | $92,525.69 | See Attachments |
| | DEQ LUST Trust Invoice 4B1300007 | | $12,408.24 | See Attachments |
| | DEQ LUST Trust Invoice 4B1300011 | | $30,696.30 | See Attachments |
| | DEQ LUST Trust Invoice 4B1300017 | | $26,145.10 | See Attachments |
| | DEQ LUST Trust Invoice 4B1400004 | | $52,830.24 | See Attachments |
| | DEQ LUST Trust Invoice 4B1400007 | | $39,346.94 | See Attachments |
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| | | | | |
| **Total** | | $0.00 | $876,476.05 | |

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: Short Stop Facility # 09-04443 Release # 4800

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 _____

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.

Jeffrey A. Kuhn
Claimant Signature

6-27-14
Date

Jeffrey A. Kuhn
Typed Name of Claimant

State of Montana

County of Lewis and Clark

Signed and Sworn before me on this day 06/27/2014 by Jeffrey A Kuhn
Date

PENNEY OSTLER CLARK
NOTARIAL SEAL
STATE OF MONTANA

PENNEY OSTLER CLARK
(SEAL) NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
March 6, 2015

Penney Ostler Clark
Notary Public

Penney Ostler Clark
Printed or typed

Notary Public for the State of MT
Residing at Helena MT
My Commission Expires 03/06/2015

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

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

May 10, 2016

The Short Stop Store (OWNER)
Frank Ngo
16 N 7th St
Miles City, MT 59301 - 3110

Location Miles City
Facility ID 904443
Facility Name The Short Stop Store

**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: 20150609A Release ID: 4800 Ordinal: 2

Claim Amount: $38,035.48 Reimbursement To-date: $0.00

**Adjustments:**

| Action | Amount | Comment |
|---|---|---|
| Reduced | $170.55 | Olympus Invoice # 12292 - Principal charges reduced to Project Engineer/Scientist/Geologist rate. |
| Reduced | $30.52 | Olympus Invoice # 11888 - Senior Project Manager charges reduced to Project Engineer/Scientist/Geologist rate. |
| Denied | $23.10 | Olympus Invoice # 12551 - Admin Support disallowed (ARM 17.58.342(2)(d)). |
| Denied | $86.88 | Olympus Invoice # 12506 - Equipment shipping disallowed (ARM 17.58.342(3)(d)). Admin Support disallowed (ARM 17.58.342(2)(d)). |
| Denied | $31.50 | Olympus Invoice # 12212 - Admin Support disallowed (ARM 17.58.342(2)(d)). |
| Denied | $10.50 | Olympus Invoice # 12094 - Admin Support disallowed (ARM 17.58.342(2)(d)). |
| Denied | $10.50 | Olympus Invoice # 12037 - Admin Support disallowed (ARM 17.58.342(2)(d)). |
| Denied | $10.50 | Olympus Invoice # 12004 - Admin Support disallowed (ARM 17.58.342(2)(d)). |

# Petroleum Tank Release Compensation Board

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


| | | |
|---|---|---|
| Denied | $10.50 | Olympus Invoice # 11930 - Admin Support disallowed (ARM 17.58.342(2)(d)). |
| Denied | $27.95 | Olympus Invoice # 11888 - Report shipping disallowed (ARM 17.58.342(2)(a)). Admin support disallowed (ARM 17.58.342(2)(d)). |
| Denied | $6,600.80 | DEQ Invoice # 4B1500002 - Accounting services disallowed (ARM 17.58.342(2)(b)(d)). Attorney fees and legal costs not reimbursable (75-11-307(2)(d) MCA). |
| Denied | $45.25 | Olympus Invoice # 12292 - Report shipping disallowed (ARM 17.58.342(2)(a)). Admin Support disallowed (ARM 17.58.342(2)(d)). |

**Total Adjustment** $7,058.55

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

Sincerely,

Ross Eaton
Fund Cost Specialist

20150609A

**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: | Short Stop |
| Street Address: | 16 N. 7th Street |
| City: | Miles City, Montana |
| DEQ Facility Identification Number: | 09-04443 |
| DEQ Petroleum Release Number: **(only one release #)** | 4800 |

| **2. Owner – Name and Address** | | **3. Operator – Name and Address** | | **4. Payable to: – Name and Address (Required)** | |
|---|---|---|---|---|---|
| Frank Ngo and Frank's Short Stop | | Frank Ngo and Frank's Short Stop | | MT DEQ LUST Trust Program | |
| 16 N. 7th Street | | 16 N. 7th Street | | PO Box 200901 | |
| Miles City, MT 59301 | | Miles City, MT 59301 | | Helena MT 59620-0901 | |
| Attn: | Kelly J.C. Gallinger (attorney) | Attn: | Kelly J.C. Gallinger (attorney) | Attn: | Jeff Kuhn |
| Phone Number: | (406) 247-2824 | Phone Number: | (406) 247-2824 | Phone Number: | (406) 444-6567 |
| Fax Number: | | Fax Number: | | Fax Number: | |
| Email Address: | kgallinger@brownfirm.com | Email Address: | kgallinger@brownfirm.com | Email Address: | jkuhn@mt.gov |
| 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** | |
|---|---|---|---|---|---|
| MT DEQ LUST Trust Program | | Olympus Technical Services, Inc. | | Patrick Skibicki | |
| PO Box 200901 | | 765 Colleen Street | | PO Box 200901 | |
| Helena MT 59620-0901 | | Helena, MT | | Helena MT 59620-0901 | |
| Attn: | Jeff Kuhn | Attn: | Alan Stine | Attn: | Patrick Skibicki |
| Phone Number: | (406) 444-6567 | Phone Number: | (406) 443-3087 | Phone Number: | (406) 444-6452 |
| Fax Number: | | Fax Number: | | Fax Number: | |
| Email Address: | jkuhn@mt.gov | Email Address: | | Email Address: | pskibicki@mt.gov |
| 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):** | $38,035.48 |
|---|---|

E-Mailed 6/11/15

**Facility Name:** Short Stop **Facility #** 09-04443 **Release#** 4800

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 # see below CAP Date: _____

**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 |
|---|---|---|---|---|
| | DEQ LUST Trust Invoice 4B1500002 | | $38,035.48 | see attachments |
| | | | | |
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| | | | | |
| **Total** | | $0.00 | $38,035.48 | |

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: Short Stop Facility # 09-04443 Release # 4800

**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 _____

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.

Claimant Signature [signature] Date 6-5-15

Typed Name of Claimant Jeffrey A. Kuhn

State of Montana

County of Lewis + Clark

Signed and Sworn before me on this day 6-5-2015 by Jeffrey Kuhn
Date

(SEAL)

JENNIFER ROMINE NOTARIAL SEAL STATE OF MONTANA
JENNIFER ROMINE
NOTARY PUBLIC for the
State of Montana
Residing at East Helena, Montana
My Commission Expires
July 24, 2017

Notary Public [signature]

Printed or typed Jennifer Romine

Notary Public for the State of Montana
Residing at East Helena
My Commission Expires July 24, 2017

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

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**November 7, 2016**
**REPORT ITEM**
**INFORMATIONAL**

# BOARD ATTORNEY REPORT

PTRCB Case Status Report as of October 19, 2016.

| Location | Facility | Facility # & Release # | Disputed/ Appointment Date | Status |
|---|---|---|---|---|
| Great Falls | Cascade County Shops | 07-05708 Release 3051-C1,3051-C2,3051-C3 AND 3051-C4 | Denial of applications | Briefing schedule has been filed with Lewis and Clark District Court. |

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**Petroleum Tank Release Compensation Fund**
**Budget Status Report**
**Operating Statement**
**September 30, 2016**

| | Legislative Approp. | Standard Budget | Rev/Exp through 9/30/2016 | Projected Rev/Exp | Total FY17 Projected Rev/Exp | Projected Fiscal Year End Balance |
|---|---|---|---|---|---|---|
| **Revenues:** | | | | | | |
| MDT Fee Revenue Estimate | 7,332,100 | 7,332,100 | 1,378,669 | 5,781,718 | 7,160,387 | (171,713) |
| Estimated STIP interest earnings | 1,500 | 1,500 | 2,219 | 7,185 | 9,405 | 7,905 |
| Misc Revenue- Settlements | 100,000 | 100,000 | 0 | 0 | 0 | (100,000) |
| **Total Revenues:** | **7,433,600** | **7,433,600** | **1,380,888** | **5,788,903** | **7,169,792** | **(263,808)** |
| **Expenditures:** | | | | | | |
| **(Includes current year expenses only)** | | | | | | |
| **Board** | | | | | | |
| Personal Services | 405,347 | 405,347 | 77,296 | 310,000 | 387,296 | 18,051 |
| Contracted Services | 65,000 | 65,000 | 6,314 | 50,000 | 56,314 | 8,686 |
| Contingent Contract Services | 1,000,000 | 1,000,000 | 0 | 0 | 0 | 1,000,000 |
| Operating | 185,889 | 185,889 | 19,653 | 150,000 | 169,653 | 16,236 |
| Subtotal | 1,656,236 | 1,656,236 | 103,263 | 510,000 | 613,263 | 1,042,973 |
| **DEQ Regulatory** | | | | | | |
| Personal Services | 1,047,621 | 1,047,621 | 165,942 | 800,000 | 965,942 | 81,679 |
| Contracted Services | 16,500 | 16,500 | 721 | 13,500 | 14,221 | 2,279 |
| Operating & Transfers | 477,581 | 477,581 | 54,060 | 310,000 | 364,060 | 113,521 |
| Subtotal | 1,541,702 | 1,541,702 | 220,723 | 1,123,500 | 1,344,223 | 197,479 |
| Long Term Database Funding Approved Under HB10 | 1,617 | 1,617 | | 1,617 | 1,617 | 0 |
| **Administrative Budget Remaining** | | | | | | **1,240,453** |
| **Claims/Loan** | | | | | | |
| Regular Claim Payments | 4,990,000 | 4,590,000 | 209,853 | 3,320,000 | 3,529,853 | 1,060,147 |
| Accrual - FY16 for use in FY17 | | 400,000 | 0 | 400,000 | 400,000 | 0 |
| Loan Repayment (All loans paid in full) | | 0 | 0 | 0 | 0 | 0 |
| Subtotal | 4,990,000 | 4,990,000 | 209,853 | 3,720,000 | 3,929,853 | 1,060,147 |
| **Total Expenses:** | **8,189,555** | **8,189,555** | **533,839** | **5,355,117** | **5,888,956** | **2,300,599** |
| **Increase/(Decrease) of Revenues over Exp as of September 30, 2016** | | | **$847,049** | **$433,786** | **$1,280,836** | |

| Accrual Information | Claims |
|---|---|
| Accrued in FY2016 for use in FY2017 | **570,372** |
| Total Payments | 209,128 |
| Accrual Balance | **361,244** |

| | Fund Balance | Cash Balance |
|---|---|---|
| Beginning Balance | 2,071,513 | 2,866,705 |
| Revenues | 7,169,792 | 7,169,792 |
| Expenditures (affecting balance) | 5,965,090 | 5,926,335 |
| Projected Balance at 6/30/17 | 3,276,214 | 4,110,162 |

| Revenue | | |
|---|---|---|
| Revenue & Transportation Interim Committee Revenue Estimate set 11/20/14 for FY17 | | 6,665,000 |
| Biennial Report Revenue Estimate for FY17 | | 7,290,000 |
| MDT FY17 Revenue Estimate | | 7,332,100 |
| MDT FY17 Revenues Collected | 19% | **1,378,669** |

| Average Monthly Claims | |
|---|---|
| FY17 to 09/30/16 - Current Year Only | **69,951** |
| FY17 to 09/30/16 - Current Year + Accruals | **139,660** |

| Settlements | |
|---|---|
| Settlements received during FY2017 | **0** |
| Settlements received to date | **2,361,687** |

| | |
|---|---|
| Actual Claims Paid in FY 2017 (Current Year + FY 16 Accruals) | **418,981** |

*At $.0075 per gallon sold, the revenue collected this year is equivalent to* ***183.8*** *million gallons sold.*

10/13/2016
REPORT ITEM
INFORMATIONAL

# Cash Flow Analysis - FY17

| | | Actuals | | | Projected | |
|---|---|---|---|---|---|---|
| | July-16 | August-16 | September-16 | October-16 | November-16 | December-16 |
| **Beginning Cash Balance** | **2,866,705.36** | **2,549,796.35** | **2,841,139.43** | **3,276,376.25** | **3,512,379.30** | **3,633,479.30** |
| **Revenue** | | | | | | |
| MDT Revenue ($.0075/gallon) | -1.00 | 669,098.00 | 709,572.00 | 727,718.00 | 614,000.00 | 609,000.00 |
| STIP Earnings | 0.00 | 708.60 | 1,510.86 | 1,785.05 | 600.00 | 600.00 |
| Settlements | | | | | | |
| Other Misc Revenue | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **Total Revenue** | **-1.00** | **669,806.60** | **711,082.86** | **729,503.05** | **614,600.00** | **609,600.00** |
| **Expenditures** | | | | | | |
| Petro Board Claims | 18,568.43 | 123,665.10 | 67,619.84 | 332,000.00 | 332,000.00 | 332,000.00 |
| Petro Board Staff | 9,736.64 | 48,526.20 | 44,999.93 | 50,000.00 | 50,000.00 | 50,000.00 |
| Prior Year Adj & Accrual Payments | 286,491.07 | 76,462.49 | 74,425.01 | 0.00 | 0.00 | 0.00 |
| HB10 Database Expenditures | | | | | | |
| Remediation | 2,111.87 | 129,809.73 | 88,801.26 | 111,500.00 | 111,500.00 | 111,500.00 |
| **Total Expenditures** | **316,908.01** | **378,463.52** | **275,846.04** | **493,500.00** | **493,500.00** | **493,500.00** |
| **Ending Cash Balance** | **2,549,796.35** | **2,841,139.43** | **3,276,376.25** | **3,512,379.30** | **3,633,479.30** | **3,749,579.30** |

10/13/2016
REPORT ITEM
INFORMATIONAL

# Cash Flow Analysis - FY17

| | | | Projected | | | |
|---|---|---|---|---|---|---|
| | January-17 | February-17 | March-17 | April-17 | May-17 | June-17 |
| **Beginning Cash Balance** | **3,749,579.30** | **3,797,679.30** | **3,830,779.30** | **3,767,879.30** | **3,794,979.30** | **3,881,079.30** |
| **Revenue** | | | | | | |
| MDT Revenue ($.0075/gallon) | 541,000.00 | 526,000.00 | 510,000.00 | 520,000.00 | 579,000.00 | 1,155,000.00 |
| STIP Earnings | 600.00 | 600.00 | 600.00 | 600.00 | 600.00 | 1,200.00 |
| Settlements | | | | | | |
| Other Misc Revenue | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **Total Revenue** | **541,600.00** | **526,600.00** | **510,600.00** | **520,600.00** | **579,600.00** | **1,156,200.00** |
| **Expenditures** | | | | | | |
| Petro Board Claims | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 664,000.00 |
| Petro Board Staff | 50,000.00 | 50,000.00 | 70,000.00 | 50,000.00 | 50,000.00 | 90,000.00 |
| Prior Year Adj & Accrual Payments | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| HB10 Database Expenditures | | | | | | 1,617.00 |
| Remediation | 111,500.00 | 111,500.00 | 171,500.00 | 111,500.00 | 111,500.00 | 171,500.00 |
| **Total Expenditures** | **493,500.00** | **493,500.00** | **573,500.00** | **493,500.00** | **493,500.00** | **927,117.00** |
| **Ending Cash Balance** | **3,797,679.30** | **3,830,779.30** | **3,767,879.30** | **3,794,979.30** | **3,881,079.30** | **4,110,162.30** |

**Petroleum Tank Release Compensation Fund**
**Budget Status Report**
**Monthly Expenditure/Projection Summary**
**September 30, 2016**

| EXPENDITURE SUMMARY | PERIOD ENDING 07/31/16 | PERIOD ENDING 08/31/16 | PERIOD ENDING 09/30/16 | PERIOD ENDING 10/31/16 | PERIOD ENDING 11/30/16 | PERIOD ENDING 12/31/16 | PERIOD ENDING 01/31/17 | PERIOD ENDING 02/28/17 | PERIOD ENDING 03/31/17 | PERIOD ENDING 04/30/17 | PERIOD ENDING 05/31/17 | PERIOD ENDING 06/30/17 | FY17 TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **REVENUE** | | | | | | | | | | | | | |
| MDT Fees | -1.00 | 669,098.00 | 709,572.00 | | | | | | | | | | 1,378,669.00 |
| Stip Earnings | | 708.60 | 1,510.86 | | | | | | | | | | 2,219.46 |
| Misc Revenue | | | | | | | | | | | | | 0.00 |
| **Total Revenue** | **-1.00** | **669,806.60** | **711,082.86** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **1,380,888.46** |
| **BOARD** | | | | | | | | | | | | | |
| Personal Services | 9,736.64 | 39,411.83 | 28,147.08 | | | | | | | | | | 77,295.55 |
| Contracted Services | 0.00 | | 6,314.26 | | | | | | | | | | 6,314.26 |
| Contingent Contract Services | | | | | | | | | | | | | 0.00 |
| Operating | 0.00 | 9,114.37 | 10,538.59 | | | | | | | | | | 19,652.96 |
| Subtotal | 9,736.64 | 48,526.20 | 44,999.93 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 103,262.77 |
| **CLAIMS** | | | | | | | | | | | | | |
| Regular CY Claim Payments | 18,568.43 | 123,665.10 | 67,619.84 | | | | | | | | | | 209,853.37 |
| Subtotal | 18,568.43 | 123,665.10 | 67,619.84 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 209,853.37 |
| **DEQ Regulatory** | | | | | | | | | | | | | |
| Personal Services | | 99,909.29 | 66,032.63 | | | | | | | | | | 165,941.92 |
| Contracted Services | | 127.37 | 594.06 | | | | | | | | | | 721.43 |
| Operating | 2,111.87 | 29,773.07 | 22,174.57 | | | | | | | | | | 54,059.51 |
| Subtotal | 2,111.87 | 129,809.73 | 88,801.26 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 220,722.86 |
| **CURRENT YEAR EXPENDITURE TOTALS** | **30,416.94** | **302,001.03** | **201,421.03** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **533,839.00** |
| **PRIOR YEAR EXPENDITURES** | **2,524.96** | **640.51** | **265.15** | | | | | | | | | | |
| **TOTAL EXPENDITURES** | **32,941.90** | **302,641.54** | **201,686.18** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **533,839.00** |
| **Board & DEQ Non-Claim costs** | **11,848.51** | **178,335.93** | **133,801.19** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **323,985.63** |
| **Claims Accrual Payments** | **59,520.38** | **75,447.86** | **74,159.86** | | | | | | | | | | **209,128.10** |
| | | | | | | | | | | | | | **0.00** |

| PROJECTION SUMMARY | PERIOD ENDING 07/31/16 | PERIOD ENDING 08/31/16 | PERIOD ENDING 09/30/16 | PERIOD ENDING 10/31/16 | PERIOD ENDING 11/30/16 | PERIOD ENDING 12/31/16 | PERIOD ENDING 01/31/17 | PERIOD ENDING 02/28/17 | PERIOD ENDING 03/31/17 | PERIOD ENDING 04/30/17 | PERIOD ENDING 05/31/17 | PERIOD ENDING 06/30/17 | FY17 TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **REVENUE** | | | | | | | | | | | | | |
| MDT Fees | | | | 727,718.00 | 614,000.00 | 609,000.00 | 541,000.00 | 526,000.00 | 510,000.00 | 520,000.00 | 579,000.00 | 1,155,000.00 | 5,781,718.00 |
| Stip Earnings | | | | 1,785.05 | 600.00 | 600.00 | 600.00 | 600.00 | 600.00 | 600.00 | 600.00 | 1,200.00 | 7,185.05 |
| **TOTAL REVENUE PROJECTED** | **0.00** | **0.00** | **0.00** | **729,503.05** | **614,600.00** | **609,600.00** | **541,600.00** | **526,600.00** | **510,600.00** | **520,600.00** | **579,600.00** | **1,156,200.00** | **5,788,903.05** |
| **BOARD** | | | | | | | | | | | | | |
| Personal Services | | | | 30,000.00 | 30,000.00 | 30,000.00 | 30,000.00 | 30,000.00 | 50,000.00 | 30,000.00 | 30,000.00 | 50,000.00 | 310,000.00 |
| Contracted Services | | | | 5,000.00 | 5,000.00 | 5,000.00 | 5,000.00 | 5,000.00 | 5,000.00 | 5,000.00 | 5,000.00 | 10,000.00 | 50,000.00 |
| Contingent Contract Services | | | | | | | | | | | | | 0.00 |
| Operating | | | | 15,000.00 | 15,000.00 | 15,000.00 | 15,000.00 | 15,000.00 | 15,000.00 | 15,000.00 | 15,000.00 | 30,000.00 | 150,000.00 |
| Subtotal | 0.00 | 0.00 | 0.00 | 50,000.00 | 50,000.00 | 50,000.00 | 50,000.00 | 50,000.00 | 70,000.00 | 50,000.00 | 50,000.00 | 90,000.00 | 510,000.00 |
| **CLAIMS** | | | | | | | | | | | | | |
| Regular CY Claim Payments | | | | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 664,000.00 | 3,320,000.00 |
| FYE16 Accrual | | | | | | | | | | | | 400,000.00 | 400,000.00 |
| Subtotal | 0.00 | 0.00 | 0.00 | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 332,000.00 | 1,064,000.00 | 3,720,000.00 |
| **DEQ Regulatory** | | | | | | | | | | | | | |
| Personal Services | | | | 80,000.00 | 80,000.00 | 80,000.00 | 80,000.00 | 80,000.00 | 120,000.00 | 80,000.00 | 80,000.00 | 120,000.00 | 800,000.00 |
| Contracted Services | | | | 1,500.00 | 1,500.00 | 1,500.00 | 1,500.00 | 1,500.00 | 1,500.00 | 1,500.00 | 1,500.00 | 1,500.00 | 13,500.00 |
| Operating | | | | 30,000.00 | 30,000.00 | 30,000.00 | 30,000.00 | 30,000.00 | 50,000.00 | 30,000.00 | 30,000.00 | 50,000.00 | 310,000.00 |
| Subtotal | 0.00 | 0.00 | 0.00 | 111,500.00 | 111,500.00 | 111,500.00 | 111,500.00 | 111,500.00 | 171,500.00 | 111,500.00 | 111,500.00 | 171,500.00 | 1,123,500.00 |
| **PROJECTION TOTALS** | **0.00** | **0.00** | **0.00** | **493,500.00** | **493,500.00** | **493,500.00** | **493,500.00** | **493,500.00** | **573,500.00** | **493,500.00** | **493,500.00** | **1,325,500.00** | **5,353,500.00** |



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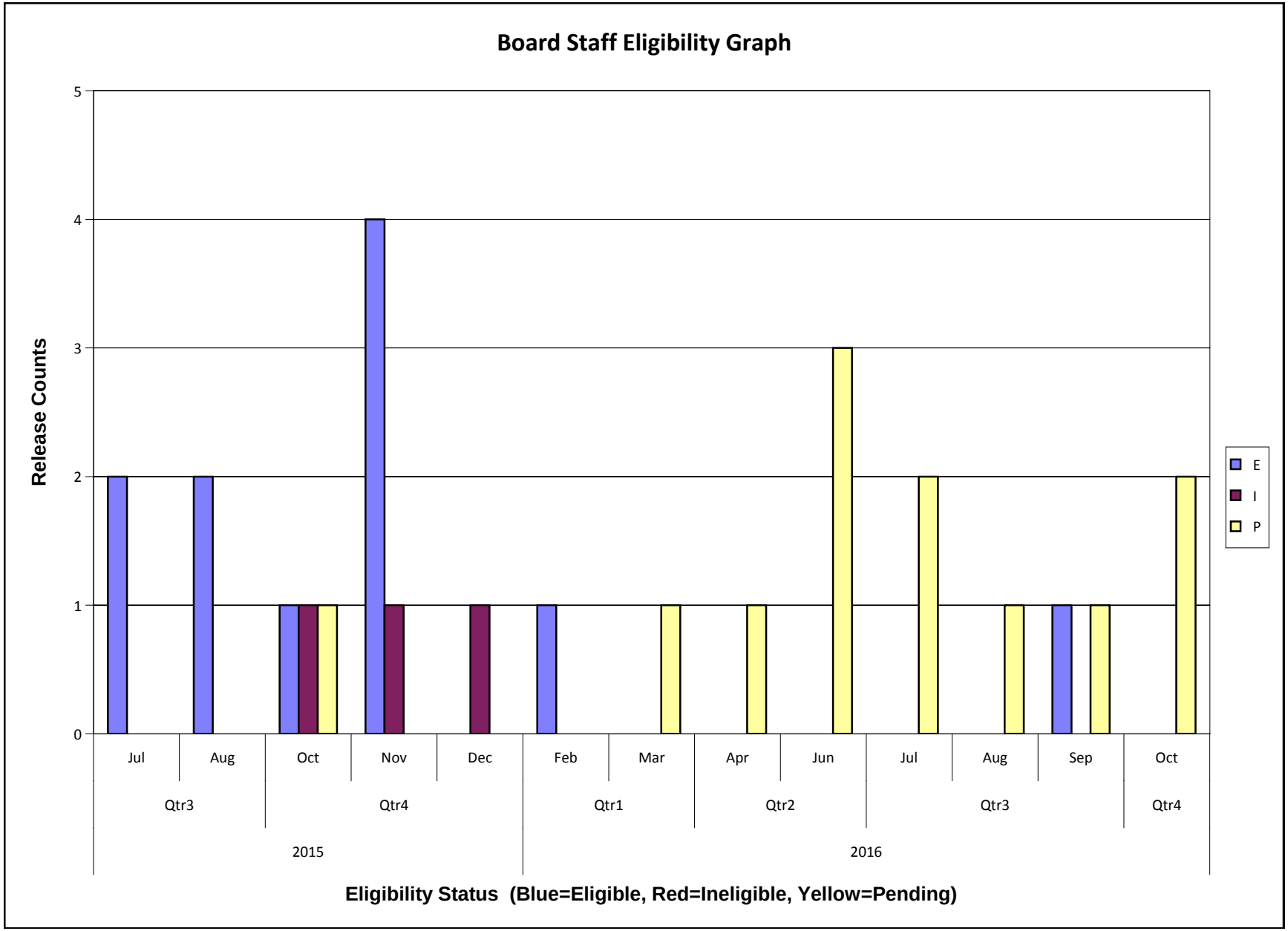
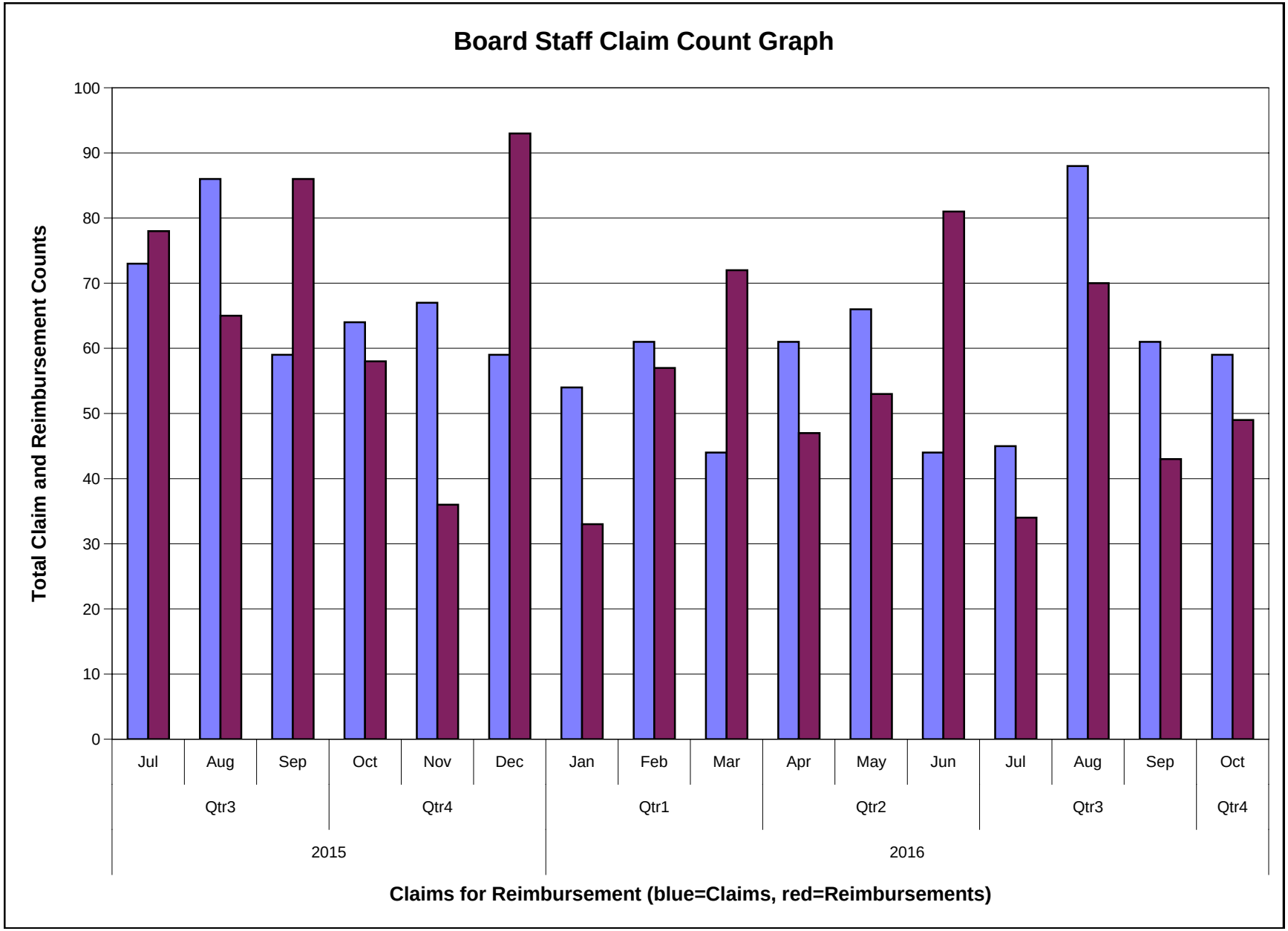
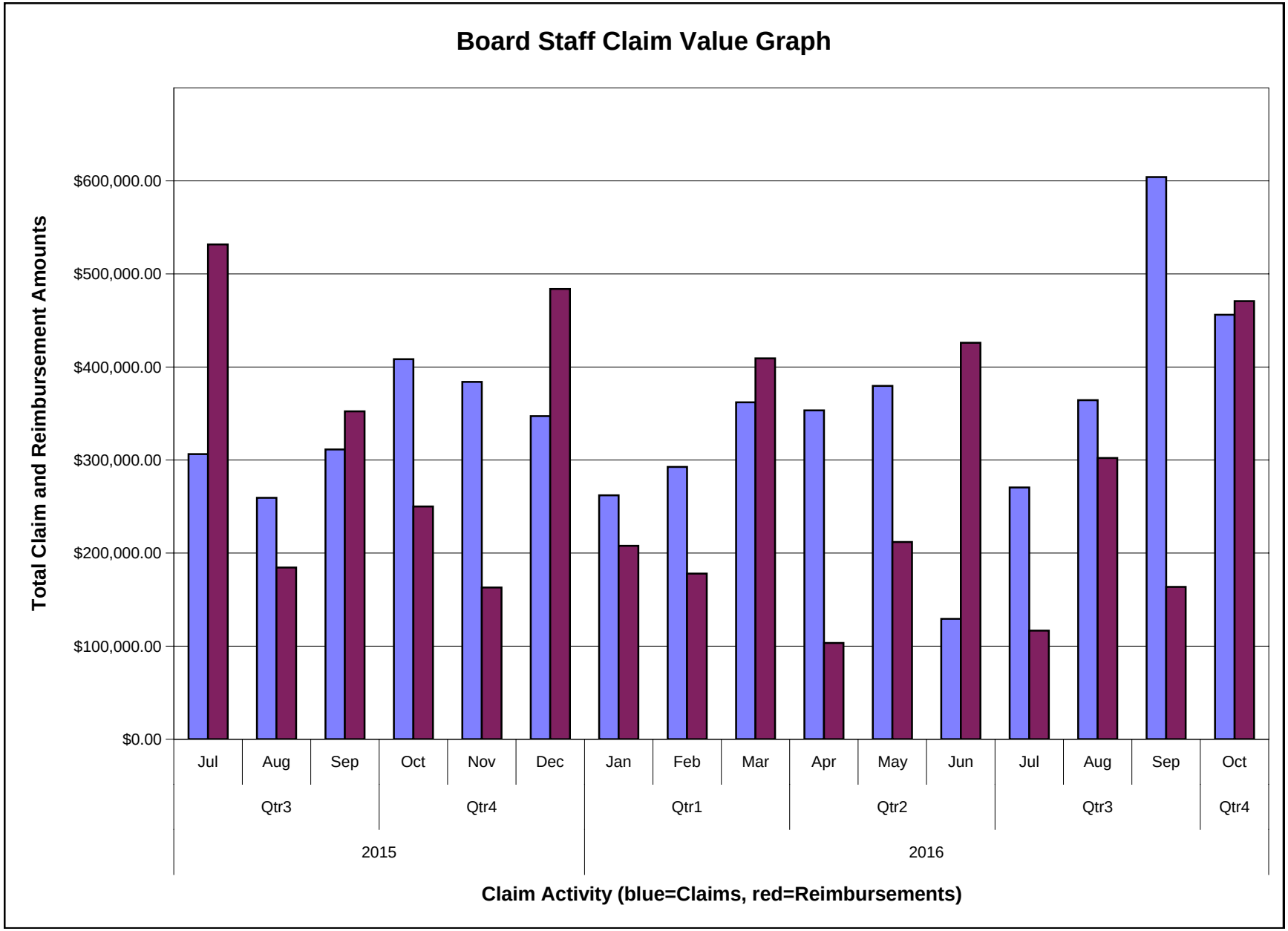
November 7, 2016
REPORT ITEM
Informational




Board Staff Claim Count Graph
Total Claim and Reimbursement Counts
100
90
80
70
60
50
40
30
20
10
0
Jul
Aug
Sep
Oct
Nov
Dec
Jan
Feb
Mar
Apr
May
Jun
Jul
Aug
Sep
Oct
Qtr3
Qtr4
Qtr1
Qtr2
Qtr3
Qtr4
2015
2016
Claims for Reimbursement (blue=Claims, red=Reimbursements)


Board Staff Claim Value Graph
Total Claim and Reimbursement Amounts
$600,000.00
$500,000.00
$400,000.00
$300,000.00
$200,000.00
$100,000.00
$0.00
Jul
Aug
Sep
Oct
Nov
Dec
Jan
Feb
Mar
Apr
May
Jun
Jul
Aug
Sep
Oct
Qtr3
Qtr4
Qtr1
Qtr2
Qtr3
Qtr4
2015
2016
Claim Activity (blue=Claims, red=Reimbursements)

November 7, 2016
REPORT ITEM
Informational

# Petroleum Tank Release Compensation Board

## Work Plans Reviewed and Owner Informed Funds NOT Obligated by Priority as of 10/26/2016

| DATE RECEIVED | FACILITY ID | WORKPLAN NAME | WP ID | RELEASE ID | PRIORITY | (Proj Officer) | COST EST. | FACILITY NAME | WORKPLAN DATE | REGION |
|---|---|---|---|---|---|---|---|---|---|---|
| 3/28/2016 | 3203617 | R-B-WI/SVE/AS/GWM | 10207 | 4769 | 1.3 | (Kinney) | $128,200.46 | Swan Valley Centre | 3/25/2016 | 1 |
| **Total** | **$128,200.46** | **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 |
| 9/10/2015 | 4209718 | C-S-SR/EB/PT | 10105 | 4282 | 1.4 | (McCurry ) | $136,459.70 | Superpumper Inc 23 | 9/4/2015 | 3 |
| 12/4/2015 | 9995118 | R-B-S-EB | 8501 | 4835 | 1.4 | (Pankratz) | $96,900.00 | CarQuest Store | 11/23/2015 | 2 |
| **Total** | **$233,359.70** | **SubTotal Number of Workplans:** | **3** | | | | | | | |
| 3/16/2015 | 907773 | C-S-SR | 7631 | 1669 | 2.0 | (Shearer) | $90,041.00 | Miles City Laundry | 3/10/2015 | 3 |
| 10/17/2016 | 5313598 | R-S-WI/SVE/PT | 10327 | 4333 | 2.0 | (Schiff) | $14,516.60 | Former Mikes Muffler | 8/26/2016 | 3 |
| **Total** | **$104,557.60** | **SubTotal Number of Workplans:** | **2** | | | | | | | |
| 2/2/2016 | 6015226 | R-B-SB/WI/GWM | 9842 | 5042 | 4.0 | (Stremcha) | | Former Barry O'Leary Site | 11/11/2014 | 3 |
| **Total** | | **SubTotal Number of Workplans:** | **1** | | | | | | | |
| 10/21/2016 | 2713694 | F-W-WA | 10359 | 2784 | 5.0 | (Miner) | $1,800.00 | MDOT Right of Way | 10/17/2016 | 1 |
| **Total** | **$1,800.00** | **SubTotal Number of Workplans:** | **1** | | | | | | | |

**Total Number of Workplans: 8** **Total $467,917.76**

# Board Staff Report

## PTRCB ELIGIBLE FACILITIES THAT MAY HAVE SUSPENDED OR ADJUSTED CLAIMS DUE TO SYSTEM VIOLATIONS As of October 1, 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 | 3/29/2016 |
| 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 | 12/17/2015 |
| 2301 | Billings | 56-04839 | Stockton Oil Co | 7/25/2014 | 8/21/14 | 12/17/2015 |
| 2301 | Billings | 56-05074 | Lockwood Interstate Exxon | 7/25/2014 | 8/21/14 | 12/17/2015 |
| 2417 | Billings | 56-06594 | Caseys Corner Store | 7/30/2015 | 9/22/2015 | 12/01/2015 |
| | | | | | | |

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November 7, 2016
REPORT ITEM
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# Petroleum Tank Cleanup Activity Report

**October 24, 2016**

## Summary of Confirmed and Resolved Petroleum Releases

### Petroleum Release Activity since Last Board Meeting – August 24, 2016 to October 24, 2016

| Release Status | Activity |
|---|---|
| Confirmed Releases | 4 |
| Releases Resolved (Closed) | 16 |

### Petroleum Release Activity from - Jan 01, 2016 to October 24, 2016

| Release Status | Activity |
|---|---|
| Confirmed Releases | 18 |
| Releases Resolved (Closed) | 85 |

### Summary of All Petroleum Release Activity to October 24, 2016

| | |
|---|---|
| Total Confirmed Releases | 4,656 |
| Total Resolved Releases | 3,498 |
| Total Active Releases | 1,109 |
| Total Active and Eligible | 699 |
| Active Ineligible | 106 |
| Active Undetermined | 284 |

November 7, 2016
REPORT ITEM
Informational

Facility Name: **Hilger Meats**
Physical Address: **14762 US HWY 191, Hilger MT, 59451**
Facility ID: **14-02289**
Release Number: **4653**
Work Plan ID: **10349**
Priority: 1.4 – **Medium Priority Characterization**

Work Plan 10349

This Work Plan (WP) is required to move Release 4653 toward closure. WP 10349 includes the removal and landfarm remediation of petroleum-impacted soil from the Hilger Meats facility. An estimated 740 yd3 of impacted soil will be excavated from the Facility and will undergo landfarm treatment. Four borings, to be completed as monitoring wells will be installed to define the horizontal extent of soil contamination associated with the former dispenser islands and determine the impact to groundwater. In the fall of 2016 low groundwater monitoring will be conducted and in the spring of 2017 high groundwater monitoring will be conducted to evaluate seasonal variations in groundwater elevations, groundwater flow direction, and contaminant concentrations. The area to be excavated (former dispenser islands) and the proposed well locations are identified on the attached Figure. The complete cost to complete this corrective action plan is $130,000.

Remedial Alternatives Analysis (RAA)

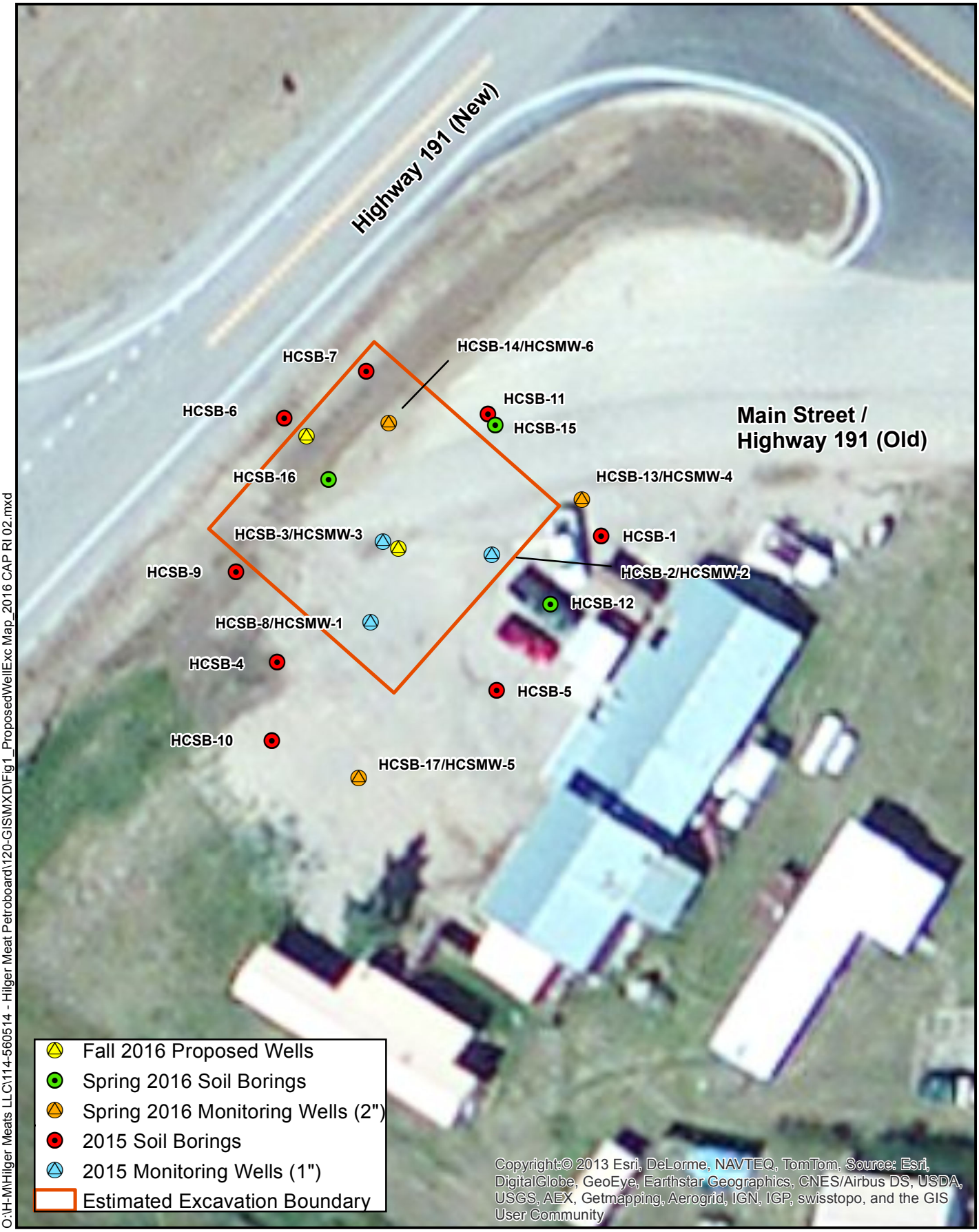
A formal Analysis of Brownfields Cleanup Alternatives (ABCA) was completed in September of 2016 by Weston Solutions. Three remedial alternatives were considered such as no action with monitored natural attenuation, in situ treatment of soils with either oxidation or activated carbon, and excavation were evaluated by the project manager. When weighing these options, excavation appears to be the most effective for timely remediation of soils and costs. Contaminated soils are easily accessible and a land farm is readily available for disposal

History

Hilger Meats is located in the town of Hilger. Larry Bielen is the property owner and responsible party for the petroleum release. The property was used to distribute petroleum products between 1983 and 1985. The facility ceased petroleum distribution in 1985 and the USTs were removed later that year. In 1986 the property was purchased by Mr. Larry Bielen who has utilized the property as a grocery store and meat processing facility till present.

Petroleum contamination was identified beneath the right-of-way in 2008 as part of preconstruction environmental activities. A 24-hour release report was submitted to the MDEQ leaking underground storage tank (LUST) program on January 24, 2008, and Facility ID 14-02289 and Release 4653 were subsequently assigned to the Site. Eleven soil borings which included three monitoring wells were installed in the right-of-way on the north and south sides of Main Street during the MDT preconstruction assessment. The exact location of the borings is unknown. Elevated concentrations of petroleum hydrocarbons were identified in three of the borings at depths of 5, 8, and 10 feet to the northwest and north of the current Hilger Meats building. Concentrations of contaminants above MDEQ Risk Based Screening Levels (RBSLs) included total purgeable hydrocarbons (TPH), benzene, ethylbenzene, C5-C8 aliphatics, C9-C12 aliphatics, and C9-C10 aromatics. Based on groundwater flow direction and the historic presence of USTs and the dispenser island, MDEQ attributes the contamination found along the ROW to be associated with the former gas station that operated onsite prior to the establishment of Hilger Meats (formerly Hilger Country Store). Subsequent investigations in 2015 and 2016 further delineated the

contamination onsite. Based on soil and groundwater analytical data from assessments in 2015 and 2016, the contaminant source associated with the release was determined to have originated from the Hilger Meats property. Soil contamination discovered in newly installed wells included concentrations of benzene, toluene, ethylbenzene, naphthalene, and TPH fractions above MDEQ RBSLs. During the 2015 investigation, the groundwater flow direction was to the north-northeast and all three wells in the vicinity of what was believed to be the former UST basin also had concentrations of the abovementioned constituents above RBSLs.




O:\H-M\Hilger Meats LLC\114-560514 - Hilger Meat Petroboard\120-GIS\MXD\Fig1_ProposedWellExc Map_2016 CAP RI 02.mxd

N

0 50
Feet

Datum: NAD83 StatePlane Montana

**FIGURE 1**
**Proposed Well Locations/Excavation Boundary**
**Hilger Country Store**
**Hilger, Montana**
**August 2016**

# Petroleum Tank Release Compensation Board

## Work Plan Task Costs

**Facility ID:** 1402289 **FacilityName:** Hilger Country Store **City:** Hilger

**Release ID:** 4653 **WP ID:** 10349 **WP Name:** **WP Complete:** ☐ **WP Date:** 08/25/2016

| Task # | Task Name | Phase | Estimated Cost | Actual Cost | Balance | Comment |
|---|---|---|---|---|---|---|
| 1 | Work Plan | | $2,400.00 | | | |
| 2 | Project Management | | $1,845.76 | | | |
| 3 | Mobilization | | $4,068.90 | | | |
| 4 | Fieldwork | | $6,580.00 | | | |
| 5 | Soil Removal | | $85,873.41 | | | |
| 6 | Soil Removal | | $3,702.20 | | | |
| 7 | Well Installation | | $5,337.16 | | | |
| 8 | Survey | | $1,070.00 | | | |
| 9 | Monitoring | | $2,304.72 | | | |
| 10 | Equipment | | $672.00 | | | |
| 11 | Laboratory Analysis w/fee | | $16,482.00 | | | |
| 12 | Lodging/Per Diem | | $1,076.00 | | | |
| 13 | Report | | $4,760.00 | | | |
| 14 | Report | | $1,660.00 | | | |
| | | **Total:** | **$137,832.15** | | | |

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