

AGENDA

PETROLEUM TANK RELEASE COMPENSATION BOARD MEETING

January 27, 2020

10:00 a.m.

Lee Metcalf Building, Room 111, 1520 E 6th Ave,
Helena, MT

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

10:00 Board Meeting

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V. Public Forum

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

VI. Next Proposed Board Meeting date: March 30, 2020

VII. Adjournment

PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
August 26, 2019
Lee Metcalf Building, Room 111, 1520 E 6th Avenue
Helena, MT

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

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

Approval of Minutes June 10, 2019

Mr. Thamke motioned to approve the minutes as presented. Mr. Schnider seconded. The motion was unanimously approved by voice vote.

Discussion and action on the Eligibility Ratification agenda item was addressed immediately following approval of June 10, 2019 minutes. This was done to address the eligibility of the Town Pump Shelby releases and then to allow the Board to focus on the reimbursement adjustment for Town Pump Shelby. Minutes concerning the Eligibility Ratification agenda item can be found below, in the order of the published agenda.

Reimbursement Adjustment Dispute, Facility #51-09749, Releases ##3440, 4143, 4180, 4717, 4771, Town Pump Shelby

Mr. Wadsworth presented the Board with the staff recommendations for the reimbursement adjustment dispute for releases #3440, #4143, #4180, #4717 and #4771 at Facility #51-09749, Town Pump Shelby. Mr. Wadsworth noted that the Board had already ratified the eligibility for Releases #4143 and #4771 earlier in the meeting.

Mr. Wadsworth cited specific laws and rules in explanation of the guidance followed by Board staff that resulted in suspension of claims and listing of violations. The references cited were; §75-11-309(3)(b)(ii), MCA; ARM 17.58.326(1)(f); ARM 17.56.302(1)(a); ARM 17.56.309(1)(a); ARM 17.56.322(2); ARM 17.58.336(7)(a), (c), and (e). He noted that the Board has established criteria to determine that the owner or operator has returned to compliance. The law states that the Board shall consider the effect and duration of the noncompliance in determining any reduction in reimbursement to be imposed. The Board follows ARM 17.58.336(7)(a), (c), and (e) in determining the percentage of allowed claim reimbursement based on duration of days out of compliance. The factors the Board considers, as set forth in law, are: if the noncompliance increased risk to public health or the environment; if there has been a significant additional cost to the Fund; if the delay in compliance was caused by circumstances outside of the control of the owner or operator; if there was an error in the issuance of the administrative order or an error in the determination of the date an administrative order was satisfied; or any other factor that would render use of the reimbursement schedule demonstrably unjust.

Mr. Wadsworth stated that, if there is noncompliance for greater than 180 days, the recommendation, found in ARM 17.58.336(7)(a), is for no reimbursement. He noted that the owner (or facility) was found to be out of compliance for 604 days for lack of corrosion protection. The owner (or facility) was found to be out of compliance for 210 days for lack of spill protection. The owner (or facility) was out of compliance for 115 days for lack of proper corrosion protection. The owner (or facility) was out of compliance for 54 days for failure to meet the inspection deadline. The violation for obtaining permanent non-expiring tags for each tank did not have an available count for days out of compliance. The total days out of compliance on each of the first two stated violations resulted in Board staff suspending all claims and recommending 0% reimbursement until the matter could be brought to the Board for their consideration.

Mr. Breen asked if there was a representative from the Owner that would like to speak. Mr. Don Edmisten, Environmental Services Representative, Town Pump, addressed the Board. He noted that there were five (5) violations mentioned by Mr. Wadsworth. Mr. Edmisten stated that the violation for ARM 17.56.201(1)(b) concerned the need for cathodic protection (CP). On January 17, 2007, the violation letter was sent to the owner. Mr. Edmisten noted that on January 23, 2007, they received a corrective action plan (CAP) from the Department of Environmental Quality (DEQ) to install the CP by October 01, 2012. The permit for this was issued on September

9, 2008 and the corrective action was completed on September 9, 2008. He noted that this violation was cited as deferred maintenance by DEQ, which is a variance. Mr. Edmisten stated that DEQ allowed Town Pump 1,711 days to come into compliance for this violation. There were several variances that allowed for this long time, and allowed the owner to pick the best time within that time frame. Permit 090036 was issued to begin work on September 9, 2008, and the work was completed that same day. This also brought Town Pump back into compliance for this violation. It was conducted within the allotted time set forth by DEQ. Mr. Edmisten concluded that the facility was zero (0) days out of compliance.

Mr. Edmisten addressed the Board staff's note of a violation on March 29, 2004 showing sacrificial anodes were not working properly. He noted that the letter sent by DEQ was stated to be a warning letter, not a violation letter to return into compliance. On May 11, 2004, permit #040173 was issued by DEQ, and testing was done on May 17, 2004. On May 23, 2004, Northland Corrosion installed more sacrificial anodes to bring the facility back into compliance. A compliance inspection, a follow-up inspection, and a re-inspection were all conducted, and the facility was in compliance within the timeline set forth by DEQ in the March 29, 2004 warning letter.

Mr. Edmisten referenced the violation of ARM 17.56.309 that occurred on February 21, 2019. This is a violation for failure to conduct routine compliance inspection 90 days prior to the expiration of the operating permit. Mr. Edmisten stated that Town Pump has a routine compliance inspection, and Town Pump tries to be proactive about this requirement. There were major renovations taking place at the time this inspection was required, and the weather was not very cooperative. The renovations included upgrades to the tank system, and it caused some delay. The contractors set those schedules, so the failure to complete the inspection within the time allotted was due to circumstances outside of the owner's control.

Mr. Edmisten referred to the violation of ARM 17.56.311. This violation occurred on December 15, 2015 and was for not maintaining permanent non-expiring underground storage tank tags. On December 15, 2015, Town Pump emailed DEQ requesting these tank tags. DEQ responded that they would send them out that day. Town Pump received the tags, sent them out to the location with a map and instructions on how to place the tags in the correct place. This is followed up with pictures that confirm the action was completed. Mr. Edmisten stated that he didn't have any other records other than the emails sent, but he indicated that Town Pump has a business process to take care of the issue.

Mr. Edmisten stated that Mr. Wadsworth had already covered the Board's discretion in determining the amount that a facility can be sanctioned according to their own criteria. He stated that the Board could decide not to impose any sanctions, and stated that the facility was brought back into compliance within the time allotted by DEQ, and/or the circumstances were beyond the owners control and the corrective action was taken as quickly as possible.

Mr. Edmisten referenced his July 1, 2019 letter to Board staff that indicated the basis of the dispute centers on ARM 17.58.336(7)(e)(i), (ii), and (iii), and which states the noncompliance has not presented a significant increased threat to public health or the environment; there has been no significant additional cost to the Fund; and the delay in compliance was caused by circumstances outside of the control of the owner or operator.

Mr. Thamke addressed Mr. Edmisten regarding ARM 17.56.311. He asked when the non-expiring permit tags were installed on the tanks at the facility. Mr. Edmisten stated that during the timeframe those were due, Town Pump was going through a restructuring/reorganization, and all he has is the emails he sent. He stated that he did not have any follow up pictures. He noted that they have a business plan that walks the facility technician through placement of the tags in the proper places, and that pictures are taken and submitted to DEQ's Underground Storage Tank Section for validation of completion, so the violation could be closed. He didn't have any further records due to the company's reorganization.

Mr. Thamke asked Leanne Hackney, Section Supervisor, Underground Storage Tank (UST) Section Leak Prevention Program, to address the Board. Mr. Thamke asked Ms. Hackney if Mr. Edmisten was correct in saying that a lot of the violations listed by Board staff were not technically violations. He asked Ms. Hackney if any of the five (5) listed violations were not technically violations in her mind. He asked if she would also concur with the days out of compliance listed by Board staff. Ms. Hackney stated that, based on the information in the file, most of the listed violations were considered violations by her Section.

Ms. Hackney stated that the violation for failure to operate and maintain continuous corrosion protection on an UST, issued on March 20, 2004, is considered a moderate violation. The timeframe it was closed, resulting in 115 days of

noncompliance, is correct. She concurred that most everything listed was a violation, and only disagreed with one of the listed violations by Board staff.

Ms. Hackney stated that she disagreed with the February 21, 2019 violation for failure to conduct a compliance inspection. She stated that while it was true that the facility did not conduct the compliance inspection at least 90 days prior to the expiration of the operating permit, it is not considered a violation. She stated that her program sent out a routine 254 letter. That is a violation letter, but it is used to alert the owner/operator that they are inside of the 90-day requirement. Ms. Hackney stated that they exercise enforcement discretion, and did not issue the violation letter with a CAP.

Mr. Thamke asked Ms. Hackney how the UST program regards the significance of the levels of violation. He also asked if there was something the Board staff would be able to recognize as a significant violation that then would be more salient to eligibility determinations. Ms. Hackney stated that the UST program issues violations based on significance levels of major, moderate and minor. Those reflect the nature of the violation and how that may impact the environment. For example, a major violation may have ramifications, while a moderate violation has less of a potential ramification to the environment. The minor violation is less impact. She stated that a major violation requires a tighter time-frame to address that violation, and that is in keeping with how the UST program views the extent and nature of the impact to the environment and human health.

Mr. Johnson asked if there were any fines issued because of the violations. Ms. Hackney stated that none of the listed violations had fines issued or went to enforcement. She stated that fines are assessed when a violation goes to enforcement.

Mr. Johnson asked if there were any releases reported because of the lack of compliance. Ms. Hackney stated that upon review, DEQ did not find any correlation between the violations being discussed and releases at the facility.

Mr. Johnson asked if there was a difference between noncompliance, a violation, a violation that goes to enforcement, and the severity of a violation. He asked if the more severe violations were sent to enforcement. He also wanted to try and apply the regulations to the severity of violation. Ms. Hackney stated that DEQ considers the extent and nature of a violation, and when the violation was assessed. For example, a facility that did not conduct a compliance inspection before their operating permit expired, and if they have violations of major or moderate significance, those would typically go to enforcement. Ms. Hackney stated that, if a facility has a collection of major and moderate violations, those would be categorized as egregious noncompliance by UST program, and those would be considered for submission to enforcement.

Mr. Johnson asked if Ms. Hackney found noncompliance to be common. He stated that the outcome and objective of inspections is to find noncompliance and to correct it. He asked if noncompliance was technically a violation. Ms. Hackney stated that typically noncompliance is a violation. She restated that her program exercises discretion on those violations.

Mr. Johnson asked whether, if the corrosion protection was found out of compliance, wasn't it just part of the whole inspection process? He noted that it was correctable and part of doing business. Ms. Hackney stated that there were two corrosion protection violations in the current dispute, one in 2004 and one in 2007. She stated that the only way to determine if the system was operating at its maximum potential for corrosion protection is to do the three-year test. In this case, in 2004, the three-year test was done and the corrosion protection on some points of the tank did not meet the standard. The program issued the violation to get it corrected. There is no way that the owner/operator can determine, without the test, that the standard is not met. Ms. Hackney stated that, unfortunately, in cases with corrosion protection and the failure of the test, it simply goes right to the moderate violation. She stated that the owner/operator reacted very quickly and followed through on the CAP issued in 2004. She said that some of the only ways to do preventative measures is through the violation and inspection process.

Mr. Johnson asked if Ms. Hackney was saying that the owner corrected the issue upon knowledge of the violation. Ms. Hackney stated that they did. The owner applied for a permit through the application process shortly after the owner received the remedial action plan, now called the CAP. DEQ issued the CAP on April 7, 2004 and on April 13, 2004, DEQ received the permit application to install additional sacrificial anodes. The work was completed at the site to bring things up to the standard required by DEQ for corrosion protection.

Mr. Johnson stated that of all the releases listed, three (3) occurred before any of the violations listed, and any of the subsequent ones were not related to the compliance issues. Ms. Hackney stated that DEQ did not find any correlation between the releases and the violations being discussed. She stated that the release in 1998, release #3440, was associated with cracked piping. The leak detector identified the cracked pipe, so the leak protection was working. That was prior to 2004, prior to the list of violations under discussion.

Mr. Johnson asked if the facility was up-to-date with the 1998 upgrades that had been required. Ms. Hackney stated that it was.

Mr. Thamke asked Ms. Hackney if she was able to correlate the days for the violations, and if they concurred with the days stated by Board staff on the days out of compliance. Ms. Hackney stated that she was able to address that issue. She stated that reviewing the information provided to the Board concerning the days out of compliance, her files did correlate to what had been provided to the Board.

Mr. Thamke asked whether that was the case for all the listed violations and days out of compliance. Ms. Hackney confirmed that the days out of compliance provided to the Board correlated with totals in her records.

Mr. Thamke asked if the 604 days out of compliance for corrosion protection that was presented was the same in Ms. Hackney's records. He asked if Ms. Hackney agreed with that. Ms. Hackney stated that she agreed. She said that was a 2007 violation and was minor. The owner/operators are given almost three (3) years to correct that violation. It is not considered to be a violation with significant impact to human health or the environment. She stated that there was a CAP that stated the significance and a variance that stated the amount of time allowed to correct the violation. Ms. Hackney stated it is recognized as a lower priority for owner/operators. She indicated that the violation states there is a failure to install corrosion protection on any piping that *may* contain product, which is language from the rules in place in 2007. The federal regulation is not so stringent now, because the rules have changed. Therefore, it is not considered to be a violation that is high impact or importance.

Mr. Thamke asked Ms. Hackney if the letters that were sent out stated that they were a warning letter and the significance of violation. He wanted to determine how Board staff would be able to determine what DEQ regards as a significant violation or not. Ms. Hackney stated that they do issue both a warning letter and a violation letter. The warning letter addresses minor violations, and the violation letter does cover major and moderate violations. Ms. Hackney said the best way to look at significance, the nature and extent, of a violation, is to look at the categorization of major or moderate.

Mr. Thamke asked Mr. Wadsworth if the Board staff review of DEQ records for noncompliance enabled them to differentiate between what is a warning letter, and a significant violation. Mr. Wadsworth stated that Board staff could differentiate between warning and violation letters and the levels of significance. Mr. Wadsworth referenced the change in statutory framework impacting eligibility (about 2005 or 2007). The change in the statutes enabled facilities to be made eligible with a reduction in reimbursement, due to a violation, instead of not being eligible, as was the case before the change.

Mr. Wadsworth noted that, at the time the language regarding eligibility requirements was changed, there was an in-depth look at trying to create Board criteria. There was an effort to correlate significance of violation with the reduction in reimbursement. There was no way to overlap the significance assigned by DEQ and the potential for release, and impact from that release. For example, three (3) months of missing tank inventory records on eight (8) tanks is considered a minor violation by the department, however, not monitoring those tanks for that amount of time is quite a risk to the environment. He said that Miles City Short Stop and Michael's Exxon in Kalispell were two sites that illustrated the significance of not monitoring tanks. If you don't monitor them at all, even for a short period of time, there is a huge risk of having a significant release. The Board and a work group were not able to come up with a way to marry the major, moderate, minor violations to the warning and violation letters and create criteria that covers the associated risks. Therefore, the issues come before the Board allowing the Board to weigh out the circumstances. Mr. Wadsworth stated that the timelines in the table (17.58.336(7)(a)) are sometimes demonstrably unjust in certain circumstances, but it triggers the greater discussion and brings the owner before the Board. This gives the Board the ability to weigh the issues. The tank month table criteria, which also triggers a conversation, has the same outcome of bringing the issue to the Board. Mr. Wadsworth indicated that following the Board laws results in bring these issues before the Board.

Mr. Chenoweth, Attorney for Board, stated that if the Board wanted to move toward a motion, this would be a three-step process of motion and voting. He suggested the Board start with the language in §75-11-309(3), MCA, to address each violation, and whether the Board has determined that the owner/operator has been in compliance. The Board would need to determine if the owner/operator has returned to compliance, if they were found to be out of compliance in the first step. He stated that, if an owner/operator was still found to be out of compliance, he believed that the vote would have to be for denial. The third vote, based on the return to compliance, would consider reimbursement and all the criteria stated in ARM 17.58.336(7)(c). These were his recommendations to the Board in voting on the issues surrounding this dispute.

Mr. Johnson asked if compliance was an issue for DEQ to determine. He affirmed DEQ's note that the owner was in compliance. Mr. Chenoweth noted that DEQ can make that determination, but the statute directs the Board to also make that determination. Before approving reimbursement, the Board shall affirmatively determine that the owner/operator has complied with this section. Upon determination by the Board, that the owner/operator has returned to compliance, then the Board would determine reimbursement.

Mr. Johnson asked if that could be covered in one motion, that the owner had returned to compliance. He based that on DEQ's determination. Mr. Chenoweth stated that the law does make it the Board's issue to determine compliance. It would work if the Board was unanimously in agreement that the owner/operator was in compliance.

Mr. Breen stated it could be a simple motion. Mr. Johnson stated that it could be stated that it was determined that the Owner's tanks were in compliance.

Mr. Johnson asked Mr. Chenoweth to state the issues to be voted on again. Mr. Chenoweth stated that Board staff records, and DEQ records, did show terms of noncompliance. He stated that there were over 180 days of noncompliance. He stated that the Board needs to make the following determinations; was there noncompliance or compliance; if noncompliance did occur, did the owner/operator return to compliance; if the owner/operator did return to compliance, what the appropriate amount of reimbursement would be based on the days out of compliance.

Mr. Johnson asked if the Board could recognize and concur with DEQ's records of noncompliance and resolution of those noncompliance issues. Mr. Chenoweth stated that was fine as long as it was the Board making its own determination.

Mr. Breen asked if anyone was interested in making a motion. **Mr. Johnson made the motion that the Board recognize and concur with DEQ's conclusion regarding the noncompliance and resolution of noncompliance issues as presented by Ms. Leanne Hackney. Mr. Schnider seconded.**

Mr. Chenoweth noted that Board staff recommended 0% reimbursement, and read from statute for the Board to determine their reimbursement. He recommended the Board look at the criteria in ARM 17.58.336(7)(e).

Mr. Breen stated that, in his opinion, Board staff had the issues and days out of compliance correct. He asked if there were any additional issues caused at the site by the lack of compliance. Mr. Edmisten stated that none of the violations contributed to or caused any of the releases at the site. Mr. Wadsworth concurred with Mr. Edmisten.

Mr. Thamke asked how to establish the day count associated with being out of compliance. He stated that Board staff seemed to have a different count than Mr. Edmisten. He stated the Board had to make a determination of how many days the site was out of compliance. He stated that the Board shouldn't penalize facilities for incidental violations that didn't cause any further releases or damages.

Mr. Johnson stated that he wasn't sure if the day count was relevant, because the criteria for determining a reimbursement adjustment was based on additional cost to the Fund, significant increase of risk to human health and environment. He stated that he felt the Board could say that the noncompliance and violation issues were discovered during the normal business process by the owner. He didn't see any mismanagement or anything that would rise to the level that there would be an assessed reduction in reimbursement. He felt the Board could go around the number of days out of compliance. **Mr. Johnson stated he would be willing to make a motion to reimburse at 100%.**

Ms. Rupp asked Ms. Hackney if the noncompliance posed a significant increased threat to public health and the environment. Ms. Hackney stated that the way the violation was viewed was how it may impact the environment. Therefore, the violation for corrosion protection was listed as a moderate violation and it must be corrected within

six (6) months or less. She stated that it is something that could impact the environment if the corrosion protection were to continue to operate at a substandard level. Ms. Hackney indicated that the violation issued in 2007 was a minor violation, and was stated appropriately for how it could impact the environment.

Ms. Rupp asked if there were any documented releases from the failure of corrosion protection. Ms. Hackney stated there was not. She stated that just because a corrosion test may fail, it does not mean the corrosion protection is failing or the material is failing on the underground storage tank system.

Ms. Rupp asked about the criteria the Board uses for consideration, since there are times that there are circumstances outside of the owner/operator's control that cause a delay in compliance. She noted that Mr. Edmisten stated that much of this has to do with a back and forth conversation with DEQ, an administrative process, and that activity accounts for some of the days of noncompliance. Ms. Hackney stated that was correct, and referenced the 2004 violation for corrosion protection. She stated that the owner/operator was proactive and sent in a permit application shortly after the corrective action plan was issued. From there the staff has to review the application and then issue the permit. There was a delay in that time-frame. The owner/operator must work with the licensee (licensed installer/remover) to perform that work, and that is something that can take a while to do. The whole process takes time, and the owner/operator was proactive throughout.

Mr. Johnson asked what the frequency of corrosion protection systems inspection was. Ms. Hackney stated it was every three (3) years. They agreed that the inspection was a snap shot in time.

Mr. Thamke asked Ms. Hackney, if it was safe to say, that when her department got done working through the areas of noncompliance and put in an enforcement request, if putting in an enforcement request was a litmus test for thinking there was a potential for a release that threatens the environment. He asked if that wasn't the time a determination was made by DEQ as to a violation. He wanted to know if the Board staff should make a determination on violations only if there was an enforcement action, not based on violation letters that came before an enforcement request. He stated that, if the Board staff looked at only enforcement actions, they could eliminate all the violation letters from the current proceedings. The review would start at the point where DEQ states that they are worried about a potential threat and are taking enforcement actions. He asked if an enforcement action was taken only because it could result in a potential release. Ms. Hackney indicated that when they send a facility to enforcement it is because there is a genuine threat to the environment.

Mr. Johnson noted, if the proposed process was used the criteria that states the Board can determine reimbursement based on if there is a threat to the environment might only be applicable when an enforcement action is taken by DEQ. He asked, if the noncompliance does present a significant increased threat, would that be the time that DEQ would pursue an enforcement action. Ms. Hackney stated that was a difficult question, and would depend on what the violation pertains to. She stated that is why DEQ has corrective action plans and violations that have different levels of significance. The term "significant increased threat" is subject to interpretation. She stated that the corrective action plans and time-frames are set out to address significance. Ms. Hackney stated this is how DEQ avoids being in a situation where they do have a threat to the environment.

Mr. Johnson asked if the lack of corrosion protection did contribute to the releases. Ms. Hackney stated that none of their investigation showed that there was corrosion to the tank system. She noted that one of the violations was discovered in association with Release #3440 in 1998, and the piping had cracked due to settling. That was not due to corrosion protection or lack thereof.

Mr. Breen asked if a motion could be entertained. **Mr. Schnider seconded the earlier motion. The motion was stated by Mr. Johnson to grant 100% reimbursement to Town Pump Shelby on all eligible releases.**

Mr. Schnider stated that whenever a facility is out of compliance, it is a hurdle to give someone 100% reimbursement. The facility has been out of compliance. If the site had remained in compliance, the issue would not be before the Board. He wanted to discuss if it was right, or fair, to entertain granting 100% reimbursement, when the facility had been out of compliance.

Mr. Wadsworth spoke about the criteria that puts an owner/operator into the situation of being viewed as being out of compliance by the Board. He noted that whether a site is given an Administrative Order or a moderate violation letter, the rules of the Board are written in such a way as to regard all violations as noncompliance. The severity of noncompliance is not the deciding factor, in Board Rule, for determining noncompliance.

Mr. Thamke stated that he didn't want to penalize a facility for a non-significant violation. He noted that there needed to be fairness. He felt that it was the Board's responsibility to make sure that it is clear for Board staff, clear for DEQ as they interact, and it is clear for the regulated community as to the significance and its impact on a site's eligibility. He was not sure there was ever a facility that was 100% compliant all of the time. He stated that the Board needs to come to consensus to provide more guidance.

Mr. Johnson agreed that there is probably not any facility that is in 100% compliance, all of the time. He noted that the inspections are in place to help catch problems before they cause a problem. He said that even though there were noncompliance issues and violations, those are just terms used to describe what the Board is looking at. It is just regular operation and maintenance and proper management of the tank system. He didn't see anything in the issues presented that were egregious.

Mr. Schnider stated that he agreed and wanted to have a quick discussion. Mr. Breen asked if the Board was ready to vote on the motion.

Ms. Rupp concurred with Mr. Schnider regarding the difficulty of granting 100% reimbursement. She noted that the reason there was a proposed cleanup project is because there were multiple releases and many tons of soil had to be removed to clean up the contamination. Even though the facility did their best with corrosion control, there were a bunch of releases, which poses a risk to health and the environment. She felt there should be a lower tier for reimbursement in this situation.

Mr. Johnson stated that having a release is not necessarily a violation. He stated that having multiple releases at a facility was fairly routine. He stated that they could look at some percentages for facilities that had multiple releases. He didn't think the age of the release or the number of releases had any bearing on the reimbursement percentage. There was no linkage to the historical releases, the number of releases and the current violations, or the amount of soil removed for cleanup. He stated that the Board should have a blind eye to what was being proposed. He stated that the Board was trying to penalize someone for having the same kind of release as every other facility, that is covered by the Fund, has had.

It was noted that Mr. Johnson had made a motion to grant 100% reimbursement to Town Pump Shelby. Mr. Schnider had seconded. A vote was taken. The motion was passed, with 5 in approval and 1 against, by a voice vote.

Guarantee of Reimbursement, Cleanup, and Building Removal Funding, WP #10820, Facility #07-06613, Release #1865, Former Bundtrock's Miracle Mile Service, Great Falls

Mr. Wadsworth presented the Board with information on the Bundtrock's Miracle Mile site. He noted that the requested Guarantee of Reimbursement covered building removal and that there was also a work plan over \$100,000 that would be presented during the Petroleum Tank Cleanup Section Report. Mr. Wadsworth stated that the Guarantee was not written requesting any delay in payment and that reimbursement would be made to Great Falls Development Authority in accordance with the normal business process, costs would be reimbursed when they were claimed.

Mr. Wadsworth noted that the building removal, included in the work plan, is required to be approved by the Board per Board rule, ARM 17.58.344(4). The language of this rule requires approval by the Board, in writing, prior to the work being done. Mr. Wadsworth detailed that Board staff is recommending reimbursement for 50% of the cost associated with removal of three buildings, excluding asbestos. The reason for this recommendation is because there is contamination beneath only three of the buildings, and the fourth building, the west storage building, is outside of the area of contamination.

Mr. Johnson asked where the recommendation for 50% was derived. Mr. Wadsworth stated that the recommendation was based on Board staff research which indicated that reimbursement of 50% of the costs required for structure removal allows the property to still be fiscally viable. The Board staff is trying to not unduly enrich the owner, and it has been determined that 50% appears to satisfy reasonable costs reimbursement without enrichment of the owner.

Mr. Johnson stated that there were projects in the past that the Board provided 100% of the building removal cost to be allowed for reimbursement. He asked how this situation would differ from any other overburden that would have to be removed to facilitate cleanup and soil removal. He stated that it seemed arbitrary to cut the costs in half because it makes for better feelings. Mr. Wadsworth stated that Board staff is trying to assess the pros and cons regarding the excavations. In some cases, the owner wants a structure removed and put back in place, and there is no other way to clean a site up. If there is no other way to clean a site up except with the demolition of a building, that is something the Board has to consider. Mr. Wadsworth stated that, in this case, the property is probably more valuable with the structures removed.

Mr. Johnson stated that the Board needed to consider the costs of cleanup being less expensive with the full removal and replacement of the buildings as overburden. He asked if the point of demarcation is an in-situ process versus full soil removal. He asked if that happen at 50% of the building removal, or is it at 75%. Would it be more cost effective to do an in-situ treatment and evaluate those costs over building demolition and soil removal? He stated that enhancement of the property value as it pertains to buildings is not part of the consideration of costs. Mr. Johnson stated that a documentation process that compares costs for those types of treatments may be a better way to arrive at a percentile of reimbursement. He stated that just getting the site cleaned up would improve the property value.

Mr. Johnson stated that, as an environmental consultant, he viewed everything that is in the way of cleanup to be over burden, including septic systems. Anything that must be removed in order to reach the contamination, whether it is a canopy, building or concrete. Mr. Wadsworth stated that the difficulty in this case is that there was not a full suite of alternative's that were provided for the site. That information would have aided in creating a comparison such as Mr. Johnson suggested. Mr. Wadsworth stated that, for example, there could be limited excavation done or horizontal drilling under the buildings to access the contamination there. No information was provided for those types of alternatives.

Mr. Johnson stated that the site was in Great Falls, so it may not have a soil type that would work with the alternatives Mr. Wadsworth suggested. Mr. Wadsworth stated that there could be limited excavation and the site could be closed using a Petroleum Mixing Zone (PMZ). He stated that in Great Falls the contamination is in clay and is unlikely to move.

Mr. Wadsworth stated that Board staff was trying to find something that was fair and equitable for both the Board and the owner. Board staff recognizes that there is one building at the site that is not over contaminated soil and does not need to be removed.

Mr. Johnson asked if there was groundwater contamination under the building. He asked to hear from DEQ about their conclusions and recommendations on the work plan and the alternatives that were considered. Ms. Amy Steinmetz, Petroleum Tank Cleanup Section Supervisor, addressed the Board. She stated that the work plan was for building demolition and removal, as well as excavation of contaminated soil. She agreed that buildings over contaminated soil were the ones needed to be removed to remediate the site.

Ms. Steinmetz noted that the rules state that the owner must develop a remedial alternative analysis (RAA), and select a remedial alternative based on cost, performance, reliability, implementation, safety, and effects on public health and the environment. She stated that the RAA that was provided was the initial analysis. She stated that there was an updated RAA done in 2019 that included in-situ remediation, limited excavation (not including building demolition/removal), and excavation with building demolition/removal. The owner chose excavation with building demolition/removal.

Ms. Steinmetz summarized the costs associated with the updated RAA that the Board did not have in their materials. She stated that demolition and excavation is estimated, with monitoring, to take five years to closure. This alternative is estimated to cost \$675,000. Limited excavation without building removal, is estimated to take 15 years to reach closure. This alternative is estimated to cost over a million dollars, due to additional years of groundwater monitoring and vapor intrusion studies that would need to be done. She stated that comparison of those two alternatives indicates that the building demolition/removal with soil excavation, involving an extra \$20,000 to remove the buildings, is cost effective and reaches closure in a faster timeframe.

Ms. Steinmetz read from the updated RAA, produced by CTA Construction and Environmental (CTA):

Demolition of site structures, followed by full remedial excavation is the preferred alternative. Leaving the structures intact would result in more than half of the estimated petroleum impacted soil being left in place at this site. Alternatively, demolition of structures and full remedial excavation is expected to remove all source material from this site, leaving only a small portion of residual impacted soil along a short section of the south border.

Ms. Steinmetz stated that after DEQ's review, they found that the choice to demolish and remove the buildings, along with excavation of contaminated soils would adequately protect human health, safety and the environment. Therefore, this work plan was approved by DEQ. Ms. Steinmetz indicated that DEQ's Project Manager, Donnie McCurry, Brownfields Coordinator, Brandon Kingsbury, and CTA Consultant, Scott Vosen were all present at the meeting to answer questions.

Mr. Thamke noted that the site map indicated two of the three buildings were trailers. He stated those could be moved off the site, unless they were on -a slab. Ms. Steinmetz deferred the question to the Project Manager or Consultant.

Mr. Brandon Kingsbury, Brownfields Coordinator, addressed the Board. He stated that costs for removal of the mobile structures was included in the bid from Shumaker Trucking. He stated those costs were considered a demolition cost and removal.

Mr. Thamke asked if the buildings were on a slab. Mr. Kingsbury stated that he believed them to be on cinder blocks.

Mr. Thamke asked if the main building had a basement or was on slab only. He stated that it looked like it was directly over the contaminated soil. Mr. Kingsbury stated that the main building was a slab on grade building.

Mr. Johnson asked if DEQ or the consultant saw any reason to remove the fourth building at the site. He asked if there was any smear zone contamination beneath that building. Mr. Kingsbury stated that, based on the current data from the most recent investigation, it does not appear that the west building is impacted. He stated that, if during excavation they find contamination, they would evaluate the scope of work to demolish the fourth building and continue with the excavation.

Mr. Johnson noted that there was no discussion in the work plan regarding dewatering. He asked if there was a potential need for dewatering to be included, and noted that the information indicated water was 5 to 10 feet below the surface. He asked if the consultant wanted to submit a Form 8 to have a frac-tank onsite and available, find a place to dispose of the water, and be ready to deal with dewatering on a precautionary basis. Mr. Kingsbury stated that he believed that to be an appropriate contingency for the site. He stated he didn't know if dewatering needs were addressed in conversations between the consultant and contractor. Mr. Johnson stated that it may be a good time for the consultant to be proactive in getting approval for dewatering, in case it becomes necessary.

Mr. Johnson asked if DEQ and Board staff would accept a Form 8 for dewatering costs. Mr. Schneider asked if it wouldn't be CTA's job to do that. Mr. Breen questioned whether the dewatering considerations needed to be a part of the decisions before the Board given the current topic. He noted that Board staff had made a note that dewatering costs were not included in the work plan, and the Board wasn't there to question the work plan. Mr. Johnson noted that the dewatering wouldn't be recommended for reimbursement because it wasn't part of the approved work plan and wanted to avoid a potential dispute.

Mr. Johnson asked when the work was planned. Mr. Kingsbury stated it was planned for the fall and was based on obligation of the funds.

Mr. Scott Vosen, Consultant, CTA stated that he had a conversation with his sub-contractor on the likelihood of needing dewatering and they stated it was not likely. Mr. Vosen noted that he had passed that information on to Board staff. He stated there is not that much water at the site, and the subcontractor didn't feel there would be enough to warrant a dewatering program. The subcontractor provided estimated amounts if dewatering would be needed, and those were passed on to Board staff.

Mr. Vosen stated that the movement of the onsite trailers were considered demolition costs by DEQ and are stated as such in the work plan.

Mr. Schnider asked about the fourth building that was not on top of contaminated soil. Mr. Vosen stated that the map showing an outline of the area of contamination is only an inferred line of contamination. He stated that some of the data points are old and the contamination may have moved. The fourth building being included in the demolition is preemptive, in case the contamination has moved and is found to be under that building. Mr. Vosen agreed that if the fourth building is not on contaminated soil, the demolition of that building is not something the Fund should have to pay for.

Mr. Johnson asked if dewatering was included in the original budget. Mr. Vosen stated that it was considered but not included, because of the consultation with their subcontractors that submitted bids. They planned for the contingency by passing the information on to the Board staff.

Mr. Johnson asked if that would be able to be worked out with Board staff if it came in on a Form 8. Mr. Wadsworth stated that, since dewatering was not part of the original work plan, the Board staff flagged that as a potential need and potential consideration. He stated that, as of today, it appears that the dewatering is not likely to be needed. He indicated that good documentation and communication is what the Board staff is looking for. He stated Board staff would have liked the information regarding the conversation between with consultant and the subcontractor on not likely needing dewatering to be included as a component of the original work plan. The only reason it was flagged was to raise the issue for further conversation, consideration and documentation.

Mr. Schnider asked if this site was eligible. Mr. Wadsworth stated that it was.

Mr. Schnider moved to cover demolition costs 100% for three buildings, and documentation for the fourth building, if it is necessary to be demolished. Ms. Smith seconded.

Mr. Breen stated that there was hazardous waste at the site, and asked if that was included in the demolition costs. The Board packet noted hazardous waste and surface debris.

Mr. Vosen stated that the issue of drums, debris, and waste were being taken care of by the owner. He indicated that Board staff asked for the numbers, but those cleanup costs will not be submitted to the Fund. He stated that the hazardous waste included asbestos and lead based paint in the buildings. Mr. Wadsworth stated that Board staff didn't include the asbestos abatement or lead based paint in the reimbursable costs.

Mr. Thamke noted that the substances spoken of were hazardous materials, not hazardous waste. Mr. Johnson asked if the asbestos abatement was not included in the costs. He didn't see how to separate that from the costs of demolition, because it is a regulatory requirement. Mr. Wadsworth noted that Board staff communication noted that asbestos abatement costs were not included in the approved plan. He indicated that excluding asbestos abatement from the petroleum cleanup was standard practice. Mr. Johnson stated that it was part of the costs of demolition, it is part of being able to demolish the buildings.

Mr. Johnson asked if the asbestos costs were being contested by the owner or consultant. Mr. Schnider noted that if there were refining fuels that needed to be cleanup up, those are not covered by the Fund, and he sees the asbestos issues the same way, two separate animals. Mr. Johnson stated that he felt asbestos should be paid for by the Fund, because it was part of the demolition and required by DEQ. In order to facilitate the demolition of the building, the asbestos has to be abated; the asbestos is not being addressed separately. If asbestos was identified separately, those costs should not be paid by the Fund.

Mr. Wadsworth indicated that the limited scope in the law is why Board staff does not recommend paying for hazardous waste or hazardous materials. The statutes stated that the Fund should be used only for petroleum cleanup, not hazardous waste cleanup. He stated that Board staff didn't want to be in the business of recommending reimbursement for substances statutorily excluded. He noted that those costs are the responsibility of the owner, in order to uphold the law.

Mr. Kingsbury agreed with Mr. Schnider not wanting to address another type of petroleum in reimbursement of cleanup. He stated that what they are doing is directly addressing a contaminate, and in order to get to the contamination, it will require the abatement of the buildings. He stated that in 2003 or 2004, Release #1632, Grover's Exxon, required asbestos abatement, and the Board approved for payment of the asbestos.

Mr. Schnider readdressed his motion. His revised motion was to cover 100% of the costs of demolition, without the costs of asbestos abatement, and set aside the costs of possible demolition for the fourth building, if it proved to be necessary, and asked the consultant to work with Board staff on that building. Mr. Thamke clarified that Mr. Schnider was excluding any costs associated with hazardous materials abatement or removal. and was focusing on petroleum contamination. Mr. Schnider agreed.

Chairman Breen asked if the first motion was rescinded or simply clarified. Mr. Schnider and Mr. Thamke indicated that it was only a clarification.

Ms. Rupp asked if the motion included issuing a Guarantee of reimbursement to take to the lending agency.

Mr. Schnider asked if members felt he should remove his motion and if someone wanted to articulate it better. Recognizing the complexity, Mr. Wadsworth informed the Board that the issues could be done in separate motions, and thanked Ms. Rupp for recognizing that the Guarantee is also an aspect of this action item. He stated Mr. Schnider did not need to make a separate motion. Mr. Schnider followed by stating that he was not including the Guarantee in his motion.

Ms. Smith stated that she wanted to rescind her second because she wanted to include the asbestos abatement. Mr. Breen asked if someone wanted to second the motion previously made. Mr. Schnider stated that he could rescind the motion.

Mr. Chenoweth stated that technically you can second even if you don't agree, you would just vote against the motion. Ms. Pirre suggested the Board consider dealing with the existing motion, according to what Mr. Chenoweth stated. Ms. Rupp agreed. Ms. Pirre indicated that it might be clearer for the record if the vote was held and people voted for or against the current motion, and if the motion didn't pass, raise another motion. Chairman Breen stated that it had been moved and seconded and asked for a restatement of the motion.

Restated Motion: Mr. Schnider moved to allow 100% reimbursement for three building demolitions, and that the consultant would work with Board staff on the demolition of the fourth building if it became necessary. Cost for asbestos abatement or removal of hazardous materials was excluded. Mr. Breen asked for a roll call vote aye or nay. The motion passed four in favor and two against.

Ms. Rupp moved to guarantee reimbursement for the structure removal, soil excavation and disposal, and other cleanup activities that will move the release towards closure. Mr. Schnider seconded. The motion unanimously passed by voice vote.

Eligibility Ratification

Eligibility Ratification was moved to immediately following the Agenda item of Approval of June 10, 2019 Minutes. This was done to streamline the disputed reimbursement adjustment for Town Pump Shelby.

Mr. Wadsworth presented the Board with the application for eligibility that was tabulated in the Board packet (see, table below). Mr. Wadsworth noted that the Board would be ratifying the eligibility of these releases only, not the level of reimbursement recommended. The Board would be hearing the reimbursement portion during the reimbursement adjustment dispute in the next portion of the agenda.

<i>Location</i>	<i>Site Name</i>	<i>Facility ID #</i>	<i>DEQ Rel # Release Year</i>	<i>Eligibility Determination – Staff Recommendation Date</i>
Shelby	Town Pump Inc Shelby	5109749	4143 December 2002 Resolved 2/6/2003	Reviewed 05/17/2019. Recommended eligible for 0% reimbursement. Granted 100% reimbursement by Board.
Shelby	Town Pump Inc Shelby	5109749	4771 February 2010 Resolved 7/14/11	Reviewed 05/17/2019. Recommended eligible for 0% reimbursement. Granted 100% reimbursement by Board.

Mr. Johnson moved to accept the staff determination of eligibility for both releases presented. Ms. Smith seconded. The motion was unanimously approved by voice vote.

Weekly Reimbursements and Denied Claims

Mr. Wadsworth presented the summary of weekly claim reimbursements for the weeks of May 29, 2019 through August 7, 2019, and recommended the Board ratify the reimbursement of the 109 claims, which totaled \$729,080.78 (see, table below).

WEEKLY CLAIM REIMBURSEMENTS August 26, 2019 BOARD MEETING		
Week of	Number of Claims	Funds Reimbursed
May 29, 2019	14	\$28,818.31
June 5, 2019	11	\$60,811.67
June 12, 2019	8	\$295,254.72
June 19, 2019	20	\$68,816.73
June 26, 2019	24	\$94,354.25
July 17, 2019	14	\$87,889.23
July 24, 2019	18	\$93,135.87
Total	109	\$729,080.78

Mr. Wadsworth presented Claims #20160229A_CA, #20190612A, and #20190612B, that were denied. Claim #20160229A_CA never had substantiating documents submitted that were required for the claim to be properly filed. Claims #20190612A and #20190612B were withdrawn by request of the consultant.

Mr. Schnider recused himself from voting on any claims that are associated with Payne West Insurance. Mr. Johnson recused himself from voting on any claims associated with RTI or Yellowstone Soil Treatment. Ms. Smith abstained from any claims associated with First Interstate Bank.

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

Board Claims – Claims over \$25,000

Mr. Wadsworth presented the Board with five (5) claims for an amount greater than \$25,000 that had been reviewed by Board staff since the last board meeting (see, table next page).

Facility Name Location	Facility- Release ID#	Claim#	Claimed Amount	Adjustment s	Penalty	Co-pay	**Estimated Reimbursement
Flying J Inc Miles City	908661- 4365	20190408B	\$34,983.85	\$207.92	-0-	-0-	\$34,775.93
West Shore Harbor Inc (Lakeside Marina) Lakeside	1510599- 5290	20190530A	\$28,942.09	-0-	-0-	\$14,471.04	\$14,471.05
Butte School Dist 1 Bus Barn Butte	4701980- 1058	20190610F	\$36,575.71	-0-	-0-	-0-	\$36,575.71
Cenex Harvest States Miles City	907083- 2938	20190617H	\$28,799.60	-0-	-0-	-0-	\$28,799.60
Village Pump Virginia City	2805399- 5137	20190705A	\$55,372.33	\$554.70	-0-	-0-	\$54,817.63
Total			\$184,673.58				\$169,439.92

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

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

Mr. Schnider recused himself with any claims associated with Payne West Insurance clients. Mr. Johnson recused himself from claims associated with RTI or Yellowstone Soil Treatment. Ms. Smith recused herself from claims associated with First Interstate Bank.

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

Survey Monkey® Results and Prioritization

Mr. Breen asked Mr. Thamke to speak about the Survey Monkey® results. Mr. Thamke stated that at the last meeting, Board members were going to look at his summarization of the original raw survey data. He tried to combine them into three potential action items. The Board was going to see if they agreed with Mr. Thamke's characterization of the proposed issues and action plan. He stated the Board was going to establish a priority for those actions based on their consensus of the language.

Mr. Johnson noted that some of the raw data comments addressed issues that would require rule changes. He asked Mr. Thamke if the table of summarized data with the heading of "Process Documentation & Consistency" would point to issues that would require rule changes. He asked if issues under that heading would be the place that the Board would consider rule changes to address some of the concerns. Mr. Thamke stated that he wanted to go with the path of least resistance initially, and establish guidance or policy for a directive to Board staff. He noted that if there was a point at which the Board needed to do rule modification, that would rise to the surface later. Mr.

Thamke felt that many of the things the Board encounters in disputed issues could be resolved through providing policy that guides the Board staff. He gave the example of the level of violation that had been discussed earlier in the meeting. Mr. Thamke noted that the Board could direct staff to consider only certain levels of violations when looking at compliance issues for a site that affect eligibility or reimbursement. He stated that if you wanted to be more formal, you could certainly go about rule changes. He felt that it was the Board's responsibility to establish something in writing and to establish policy.

Ms. Rupp asked about prioritization, as shown in the table created by Mr. Thamke. He stated that he didn't want the issues to die and wanted to move them forward. He was looking for an agreement from the Board on setting a way to moving the issues forward and perhaps setting a time limit or deadline on the accomplishment of the tasks. Mr. Thamke asked the Board to see if they agreed on the issues, as they were stated, and then agree on a timeline and prioritization of approach.

Mr. Johnson noted that it would be good to have the backup of the original comments that had been submitted so a person could follow the sense and passion that the original comments had been offered. Mr. Johnson stated that the summary comments were much softer. Ms. Pirre noted that the original language was included on the table not summarized by Mr. Thamke, and that all the submissions had been saved. Mr. Thamke noted that the comments were parsed into Board responsibility and Work Group responsibility, so some of the original comments were still included in both of those tables. Mr. Johnson wanted to preserve what had originally been stated, because the consultants that he had spoken with felt that the language was too watered down. He stated that each step the Board went through reflected sorting or reorganization. He was interested in having the initial raw comments come back.

Mr. Johnson asked for comments from the audience. Mr. Earl Griffith, owner of GEC, Inc. came to address the Board.

Mr. Griffith stated that he was not happy with the allowed costs for groundwater sampling. He stated that since DEQ has changed their requirements and now require a low-flow sampling method, it costs more to produce. He stated that it requires a special pump and takes more time. He also noted that if the diameter of the pipe in the well is large, that adds to the time and expense. He stated that he was losing money to meet the low-flow requirements from DEQ and the rate schedule. Mr. Griffith asked for the data used by Board staff to arrive at the standard rate that is used for reimbursement.

Mr. Griffith stated that there was no communication to him regarding rates schedules. He felt that Board staff should have responded to his rate submittal if they were not going to cover the higher costs.

Mr. Johnson stated that some of the comments in the survey were reflective of Mr. Griffiths comments. Mr. Schnider stated he had no problem making those priority number one. Mr. Breen asked if Mr. Griffith was commenting on the costs of things, or if he tried to find out costs allowed and didn't get a response.

Mr. Griffith stated that he let Board staff know what the real costs in the field were, and wanted them considered for 2019 rates, that was what he had been seeking. Mr. Breen asked if Mr. Griffith didn't get a response. Mr. Griffith stated that he did not get a response.

Mr. Johnson stated that in the action items on the Survey Monkey table, if the intention was for this to be a Board thing. He wanted to know if they were going to request more comments from people outside doing the work. He stated that his position as a person at the Board, representing the consultants and contractors, that he felt those people should have input, and it not just be something discussed by the Board. He stated that the players in the field should be invited to have input.

Mr. Breen stated he didn't disagree with that. He asked if it was accurate that Mr. Griffith didn't get a response to his request or question. He stated that part of the issue was communication. Mr. Griffith agreed. He stated that he felt the costs needed to be considered, and submitting the request for a higher rate was the only pathway he had.

Mr. Wadsworth stated that he didn't know of any specific communication beyond the submittal of rates, wherein the Board staff was requested to discuss that item. He stated that groundwater monitoring has been analyzed regarding depth of wells, and size of wells. Board staff found that the costs reflected statistically did not show any difference between the depth or size of the well sampled.

Mr. Wadsworth noted an example in Helena where the owner had installed steel, that were eight inches in diameter. He noted generally the wells are two inches in diameter. In the example, it was the owner's choice to put in the steel wells. It may take more time to get three well volumes from that particular well, but the sample could have been taken from a two inch well, not an eight inch well. He stated that the statistic was a standard for all of the groundwater monitoring that takes place for the program. He stated that the statistic was based on the guidance that DEQ has provided and that the consultants are to be using in the field, and includes the costs from that activity over the last five years. Mr. Wadsworth stated that it may be possible that the costs are higher for a deeper or larger well (i.e. eight-inch steel), it was not reflected in the statistics for the groundwater monitoring task.

Mr. Breen stated that what he was concerned about was the lack of response to Mr. Griffith. He stated that whether the costs are justifiable or not, is part of what the Survey Monkey is about. Mr. Breen wanted to know if Mr. Griffith got a response. Mr. Wadsworth stated that there were about 60 rate sheets that come in each year that are processed. There is a standard answer that goes to every consultant. Mr. Wadsworth stated that if the question was, did Mr. Griffith give Board staff additional communication as part of his submittal of the rate requests, Mr. Wadsworth did not, to his knowledge, have anything beyond the rate submittal sheet. Mr. Wadsworth indicated that there is a standard rate submittal and a standard response to that rate submittal which is part of the business process and he wasn't aware of any communication or request beyond the rate submittal.

Mr. Breen asked if there were different responses to all rate submittals. Mr. Wadsworth stated that the statistics were run over all the submittals, but if the submittals were the same every year over five years, it didn't provide enough data to run a meaningful analysis. He stated that Board staff uses multiple resources to establish reasonable costs.

Mr. Johnson asked, if there is a new category, like for a drone, does it generate conversation with Board staff for more information, because it was a new item. In this case, with the different pump needed to do low-flow sampling, would it be considered a new item in the equipment list. Additionally, Mr. Johnson asked if the five years of data used in the statistical analysis was inflation adjusted. Mr. Wadsworth indicated that statistical analysis rule requirements don't include inflation adjustment (ARM 17.58.341(8)). He stated that when the analysis is done, the statistical result is generally rounded to a reasonably even number, depending upon the item. For a piece of tubing, if it is \$0.13 per foot, he wouldn't round that to \$0.20 per foot. He stated that an analysis with inflation is often done also just to see if there is a significant difference between the result with inflation and the rule required analysis rounded amount. For groundwater monitoring task there was not a significant difference.

Mr. Johnson asked if the rates used in the statistical analysis were averaged using the requested rates or the approved rates. Mr. Wadsworth stated the average was based on the requested rates that were submitted.

Mr. Johnson asked if the requested amount was used in the average. Mr. Wadsworth stated it depended on the category of information. He offered the clarification that the rates Mr. Griffith was referring to were referencing groundwater monitoring, which is a lump sum amount. Those are tasks being done at the site. Those tasks look five years back and are standard rates. The submitted rates look at a one-year cycle, and are for labor and equipment rates, not task rates.

Mr. Johnson stated that the question wasn't about the amount, but rather the process surrounding a new category to the rate submittal. He wondered if that would be the time to look at the fact that there is a different set of equipment for sampling. Mr. Johnson stated that just one-unit cost was being applied regardless of equipment type, when some situations may require different equipment or more expensive, longer lengths of tubing. He stated that the time needed to get the work done also impacted the unit cost.

Mr. Wadsworth stated that the statistics had been done on well sampling in the pool of statistical numbers which included a variety of consulting companies, some with their own equipment and some without. All those aspects are included in the statistical analysis.

Mr. Johnson felt it would be valuable to have DEQ implement their required sampling method at a variety of wells and help figure out a unit cost. Mr. Wadsworth stated that what he heard Mr. Johnson suggesting was that there could be a unit cost category based on depth, (like 0-10 feet, 11-20 feet), a different category based on the type of pump, and perhaps another category for how many pumps a consultant may have available. Mr. Johnson indicated that was not what he was saying.

Mr. Johnson clarified that he was suggesting there be a base amount, and then a consideration for conditions that deviate from normal procedures. The consultant could then charge for time and materials over the standard rate. Mr. Wadsworth indicate that costing controlling tasks by time and materials is difficult because different companies do work differently, and the work will be at different costs, depending on what staff person they send into the field and how many pumps they have available.

Mr. Johnson felt the discussion surrounding the sampling was a good example of what types of discussions need to take place. Mr. Schnider stated that it sounded like Process Documentation & Consistency was a hot button and the Board should make it priority one to address the issues.

Mr. Longcake, Montana Petroleum Marketers Association Executive Director, updated the Board on the Stake Holder Workgroup and subcommittees. He stated that all the input from the consultants was valued. He noted there were a number of consultants that are part of the work group, and the subcommittee was looking at these specific topics. They are trying to come back with creative solutions, good information, and good points that can be presented to the Board in a concise manner, instead of trying to dissect each piece at a board meeting. He assured the Board that the issues were being worked on. He noted that the work group was starting from zero. At this point they have created subgroups that meet every two weeks, and they are updating Mr. Longcake weekly. He stated that they are in infancy stages and understand that there are underlying concerns, but wanted people to understand that they are working on solutions. He noted they would not be able to fix everything, but wanted to get the crazy-makers streamlined so the process is smoother, easier, and more efficient.

Mr. Breen asked if Mr. Griffith was aware that there was a work group addressing these issues and if he had talked to them before coming to the Board. Mr. Griffith stated that he was aware, and that he and his associates felt they had been down this road twice before. He stated this was a third attempt and he felt it may end up the same way as the previous two. He stated that he is trying to run a business, and coming to the meetings is crucial to his ability to do his business. He stated that his patience is running thin when he is denied costs and rates that are essential to him surviving financially in his business.

Mr. Griffith referenced Mr. Johnson's question if the rates used in the statistical model were the ones the consultants request, or the rates they are granted. He stated that there needed to be an increase in the database and didn't know how it was put together.

Mr. Johnson stated that on the proposed action item, the statement is made to direct staff to create a table that establishes unit costs while allowing variability. He stated that was a monolithic task, and felt the statement should be to direct staff to work with DEQ staff and consultants to come up with a reasonable table that establishes unit costs. He stated that many people didn't understand how the costs were established and felt that the people who do the work should have input to the process.

Mr. Johnson asked Mr. Longcake if the Stakeholder Work Group was also dealing with these issues. Mr. Longcake stated that the work group had already discussed this weeks ago. He noted that Mr. Thamke was part of that conversation, and is championing putting the thoughts and comments together, and the work group is prioritizing the items. He stated that the prioritization may be different than the Board's but that consultants, DEQ staff, and Board staff were all part of that process. He stated that he was not involved in that, because he felt it was important that the people that do the work speak to that, that is why there are consultants on the work group and subgroup. Mr. Longcake stated that what Mr. Johnson was describing, the work group was already doing, and they were approaching it from a factual basis to identify the issues and propose remedies. He cautioned the Board that the work group is in the infancy stages. Mr. Longcake stated that the Board was trying to deal with a huge iceberg when all that can be seen is the top of what is protruding out of the water.

Mr. Johnson asked if the items came from the original data and what the process was. Mr. Longcake stated that the work group had identified key players and set up the subcommittees, and he referred the question to Mr. Thamke.

Mr. Thamke stated that the exercise was rewarding to work with the Petroleum Marketers and others involved. The subcommittees for Process Improvement and Consultants work group were covering the items discussed today at the Board meeting. He clarified that the items that the Board is working on were only those that the Board had decided were their responsibility. The remaining Survey Monkey® comments were taken by Mr. Thamke and moved to the work group for discussion. He stated that there was overlap and felt that many of the final recommendations would

reflect that. He stated that his summarization of comments before the Board had some redundancy built in, so the Board could direct Board staff and participate in the overall process.

Mr. Thamke stated that what was before the Board was to create a commitment to resolving the issues presented in the raw data. Mr. Johnson stated that although DEQ staff, and Board staff are involved, there should also be consultants and contractors. He stated that he knew they were but, he wanted the work group to continue to have the people doing the work have ongoing input.

Mr. Thamke motioned that the issue entitled “Executive Director” be placed as the first priority, “Process Documentation & Consistency” be placed second to synergize the process happening in the Stakeholder Work Group. Mr. Thamke further motioned to place the issue entitled “Staying in Lanes” as the third priority, and felt that would be resolved when the first two priorities were addressed. He further motioned that the timeline for priority one would be to have a Job Profile and Matrix accomplished by the end of calendar year 2019. He motioned that priority two, would go from today through 2020.

Mr. Longcake provided a list of consultants that were picked from a sampling of those in the state. He stated they haven’t disclosed all the information, because they are not ready. He assured Mr. Johnson that the work groups were trying to be efficient and work together without having to go to the Legislature.

Ms. Pirre restated the motion for the Board. **The motion was to place the issue “Executive Director” as the first priority, with a timeline of today through the end of 2019, as a goal. The issue “Process Documentation & Consistency” was placed as the second priority, with a timeline of today through the end of 2020. The issue of “Staying in Lanes” was placed as the third priority, with no timeline because addressing the first two priorities would likely resolve this issue.** Ms. Pirre then asked if the motion included adding language to “Process Documentation & Consistency” as suggested by Mr. Johnson, which would be submitted to Board staff later.

Mr. Schnider noted that the consultants are working in a free market. If rates are the same for everyone, as a result of the processes the work group and Board are going through, is that really where the Board wants to go? He stated that the market should drive the rates. Mr. Johnson stated that this is a free market with the top knocked off, and a ceiling put on it. He stated that it wasn’t a true free market. He felt there needed to be some flexibility in the rates that were set based on normal rates in the consulting industry for petroleum remediation. He didn’t feel that the Fund was ever to be used as a mechanism to control the market. Mr. Johnson stated that the consultants felt that there were cost controls put in place, some of them from the Legislative Audit, but he felt some of the language was turned around and it became control of the market place.

Mr. Breen compared insurance coverage to the reimbursements available from the Fund. He stated that for a doctor to be considered, they had to apply to the insurance company to get approved as a preferred provider. As an individual, you can choose which doctor you want, except it is influenced by what doctors are approved in your insurance, with their approved rates.

Mr. Breen stated that there seemed to be between 130-140 licensed consultants in Montana, and asked Mr. Wadsworth how many of those consultants sent the rate submittals to PTRCB. Mr. Breen also noted that Mr. Griffith had lower operational costs than the bigger companies, and that would be reflected in the costs sent in for rate submittal. He asked how Mr. Wadsworth arrived at a reasonable rate.

Mr. Wadsworth noted that PTRCB received about 25 rate submittals. He stated there were more consultants in the business than what is in the subset for statistical analysis by Board staff. Mr. Wadsworth stated there were many consultants that didn’t enter into the pool of consultants, because they don’t submit their rates. They do the work and get paid reasonable rates. He noted that their workplan task amounts do show up in the statistical analysis for tasks.

Mr. Wadsworth indicated that Mr. Griffith provided the Board with a hand-out of his equipment and labor rates, however, he spoke about task rates. Those two types of rates (labor and task) are analyzed differently, per ARM 17.58.341. Tasks that are done, like groundwater monitoring, are not labor rates. They are a lump sum task, although related to labor. Because of that, all claims (sic, workplans) submitted that have groundwater monitoring events on them, those amounts are averaged over the past 5 years. Mr. Wadsworth indicated that if a consultant does not submit their labor rates, they are not included in the statistically derived labor rates, but their workplan tasks will put them into the statistical analysis for tasks. The statute requires Board staff, in calculating the industry

standard, to establish rates for labor, equipment and materials. Mr. Wadsworth informed the Board that the handout provided by Mr. Griffith, indicated the labor code. He stated that each of the labor codes are required to be analyzed for a mean rate, and standard deviation not to exceed 10% of that mean. The Board staff will then notify the consultant if their rates exceed the allowed amount as determined for that labor code. If they exceed the allowed rate, they are presumed unreasonable.

Mr. Wadsworth noted that ARM 17.58.341(8) states that Board staff shall “calculate the reasonable cost for department standard plans and standard reports and board standard remediation tasks once a year from requested costs received from companies in quantity sufficient for a meaningful statistical analysis”. This calculation also looks for the mean rate for each standard task plus the standard deviation. Mr. Wadsworth indicated that groundwater monitoring is considered a standard task. The Board staff must use the requested costs for the prior five years when doing this analysis according to rule. Mr. Wadsworth stated that the actual task costs also get looked at to see if the number that Board staff is establishing is reasonable or not. The Board staff then publishes the reasonable cost reimbursement for the standard plans and reports on the Board website.

Mr. Wadsworth cautioned the board by stating that in the past, the Board got taken to task by the Legislature, because they had a bunch of policies that were not rule. The Board addressed that issue by promulgating what had been policy, into Board rule. Therefore, he cautioned the Board that they may not want to create a bunch of new policies.

Mr. Johnson thanked Mr. Wadsworth for the information and thought it would be a good discussion to continue when addressing priority two, “Process Documentation & Consistency”.

Ms. Rupp asked the Board to move on the motion on the floor, which she stated as setting priorities one, two and three, and deadlines for priorities one and two. She stated that the wordsmithing could take place thereafter.

Mr. Breen requested Ms. Pirre restate the motion: **The motion was to address the Executive Director issue as the first priority, with a timeline of accomplishment through calendar year end 2019 and to address the Process Documentation & Consistency as the second priority with a timeline of accomplishment that was ongoing through calendar year 2020. The final issue of Staying in Lanes was set as the third priority with no timeline, as it would potentially be resolved by addressing the first two priorities. The motion was seconded by Mr. Schnider. The motion was unanimously approved by a roll call vote.**

Mr. Breen asked Mr. Thamke if the information regarding the updated Job Profile and Matrix for the Executive Director could be provided by the next Board meeting. Mr. Thamke stated that he and Heather Smith were working on it and stated it could come to the next meeting.

Discussion Items

The Board was presented with a list of proposed meeting dates for 2020. The Board was provided this draft to review the dates, discuss changes, if needed, and ratify them at the November 4, 2019 meeting. Mr. Wadsworth noted that statute states that the Board meet a minimum of four times yearly, the meeting dates include five meetings.

Board Attorney Report

Mr. Chenoweth presented the Board Attorney Report. He stated that the Board had earlier been in an Executive Session, and noted the reasons for Executive Sessions to be closed: if there are matters of individual privacy involved, or if litigation strategy is being discussed. He noted that in Montana, if there is a case between two government entities, you can't use Executive Sessions to discuss litigation strategy. Because of that, the Cascade County case will be discussed in this portion of the meeting.

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	The District Court has remanded the case to the Board. At this time, we are waiting for a response from Cascade County on how they would wish to proceed, i.e., (1) informal contested case before the board, (2) additional arguments before the hearing examiner, (3) written decision from Board attorney, (4) mediation or settlement discussions.

Mr. Chenoweth stated that in 2016, the Board denied a claim from Cascade County under a 5-year statute of limitations. The Board based denial of eligibility for additional releases on the 5-year statute. The other issues in this case, heard by a hearing examiner were: how many eligible releases existed at the facility; what would an equitable remedy be when you may have waited too long for your rights to be heard and that imposed a deficit on the other party; the effect on the Board of the stipulation made between DEQ and Cascade County; and the Board's ability to rely on DEQ's release numbering rule at the time. Mr. Chenoweth stated that now there is an actual release numbering rule in statute, but at the time of this dispute, there was only a policy. The question of reliability due to the changes over time was an issue.

Mr. Chenoweth stated that the District Court remanded the case back to the Board to make determinations. He stated that the case is old, and that Mr. Breen and Mr. Schnider were the only Board members around from the beginning of this case.

Mr. Chenoweth stated that he had been in conversation with Cascade County's attorney to try and consider a way forward. He noted that the Board's appeal timeline was still in play, and they could appeal the District Court's opinion. He stated that another option, and the one he recommended, was to enter into a settlement negotiation with Cascade County. He noted that this is a problem due to the age of the case and the lack of complete Board knowledge of the details of the case.

Mr. Chenoweth stated that in trying to negotiate a settlement, the Board can usually start with deciding what range of settlements would be acceptable. He was advised by his peers to have the Board delegate one or two members to represent the Board and attend the mediation. These delegates would have the power to make decisions on the Board's behalf. He stated that those members would be tasked with working with their best judgement to help the Board. He felt that would be a great option to implement. He noted that the mediation may not work, and the Board would have to come back and decide a different option.

The Board had chosen to use only the statute of limitation when they moved the case to District Court. The Court stated that was not the correct basis to use, and is asking the Board to look at all the factors of the case and clean up all the decisions that could be made.

Mr. Johnson asked if the Board could discuss a contested case without Cascade County present. Mr. Chenoweth stated he wouldn't characterize this as a Board disputed case, it is a case filed with District Court, and the Board is having the discussion of litigation strategy in an open meeting. Mr. Chenoweth stated that he notified Cascade County's attorney that the discussion would take place at the Board meeting.

Mr. Thamke motioned to direct counsel to move forward with mediation with Cascade County. Ms. Rupp seconded.

Mr. Schnider recused himself from the Cascade County proceedings due to his work with them as a client of Payne West. Mr. Chenoweth stated that Mr. Breen had been around since the inception of the case and asked if the Board would want to include him to attend the mediation. Mr. Chenoweth stated that the mediation process would also have to be public, and that Board members could listen in. He wanted to have Mr. Breen and Mr. Wadsworth be available to attend on behalf of the Board.

Mr. Thamke asked if Mr. Chenoweth knew when the mediation would potentially take place. Mr. Chenoweth stated that he had an agreement with Cascade County's attorney. The Board has 60 days to appeal once opposing council files the Notice of Judgment, which they have agreed not to file it until after this Board meeting. He was assuming it would be filed soon after this Board meeting. Mr. Chenoweth stated that he wanted to have mediation completed within the 60-day appeal limit to understand if the Board wanted to pursue some other process.

Mr. Breen asked if the people appointed by the Board could speak with each other to see what their thoughts were. He noted that the current meeting was open to Cascade County and they were privy to the current discussion. Mr. Chenoweth stated that quorums have to be avoided, but individuals could talk to each other. He didn't think the law came down on collaborative one-on-one individual discussion between Board members. He noted that in that conversation, there is no official decision made.

Mr. Chenoweth asked if the Board wanted separate motions, or to add to the motion on the floor to bestow the power of the Board to particular people. Mr. Thamke stated that the delegation could wait until Mr. Chenoweth knew if Cascade County was amenable to mediation. Mr. Chenoweth stated that if Cascade County was amendable, the timeline for entering mediation could take place before the next Board meeting. That may be a factor in having delegations set. Mr. Thamke stated that as Mr. Chenoweth pursued this, he would have more information to make that decision.

Mr. Breen asked if Mr. Chenoweth was concerned about going to a mediation without the ability to make any decisions. Mr. Chenoweth stated that he didn't have authority to decide on amounts for settlement, and that would come from the Board. Mr. Schnider stated there was nothing stopping two people from the Board going to the mediation.

Mr. Breen stated that by not delegating people, the outcome of mediation would have to be discussed at the next Board meeting. Mr. Thamke stated if mediation was on the table, then at the November meeting, delegations could be decided. Mr. Schnider asked what if mediation was to take place in October. Mr. Thamke stated that would be a problem. Mr. Chenoweth stated that one thing the Board could do was to set a meeting, with public notice, even it was by conference call, to discuss delegations for attending mediation.

Mr. Johnson stated that if it wasn't litigation strategy, but only the assigning of representative, it could be part of a closed meeting. Mr. Chenoweth stated that it would be hard to argue the need for a closed meeting, because the issue was between two government entities.

Mr. Schnider stated that the Board could just delegate Mr. Breen and Mr. Wadsworth to attend mediation, if it is scheduled. Mr. Thamke stated that part of his trepidation is based on the timing of the mediation, he felt the Board could make a better decision with more information.

Mr. Chenoweth stated that Cascade County's attorney has indicated they are amenable to mediation. He didn't anticipate stonewalling of mediation. Mr. Johnson proposed just adding the language of saying that two Board members could be present, without naming who they were. Mr. Chenoweth stated that to protect the Board, it would be good to have the Board recognize the ceding of power to specific people.

Mr. Wadsworth stated that, in the past, the Board has delegated one or two members to act on behalf of the Board. That is usually a motion that is taken, and those Board members are known to be the people acting with Board authority. This involves those individuals taking up the documentation for the case and getting a feel for what the case is about, so they can enter into discussions with the other party to arrive at an agreement. The Board has done this usually by assigning one person, with an alternate. He stated that in the Cascade County case, this is one of the most complex cases the Board has ever seen, and the case files are large. It is not easy to take in all the information needed to have a discussion about the issues. Mr. Wadsworth stated that was why Mr. Breen was suggested by Mr. Chenoweth.

Ms. Rupp asked Mr. Wadsworth if he could be present at the mediation. He stated that normally he was there to provide assistance regarding the science, or assistance to the attorney with the law. He stated that Mr. Chenoweth was very conversant with the Board's laws now, but may not be as conversant with how the laws have been applied over the past 30 years. He stated that he is normally present, but not as a representative or authority delegated to make a decision on behalf of the Board.

Mr. Thamke asked Mr. Chenoweth if this was an open release for DEQ. Mr. Chenoweth asked if that question was for him or Ms. Steinmetz. Mr. Chenoweth stated that technically he didn't know. Mr. Thamke asked Ms. Steinmetz or Mr. Wadsworth if they knew. Mr. Wadsworth stated that the challenge we have in this case is that DEQ identified the contamination at this site using their release numbering policy, at that time. Mr. Wadsworth stated it was given release number 3051. There have been four more applications for release eligibility received after the initial one, 3051, and those have been given release numbers 3051A, 3051B, 3051C, and 3051D. To try and answer the

question, it would have to be more specific. Mr. Wadsworth asked if Mr. Thamke's question was about the numbering by DEQ, or the number of releases in the case per the request by Cascade County.

Mr. Thamke asked if DEQ could be a resource in mediation. Mr. Wadsworth stated that they could be in how the science applies. He stated that there was an old refinery at the site, and the contamination associated with the refinery is statutorily ineligible.

Mr. Chenoweth stated that one of the arguments that wasn't decided on talked about DEQ's involvement in other aspects of the case, and that could create a conflict for DEQ to be involved. Mr. Wadsworth indicated that information was in the case files. Mr. Wadsworth stated that originally Cascade County sued DEQ regarding the release numbering. DEQ stipulated that they were not restricting Cascade County from applying for assistance for more than one release. Mr. Wadsworth stated the actual language may be more specific than that, but that is a broad overview.

Mr. Johnson asked if the dispute over release numbering was because of the cap of only having \$1,000,000 in coverage for one release, versus having \$1,000,000 for each potentially eligible release. Mr. Chenoweth stated there were many issues, but Cascade County hit their maximum reimbursement on the eligible release 3051, and it was an historical release. When that occurred, Cascade County came back more than five years later and tried to gain eligibility for three additional releases, because they still had money they wanted reimbursed.

Mr. Johnson asked if there were real questions of science that couldn't be answered by DEQ. Mr. Wadsworth stated that if you asked DEQ about release numbering, that could be a problem, because it has already been stipulated in this case. He stated if you ask DEQ to weigh in on the science at the site, like the source of contamination, that would be a different question.

Mr. Johnson asked if the source of the contamination would have a bearing on the release numbering. Mr. Wadsworth stated that the case was complex, because DEQ has set precedent regarding how they number and clean up releases. Even though you may have a release from one tank at your site, DEQ has an owner apply for eligibility on a different tank. When DEQ does an investigation, contamination is found from other tanks that may have released at different times. Mr. Wadsworth stated that DEQ's practice, since 1989, was to roll all the releases into one release because of the initial investigation. He stated that is how the release numbering policy was interpreted at the time. This issue is what Cascade County is trying to formulate their arguments against. He stated that there are huge ramifications.

Mr. Wadsworth indicated that if you had one release and one release number, did the release come from the same tank system or do you have one release if they came from multiple systems at the same facility, or would it be considered one release regarding what was discovered during the investigation of the first known release. He stated that Cascade County is trying to break the established process apart. He stated that the ramifications are seen in numbering multiple releases at one facility. Even if they can be cleaned up under one workplan, that owner could bear 50% of the total of all cleanup costs in that example. He stated that if each release, handled separately, only generated reimbursable costs, that were done when copay was met, an owner with five releases would be paying \$17,500 for each of those releases, instead of \$17,500 and having all the contamination cleaned up. If the total costs for cleanup at that site, with five releases, only cost \$250,000, the owner would bear five copays, bringing their total much higher than if they only had to pay one copay.

Mr. Johnson asked if the contamination was all the same product. Mr. Wadsworth stated that it was not. He noted that the consultant at the time of investigation did not separate the contamination types found that belonged to Cascade County from the historical refining activities. Neither did the consultant indicate how much soil was excavated for diesel or gasoline. Mr. Chenoweth stated that all cleanup was reimbursed under one release number until it reached the maximum reimbursement and that is when Cascade County asked for more numbered releases.

Mr. Johnson asked if the costs of litigation were close to exceeding the amount for a reasonable settlement. Mr. Chenoweth stated that the State has much lower costs to bear in this case, and he didn't believe that Cascade County could recoup their legal fees from the Board.

Mr. Wadsworth noted that if Cascade County were to win this case, it would swing the pendulum for all historical releases that had multiple releases rolled into one. That would require the Board to go back to the owners of those facilities to get the additional co-pays, because they would now have more than one release at their facility.

Ms. Smith made an amended motion with Mr. Thamke's original motion and added that the Board directs Mr. Chenoweth, Board Attorney, to enter into mediation with Cascade County and appoints Mr. Breen, Mr. Johnson and Mr. Wadsworth to represent the Board at the mediation proceedings. Mr. Thamke agreed with the amendment. Mr. Schnider seconded. The motion was approved by roll call vote with 5 in favor and 1 abstaining.

Fiscal Report

Mr. Wadsworth presented the Fiscal Report to the Board for the end of Fiscal Year 2019 and July FY20. Ms. Smith asked Mr. Wadsworth about the remediation amounts calculated into FY2019 and if they included the claims associated with Cascade County. Mr. Wadsworth stated that he believed the category "remediation" has to do with the regulatory oversight provided by DEQ. He noted that the amounts given for "remediation" matched the subtotals under the DEQ personal services and operating expenses that are part of their regulatory oversight.

Ms. Smith stated she understood and asked if there was any way to clarify the descriptions going forward. Mr. Wadsworth stated that he believed they could be.

Board Staff Report

Mr. Wadsworth presented the Board staff report.

Mr. Johnson noted that the Board had passed a landmark in April of 2019. The Fund began in April of 1989 and it marks the thirtieth year of the Fund being in existence. Mr. Johnson asked Mr. Wadsworth if he wanted to give a total amount of money spent over thirty years and the amount of good the Fund has done.

Mr. Wadsworth stated that the Fund had spent approximately \$132,000,000 over the past thirty years on remediation statewide.

Mr. Johnson noted that the Fund is solvent going forward and looking good for the foreseeable future. Mr. Wadsworth agreed that the Fund was in much better shape than it was earlier in the program.

Mr. Johnson asked for the DEQ sites that had been closed since the beginning of time.

Petroleum Tank Cleanup Section (PTCS) Report

Ms. Amy Steinmetz, Supervisor, DEQ PTCS, presented the Board with the PTCS Report. From the time of the last meeting to date, there were ten new releases and 18 were closed. From the beginning of the year, to August 12, there are 20 confirmed releases and 29 are closed. Since the beginning of the program there are 4,710 confirmed releases, with 3,723 closed. The remaining open and active releases total 987.

Ms. Steinmetz stated that there has been a lot of good work between DEQ and the Fund to remediate contamination. This work has resulted in clean water wells for human consumption, clean air to breathe by making sure there are no vapor intrusions, and ensuring a healthy environment for everyone. She thanked Mr. Johnson for bringing this to the Board's attention.

Ms. Steinmetz noted that, in past PTCS reports, the number of active releases was smaller and has jumped up. She thought that was because of duplication in the reporting numbers. She found that the old reports removed transferred releases that had gone to EPA or other sections within DEQ. The new database does not have the same reporting capabilities yet, so the larger number is beyond what PTC would address.

Ms. Steinmetz stated that the old report had a breakdown of the number of releases that were Fund eligible. She stated she did not have the reporting capability to produce that breakdown yet. She stated she would provide, at the next meeting, a status update on the phase of work for all the active petroleum releases.

Ms. Rupp stated that she would appreciate a summary report. She stated that, as a new-comer, quite a lot of energy seems to be going into legacy sites. She wanted to know what the breakdown is for releases that have happened in the last 10 years, versus older sites that she would consider to be legacy. Ms. Steinmetz stated that she could provide a breakdown as requested.

McFiny's Conoco, Billings, Fac #56-05749, Rel #3281, WP #716833857, Priority 3.0

The estimated cost for this work plan is \$96,610.00, which is lower than the \$100,000 threshold for Board review, but there will be claims over \$25,000, so Ms. Steinmetz thought it would be good to brief the Board. When the underground storage tank (UST) system and dispenser canopy were removed in May 2019, petroleum impacted soil was exposed. The proposed excavation will speed up closure of the site.

Mr. Wadsworth noted that there were two areas being planned for excavation at this, site and Board staff are still trying to figure out activities at the site. Concerns have been expressed to DEQ about the necessity of some of the tasks being proposed, and Board staff felt that the work plan may include more tasks than what will actually be needed.

Bundtrock's Miracle Mile Service, Great Falls, Fac #07-06613, Rel #1865, WP #10820, Priority 1.1

This was already spoken about earlier in the meeting, so no further brief was given by Ms. Steinmetz.

First Interstate Bank, Great Falls, Fac #99-95133, Rel #4901, WP #10962, Priority 1.2

The estimated work plan costs are \$205,528.68. This work plan is for excavation of contaminated soils. Ms. Steinmetz stated that the work plan was required to address the eligible release. She noted that it was determined, based on chemistry data, that about 10% of the soil that will be excavated and removed is from waste oil barrels that were stored on site.

Mr. Wadsworth stated that this work plan included costs for rental of parking for the vehicles that are disrupted while the activity takes place. Board staff is recommending that those costs be considered to be third-party costs, meaning those costs will be paid out when the release is closed. Board staff is trying to encourage First Interstate Bank to use the parking at their facility, which is about half of a block away, to help address the parking concerns.

Mr. Wadsworth noted that 10% of the costs are considered to be attributable to ineligible waste oil contamination. This means that all of the costs will be adjusted by 10%.

Mr. Wadsworth noted that Board staff is interested in considering if a Petroleum Mixing Zone, PMZ, would be appropriate for this site, as it does not impact any drinking water. There is no vapor intrusion either, as there is no building on top of the contaminated soil.

Mr. Johnson asked about the parking being a third-party claim. Mr. Wadsworth stated it was a fine line between what is and is not considered cleanup. He stated that Board staff believed this to be third-party costs. He was not saying the costs will not be paid. They may not get paid if the cleanup goes over the maximum reimbursement. Mr. Wadsworth noted that the goal is to spend the money on remediation, not parking.

Mr. Johnson stated that he thought third-party claims were about damages. Mr. Wadsworth stated that the release owner was First Interstate Bank, and the party seeking reimbursement for parking is a third party.

Mr. Johnson asked if the parking could be considered a rental. Mr. Wadsworth asked if he meant rental of the land. Mr. Johnson stated that he meant a rental of the service. He felt that if the parking was an agreed-upon arrangement between the two parties. Mr. Wadsworth stated that their agreement didn't mean that it was not a third-party cost. He stated that there was an impacted third party due to the contamination at the site.

Mr. Johnson noted a previous dispute wherein the land owner land farmed their contaminated soil on their own property and wanted to charge a rental for it. Mr. Wadsworth noted that in that case, it was a direct cost to the owner.

Mr. Johnson stated that the costs wouldn't be recommended for denial but would be paid at the end. Mr. Wadsworth stated that the owner would submit the costs on a third-party claim form.

Mr. Johnson asked if the owner would have to hire legal representation. Mr. Wadsworth stated the owner would not, the owner would just not be reimbursed until the release reached closure.

Mr. Breen asked how long the excavation would take. Mr. Wadsworth estimated it would be a week. Mr. Breen asked how many people were being impacted for five days.

Mr. Wadsworth stated that the consultant felt the entire parking area would have to be unavailable during the cleanup efforts, which are the costs being viewed as third-party costs.

Mr. Thamke asked CTA, the consultant, to address the Board.

Mr. Johnson asked Mr. Vosen, CTA, the duration of the parking not being available, and how many people it impacted. Mr. Scott Vosen, CTA, stated that the parking lot was not large, but the subcontractor would need to block off the entire lot for staging and work. He stated that the duration of work would be between a week and three weeks.

Mr. Schnider asked if First Interstate Bank was leasing out parking. Mr. Vosen stated that Goodwill owns the parking lot, but First Interstate owns the release liability. The parking lot will be out of service for the entire period.

Ms. Johnson asked Mr. Chenoweth if he would consider this to be a leasing arrangement or a third-party situation. Mr. Chenoweth stated he would want to research third party rule. He stated that it was a third party because the property owner and the release liability owner are two different entities. He asked if the first party claimant was First Interstate. That was affirmed. He understood that First Interstate, as the responsible party, was fulfilling their responsibility to remediate, and it caused impact to the property owner, Goodwill. He stated it sounded like third-party damages.

Mr. Johnson asked if the contractual agreement between First Interstate and Goodwill wasn't part of necessary costs for remediation, to provide parking costs. He asked Mr. Chenoweth to look into the rules and provide a legal opinion. Mr. Chenoweth stated it was a big rule and he wanted to defer an opinion until he could do further research.

Mr. Johnson stated that there would have to be impact directly from the release instead of just a lease agreement to facilitate the reimbursement. Mr. Chenoweth stated he wanted to take a closer look at ARM 17.58.337. Mr. Wadsworth stated that he believed the impact to the owner falls under the definition of "third-party". He stated that the objective of the statute is to focus on contamination and cleanup. Anything else that is third-party is dealt with after cleanup is done.

Mr. Chenoweth stated that the way he pictures third-party claims is if someone other than the first party claimant is claiming to be damaged by either the release or the cleanup of the release. Mr. Wadsworth stated that Goodwill was the party trying to obtain reimbursement for parking. They are the third party involved in this. Mr. Wadsworth restated that their reimbursement is not the question, the question is when will the reimbursement occur.

Mr. Vosen stated that approximately 40 people would be impacted, and they could not park on the street. Mr. Schnider stated there was a parking garage nearby. Mr. Vosen stated that he believed that to be the solution, and the costs are reflected as such.

Mr. Johnson asked if the 10% adjustment Mr. Wadsworth noted was for every task in the work plan, or just for the soil excavation. Mr. Wadsworth stated that it was 10% across the board, due to contribution of the waste oil barrels' contamination to the overall costs. He noted that sampling, analysis, reporting, project management, and cleanup are all impacted by the contribution. Mr. Johnson stated that it seemed draconian to reduce it by 10%, and noted that the costs to do the work plan, reporting, and time on site were not likely to be increased by 10% to deal with the waste oil contamination.

Mr. Johnson asked if the waste oil contamination coalesces with any of the other contamination at the site, or can the difference in contamination be delineated. He wanted to know if the 10% was exclusive of other contamination.

Mr. Wadsworth stated that he believed the area that needed to be excavated would be reduced by 10% if the waste oil contamination was not addressed. Mr. Wadsworth stated the percent allocation was a way for the owner to bear their costs associated with the ineligible contamination.

Mr. Johnson felt the consultant should be able to break out the costs more precisely instead of a 10% cut across the board. Mr. Wadsworth stated that it could be refined, if the owner wanted to go into that level of detail. He felt it would take more time to figure out the exact distribution than to figure out the contaminant contribution of 10%.

Mr. Breen asked if DEQ agreed with the proposed 10% reduction. Mr. Wadsworth stated that DEQ provided PTRCB with an estimate of how they would proportion the amount of contaminated soils. It was up to Board staff to apply that science to the costs. Mr. Breen asked if there was an agreement if it was fair. Mr. Wadsworth stated that Board staff asked for the technical assessment of how much contamination was attributable to the waste oil barrels, and DEQ did provide that. Board staff evaluated that, and felt that 10% was fair. Mr. Wadsworth stated that there was agreement that 10% of the soils that needed to be addressed was contaminated by waste oil from the barrels.

Mr. Schnider stated that at any time the consultant who was hired has a problem, they can bring the matter back to the Board if they disagree with that 10% portioning. Mr. Wadsworth agreed that if the consultant finds the soils are more contaminated by the tank system than the barrels, they can provide that evidence before they submit the claims.

Mr. Johnson asked if the consultant could present invoicing that showed the 10% reduction to be unfair in dealing with the waste oil contamination, would Board staff work with that. Mr. Johnson asked if there was a dispute from DEQ, the owner, or the consultant. He stated that if 10% reduction was agreeable to them, then that was fine with him. He just thought the 10% reduction seemed arbitrary. Mr. Wadsworth stated he had no knowledge of any concerns about the 10% portioning. He noted that didn't mean there wasn't any.

Mr. Wadsworth stated that DEQ provided the numbers, based on their science, as to what percentage of soils was attributable to the waste oil contamination. He recognized there were economies of scale, but stated that it was not Board staff's position to recommend that the Board pay for all costs at this site. Board staff is trying to ascertain what is fair and equitable when there are two types of contamination.

Mr. Johnson asked if the consultant could provide documentation showing that the contamination from the waste oil was not attributable at a full 10%, would they be able to deal with that difference in costs on a claim level. Mr. Wadsworth stated they could provide Board staff with documentation, but felt it would be more work to try and figure out that split, based on every task. Mr. Johnson felt that the 10%, which was about \$20,000 reduction, was significant. He felt it could be dealt with during claim submittal.

Mr. Johnson asked if a PMZ could be compelled on a property owner. He stated that he didn't think it could be used to compel an owner to accept a PMZ just because it is cheaper. He asked, if a PMZ was cheaper, but the owner choose a different method, would the reimbursable amount be only the costs for using a PMZ. Mr. Wadsworth stated that the intent of the Fund was spelled out in §75-11-301, MCA regarding the purposes of the Fund. He stated that the activities the Fund pays for have to be protective of human health and the environment. He noted that, if leaving contamination is no risk to either, and it is a cheaper option, it is then a decision that the Board needs to make. Mr. Wadsworth stated it is not a decision Board staff makes. He stated that what Board staff can do is raise these issues to the Board for appropriate consideration.

Mr. Johnson stated that he believed that the owner has a say. He felt that we would be compelling them to accept a PMZ. Mr. Wadsworth stated that he didn't see the situation any differently than a building removal. He stated it was an option. Mr. Johnson stated that was an agreed upon option.

Mr. Johnson stated that, if you would consider the full costs of remediation along with a PMZ, that should be an option the owner can accept. Mr. Johnson stated that he didn't think the Board could reduce the full costs of remediation just because a PMZ would be an option.

Ms. Steinmetz stated that she felt the discussion could be cleared up much easier with the presentation of the PMZ rules. This would include when a PMZ is appropriate. She stated that, based on DEQ statute and the large area of source mass on site at this facility, DEQ does not consider a PMZ to be an appropriate method. She stated that DEQ

has to also consider current and future uses of this property. She stated that just because the site is currently a parking lot, the future owner could want to put a building up, and that could have direct impacts. She stated that the considerations weren't just impacts to drinking water. Ms. Steinmetz stated that, in order to have the PMZ, you have to remove the source mass to the maximum extent practicable. She stated that in this case, it is practicable. She said there can't be any other reasonable cleanup requirements if you want to implement a PMZ. She felt there would be a much better presentation if she or her staff could present that at a later date.

Mr. Johnson asked if the owner has to agree to a PMZ. Ms. Steinmetz stated that if contamination is left above risk-based screening levels on contamination, DEQ would have to put deed restrictions on the property. Those could be not installing a well or putting up a building. She stated that, because of that, DEQ wants the owner to be involved in the decision. DEQ rules state that they have to reach risk-based screening levels. She stated that a PMZ is an option the owner/responsible party can accept, if they are okay with the restrictions based on property use and DEQ rules are met. She stated that one of those rules is that groundwater monitoring has to show a decline in contamination. She stated that it could happen in the future, but it was not applicable now.

Mr. Breen stated that Ms. Steinmetz could present the information on PMZ's in the future. Mr. Johnson stated that the Board could ask DEQ to consider a mixing zone, but, by rule, that was all the Board could do. Ms. Steinmetz agreed. Mr. Wadsworth stated that a PMZ could be one consideration, and that is a Board decision, not Board staff.

Holiday Stationstore 272, Havre, Fac #21-08068, Rel IDs #3537 and #5212, WP's #716833833 and #716833834, Priority 1.2

The estimated cost for this work plan is \$154,485.76. The work plan consists of the installation, operation, and monitoring of a sub-slab vapor extraction system. This will be installed under the building to mitigate vapor intrusion. The new vapor extraction system will be tied into the currently operating soil vapor extraction system at the facility.

Mr. Wadsworth noted that this facility has insurance coverage. He stated that the policy for each release at this facility is slightly different due to the dates the releases have occurred.

Former Northern Tire, Havre, Fac #21-00131, Rel #3589, WP #716833751, Priority 1.1

The estimated cost for this work plan is \$152,000. This work plan is for installation of an air sparge and soil vapor extraction system to be used as a polishing phase. The piping for this system was installed in an area that had already been excavated. In 2016, 1,700 cubic yards of contaminated soil were removed and 3,250 pounds of oxygen release compound (OCR) pellets were added to the clean backfill soil.

Mr. Wadsworth stated that Board staff noticed there were no costs included in the work plan for utilities. He stated that it looked like the owner was taking on the utility costs of operating the system.

John Jump Trucking, Kalispell, Fac #99-95219, Rel #5283, WP #10890, Priority 1.3

The estimated cost for this work plan is \$110,611.16. The work plan is for excavation and disposal of contaminated soil. Also added will be OCR in the base of the excavation.

Mr. Wadsworth noted that the remedy appears to be appropriate, but there may be a reduction in the costs of carrying out the remedy. He stated that soils needing to be excavated may require sloping beyond the contamination, and staff want to minimize the amount of soil that needs to come out. Board staff was in conversation with the contractor.

Former Roy Stanley Chevrolet, Fac #15-00065, Rel #473, WP #716833858, Priority 1.3

The estimated cost of this work plan is \$145,000. This work plan is for excavation of up to 1,600 cubic yards of soil, some of that being overburden. The estimated amount of soil to be disposed is about 900 cubic yards.

Mr. Wadsworth stated that Board staff had expressed concerns to DEQ regarding the need to determine the nature and extent of contamination at the site before proceeding with the plan.

Town Pump Shelby, Shelby, Fac #51-09749, Rel IDs #2896, #3002, #3296, #3440, #4143, #4554, #4771, #4828, WP's #716833836 through #716833843, Priority 1.1

This site has had ten petroleum releases. Some of those are eligible, some are ineligible, and some have been resolved. A technical review of analytical results will be used by the consultant, to attribute the costs to the appropriate releases and make sure they are claimed appropriately.

Mr. Wadsworth stated that there are a number of different plumes at the site, at differing depths. Some of them are surface releases that only go about two inches into the soil, while others go down to about eight feet. He stated that Board staff is working with the consultant, the owner, and DEQ to try and figure out what impacts each release had upon remediation activities. He stated that Board staff is trying to make the appropriate distribution of what costs are attributable to which releases. He noted that, although the cost of the work plan is over \$700,000, those full costs would not all be coming to the Fund.

Town Pump White Sulphur Springs, White Sulphur Springs, Fac #30-08724, Rel #2642, WP #716833896, Priority 1.4

The estimated cost of this work plan is \$272,000. This work plan combines remediation work with the facility upgrades happening there. The old UST system and canopy are being removed in about September 2019. This will allow access to petroleum contaminated soils. This will be an opportunistic time to excavate.

The discussion moved from work plan reviews to other issues.

Mr. Thamke asked for a summary of conclusions at the Tank Triune meeting concerning work plan review. He stated there was a bit of overlap of DEQ getting work plans and submitting them to Board staff. Ms. Steinmetz stated that efficiencies are always being considered, and she knew that a lot of pressure was put on Board staff to get the nine (9) work plans ready for this meeting. She stated that in order to avoid creating tight deadlines, PTCS staff is trying to find ways to give advance notice of any work plans that her staff has coming before the Board. Ms. Steinmetz stated that several options were considered and indicated that the new database, TREADS, had originally been planned for work flow, which would have provided notice between the agencies. Ms. Steinmetz indicated that staff were working together to try and keep the communication going to provide notice to Board staff on work plans that will be coming before the Board.

Ms. Steinmetz stated that she planned to have an update for Keenan and Associates at the November meeting. PTCS used some LUST Trust funding to do a laser induced florescence (LIF) study on the Keenan and Associates property, as well as the upgradient neighbor, Pacific Steel, Hide and Fur. She stated that she could provide the Board with the information obtained from that study, as well as the report that will be produced from the study. She noted there was still a claim outstanding that was based on identification of the source of contamination at Keenan and Associates.

Ms. Steinmetz stated that PMZs is a topic that frequently comes up at Board meetings. She stated that the Board has the statutory right to request that a corrective action plan be amended to include a PMZ. She wanted to explain to the Board what a PMZ is, and when it is appropriate to use.

Ms. Steinmetz stated that she would like to provide the Board with some subgroup reports from the Stakeholder Work Group at the November meeting.

Public Forum

There was no public comment.

The meeting adjourned at 3:28 pm.

Signature - Presiding Officer

PETROLEUM TANK RELEASE COMPENSATION BOARD
 MINUTES
 November 4, 2019
 Lee Metcalf Building, Room 111, 1520 E 6th Avenue
 Helena, MT

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

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

Election of Presiding Officer

Mr. Thamke nominated Mr. Schnider as the Presiding Officer. Mr. Rorabaugh seconded. The nomination was unanimously approved through voice vote.

Election of Vice Presiding Officer

Mr. Thamke nominated Ms. Rupp as the Vice Presiding Officer. Ms. Smith seconded. The nomination was unanimously approved through voice vote.

Approval of Minutes August 26, 2019

Ms. Rupp provided corrections to the minutes of the August 26, 2019 meeting, and Mr. Thamke noted that Mr. Earl Griffith, GEC, had provided him with suggested corrections to the minutes. Mr. Thamke provided those suggested corrections to Ms. Pirre, with the understanding that any appropriate corrections would be incorporated, based on review of the recording of the meeting.

Mr. Thamke motioned to table approval of the August 26, 2019 minutes until the January 27, 2020 meeting with all the proposed corrections to the record. Ms. Rupp seconded. The motion was approved by voice vote, with Mr. Taylor abstaining and all others in favor.

Approval of Proposed Board Meeting Dates for 2020

Mr. Johnson motioned to accept the Proposed Board meeting dates for 2020 as presented. Ms. Smith seconded. The motion was approved through voice vote.

Eligibility Ratification

Mr. Wadsworth presented the Board with the applications for eligibility that were tabulated in the Board packet (see, table below).

<i>Location</i>	<i>Site Name</i>	<i>Facility ID #</i>	<i>DEQ Rel # Release Year</i>	<i>Eligibility Determination – Staff Recommendation Date</i>
Missoula	Holiday Stationstore 283	3209694	5303 Dec 2018 Resolved 3/5/19	Reviewed 10/8/19. Recommended Eligible for contamination associated with eligible tanks.
Missoula	Holiday Stationstore 283	3209694	5320 Mar 2019	Reviewed 10/8/19. Recommended Eligible for contamination associated with eligible tanks.

Mr. Thamke motioned to accept the staff determination of eligibility for both releases presented. Mr. Rorabaugh seconded. The motion was unanimously approved by voice vote.

Weekly Reimbursements and Denied Claims

Mr. Wadsworth presented the summary of weekly claim reimbursements for the weeks of August 14, 2019 through October 16, 2019, and recommended the Board ratify the reimbursement of the 129 claims, which totaled \$1,083,899.10 (see, table below). There were no denied claims.

WEEKLY CLAIM REIMBURSEMENTS November 4, 2019 BOARD MEETING		
Week of	Number of Claims	Funds Reimbursed
August 14, 2019	20	\$86,715.36
August 21, 2019	20	\$105,962.72
August 28, 2019	9	\$195,465.43
September 4, 2019	11	\$21,719.72
September 11, 2019	16	\$434,480.06
September 18, 2019	23	\$66,740.31
September 25, 2019	17	\$99,193.72
October 16, 2019	13	\$73,621.78
Total	129	\$1,083,899.10

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

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

Board Claims – Claims over \$25,000

Mr. Wadsworth presented the Board with three (3) claims for an amount greater than \$25,000 that had been reviewed by Board staff since the last board meeting (see, table below).

Facility Name Location	Facility- Release ID#	Claim#	Claimed Amount	Adjustments	Penalty	Co-pay	**Estimated Reimbursement
Montana State Prison Deer Lodge	3907583- 2861	20190510C	\$32,270.29	\$591.80	-0-	\$15,839.24	\$15,839.25
Janet Martinson Whitefish	6015308- 5215	20190828C	\$81,290.65	\$129.75	-0-	-0-	\$81,160.90
Stage Coach Inn Corp West Yellowstone	1600464- 3358	20190903R	\$26,309.14	\$20.00	-0-	-0-	\$26,289.14
Total			\$139,870.08				\$123,289.29

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

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

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

Mr. Johnson had questions about the reduction in costs for Claim #20190510C, for Montana State Prison in Deer Lodge, and asked if the costs were set through a state contract, or if the rates were different. Mr. Wadsworth stated that, although the owner of the facility is a State agency, the Department of Administration, the rates used to cost control the claim come out of the Board rules. Mr. Wadsworth stated that contract costs may be higher, but they are not used to cost control the claim.

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

Survey Monkey® Results and Prioritization

Mr. Thamke stated there was no update to provide. The last meeting provided a pathway forward. He asked if the Board was comfortable with where the items were at this time.

Mr. Schnider noted that there was an Executive Session to follow the Board meeting, wherein some of the items that had been prioritized would be addressed. He noted that the job clarification and matrix for the Executive Director was listed as the first priority, and Mr. Schnider stated that he knew that was being worked on.

Discussion Items

Keenan and Associates UVOST Investigation Results

Ms. Marla Stremcha, Sr. Environmental Project Officer, DEQ Petroleum Tank Cleanup Section (PTCS), presented the site history, and results of a July-August 2019 investigation done at Facility 56-13771, Release 3034, Keenan and Associates, Billings, using UVOST technology.

Ms. Stremcha noted that reimbursement for current claims at this site were suspended, pending investigation at the site for other suspected potential sources of contamination. The presentation is to update the Board on the investigation that was done at the site to identify the contamination source(s).

Ms. Stremcha noted the site was under the Rims, east of the Metro Center and North of I-90, in Billings. It is in the east side of Billings, and the site is in a commercially zoned location. The building that is on the site was originally an Eddie's Bakery. She noted that Pacific Steel and Recycling (Pacific Steel) is upgradient from the Keenan and Associates site. There were two (2) operational, 4,000-gallon tanks on the site that were upgraded in the 1960-1970s. In 1978 Eddie's Bakery moved to a newly constructed building, and the tanks are believed to be out of use in 1980. Keenan and Associates purchased the property in 1990, and removed the tanks in 1996. This was done during the regulation changes that were implemented in 1998. The building has been leased out to a church for the last five (5) years, and was recently purchased by the lessee. Ms. Stremcha noted that the location of the tanks is still visible. There is a drainage ditch that runs along the side of the property, and is difficult to access. She noted that there is a railroad spur on the other side of the ditch and the fence.

Ms. Stremcha stated that the petroleum release was first identified in 1996 when the tanks were removed. Investigation into the release didn't begin until 2015. There were some soil samples taken when the tanks were removed, but there was not much information available about the site. There was one well installed in 1993 to investigate the area of an acid pit that existed for battery acid disposal.

Ms. Stremcha stated that there were three (3) soil borings, and both soil and groundwater samples were collected from each boring in 2015. Shallow and deep contamination was found near the tank basin. Ms. Stremcha noted that

the constituents Benzene, TPH and TEH were mapped for visual identification. There are no clean-up standards for TPH and TEH, however, Benzene was shown to exceed DEQ's cleanup standards.

Ms. Stremcha noted that there were an additional eight (8) soil borings taken, and five (5) monitoring wells were installed within the Keenan and Associates property lines in 2017. The highest sources of contamination were found near the tank basin. She noted that nothing had been investigated at the Pacific Steel property at the time of the study.

Mr. Johnson asked if this data was from a previous investigation, and not the UVOST study just conducted by DEQ. Ms. Stremcha stated that was correct, the soil borings and monitoring wells were part of an investigation Keenan and Associates conducted with their consultants, and is not part of the most recent study done by DEQ.

Ms. Stremcha noted that, in March 2019, a vapor intrusion study was conducted by DEQ at the building on the site, because groundwater impacts extended under the building, which has a daycare in the basement. She noted that in July/August 2019, DEQ conducted a Laser Induced Fluorescence (LIF) and Ultra-Violet Optical Screening Tool (UVOST) study to try and identify the nature and extent of the contamination, and possible other upgradient sources of contamination.

Ms. Stremcha stated that the LIF investigation method provides qualitative information about the distribution of contamination, using real-time field screening. She noted the UVOST tool reads residual and free product (PAHs) in dry soil and water saturated soil, meaning it can read above, below, and within the groundwater table for evidence of gas and diesel. The UVOST tool emits a UV light that excites the PAHs and sends a signal back to the computer. The reported data is based on a percentile, calibrated before the tests begin. The probe also has an electrical conductivity (EC) meter that measures the soil formation. The higher EC reading indicates finer grained soil like silts and clay, the lower measurements reflect coarser grained soil like sand gravels. The ECT information can be used on its own and compared later to the actual soil samples from the installed monitoring wells.

Ms. Stremcha stated that there was a total of 49 LIF boreholes completed, at 25 to 30 feet in the area. Four (4) new groundwater monitoring wells were installed on the Pacific Steel site. The LIF readings showed areas of contamination in the tank basin, as well as some hot spots on the Pacific Steel site, which is upgradient of Keenan & Associates site. Ms. Stremcha stated that DEQ was still trying to figure out if the higher concentrated areas of contamination were connected.

Mr. Thamke asked what the subsurface soil consisted of. Ms. Stremcha stated the upper level was silt and clay, followed by sand lenses, and then gravel right above the water table.

Ms. Rupp asked what the percentage was, based on in the percentile readings. Ms. Stremcha stated that the laser was calibrated at a certain level, and the light that comes back and is read by the device shows what percentage of light is read, within the calibrated level used to setup the device. Ms. Stremcha stated that the reading is not a concentration level, it is the percent of light you get back from the probe. Ms. Rupp asked at what percent you should be alarmed. Ms. Stremcha stated that the probe was reading any light returned over 1% but that it wasn't correlated to the concentration levels. The probe reads the presence of free product in the soil and groundwater, it does not read the dissolved phase for different constituents. They are looking at the path the contamination took to get to where it is. She stated that the soil samples that are sent to the lab reflect the actual concentration levels, not just the presence of contamination read by the probe.

Ms. Stremcha provided the Board with some cross-section views that illustrated groundwater flow. These showed that there was contamination on the Pacific Steel site, as well as concentrations in the tank basin on the Keenan and Associates site. The cross section also showed the different layers of soil, and it showed that there were many layers of clay in the areas of contamination.

Ms. Stremcha stated that the petroleum had migrated using the path of least resistance, or it could have been forced to move out in unexpected directions, if there was a large spill that generated enough hydraulic head pressure. She stated that the source of the plume illustrated in the cross section was in the tank basin, and it showed contamination on both sides of the property line between the sites. She stated that the contamination was traveling through the sand layers, and that the original contamination took place up to forty years ago, so groundwater levels could have been very different than they are today, and those groundwater levels would have an effect on the migration of the plume.

Mr. Johnson asked where the tank basin samples had been taken, in reference to the LIF modeling illustrations being shown to the Board. Ms. Stremcha stated that the tank samples usually went to two (2) feet under the tank basin. These samples were taken about 10-12 feet below ground surface (?), and there were five (5) samples taken during the tank closure. Those are taken just to see if a release has happened. If a release is discovered from those samples, additional investigation has to be done to identify the nature and extent of the contamination.

Ms. Stremcha stated that the 4D Models provided with the investigation report illustrated that the contamination spots shown on the Pacific Steel site are connected to the contamination in the tank basin on the Keenan and Associates side. She noted that in the 2D maps, shown earlier, there was a map that showed three (3) different areas of contamination; one (1) in the tank basin, and two (2) upgradient from there, on the Pacific Steel site. She stated that all of them were connected, and that the contamination in the tank basin had migrated through the soil. She noted that there were many situations wherein there were multiple gallons of gas being released from the tanks over time through a leak, or there were multiple overfills at the tanks.

Ms. Stremcha stated that the map didn't show the geology, but it did show the groundwater and how the plumes could be connected. She stated that there was diesel and gasoline present. She stated that the diesel came from the tanks at Keenan and Associates, based on the soil samples taken.

Mr. Johnson asked about the statement made by Ms. Stremcha that they knew the diesel came from the tanks. He asked if there was any diesel on the Pacific Steel site. Ms. Stremcha stated that would be talked about later.

Ms. Rupp asked if the plume extended completely across the Keenan and Associates site. Ms. Stremcha stated that the plume extends to the edge of their property, but not off site and downgradient. The extended plume is only in the dissolve phase, not free product.

Ms. Stremcha stated that the soil concentrations for benzene were highest near the tank basin. She noted that the concentrations for benzene in the groundwater show the plume upgradient onto the Pacific Steel site. She stated that this investigation is not complete.

Ms. Rupp asked about the concentration levels. Ms. Stremcha indicated that the images were color coded, red as the higher concentration, the computer model showed concentrations from wells that were sampled two (2) weeks after installation. She stated that can give a false high, and noted that the next round of sampling may have different concentrations. Ms. Stremcha stated that the models were pretty accurate, but more groundwater sampling needed to be done.

Ms. Stremcha stated that DEQ had not found another source of contamination, but more investigation is needed to completely define the petroleum impacts. She stated that they know there is contamination that extends upgradient onto the Pacific Steel side. She stated that a second source is yet to be confirmed, there could be a source further upgradient, but the investigation is still not complete. She stated that the tank basins are the primary source for the gasoline/diesel contamination in the soil and groundwater in the vicinity of the former tank basin. She stated that DEQ has a couple unanswered questions, and the completion of the investigation could answer those. She restated that there was no other source identified.

Mr. Johnson asked if the earlier samples taken at the site, collected by Tetra Tech, and the current work, were consistent. Ms. Stremcha stated that they saw impacts in similar locations as reported by their analytical results of samples collected from the tank basins.

Mr. Johnson asked how much had been spent at the site to date. Ms. Stremcha stated that the LIF Investigation cost about \$95,000, and the previous studies were about \$65,000.

Ms. Rupp asked if the tanks were in use and leaking, or getting overfilled, during the 60's-80's, and were pulled in 1996. She asked why there was a nine (9) year gap between the time the release was discovered and serious investigations were conducted. She asked if it was due to workload and priority levels. Ms. Stremcha noted that priority does matter, and that when the tanks were mandated to be upgraded, there was a large number of discovered releases at that time. Because of the amount of discoveries, those had to be prioritized based on risk.

Mr. Johnson asked if the tank closure samples were fairly high when initially taken, and high enough to indicate a serious release. Ms. Stremcha stated that there was a different lab analysis used, and those are totally different than the ones used today. She stated that the lab results were well over the standards used in the 1990s.

Ms. Rupp asked why this investigation was being undertaken by DEQ instead of a contractor on behalf of the owner. Ms. Stremcha stated that there is speculation that there is an additional upgradient source that may be impacting the Keenan and Associates site. She stated that Pacific Steel also stated that they had been impacted by other sources. Ms. Stremcha stated that DEQ was using LUST/TRUST funds, monies from the Federal government that can be used to investigate contamination under certain conditions, to identify the source and responsible parties. She stated that DEQ would cost recover those monies, either from the Fund, or from Pacific Steel, if they are responsible.

Mr. Johnson asked Mr. Chenoweth if the Keenan and Associate site's suspended claims and associated work plan could, be discussed without the owners and other parties present. Mr. Chenoweth stated that public notice is always a concern, and it is safest to provide that to all concerned parties before discussing issues. Mr. Johnson stated that he wanted to just state that there had been an approved work plan, work was done, claims associated with the approved work plan were suspended, the claimant hired an attorney and went to a Hearings Examiner, the case was dismissed with prejudice. He asked if those outstanding claims were a done deal. Mr. Chenoweth stated that it was his understanding that it was a done deal. He referred to Mr. Wadsworth for further information.

Mr. Johnson noted that within the current discussion, it was probably not appropriate to discuss the particulars of the Keenan and Associates claims and contested case. Mr. Schnider agreed that without the owners present, it would be better to wait until that was put on a future agenda and all parties to the case would be present.

Mr. Schnider asked if there were any further questions for Ms. Stremcha.

Mr. Rorabaugh asked if the technology used to conduct the investigation was expected to make clean up more efficient, cost effective, or quicker. Ms. Stremcha noted that LIF has been around for 20 years and that traditional means of sampling are done to confirm analysis. She stated that she has only conducted an LIF study on three (3) sites. She stated that PTCS develops conceptual site models for every site they close, and the information they use is from soil borings, soil samples, and groundwater monitoring results. She stated that those traditional analyses drive the closure at each release, and LIF is not the basis for that type of action on its own.

Petroleum Mixing Zone (PMZ) Closures

Ms. Amy Steinmetz, DEQ Petroleum Tank Cleanup Section (PTCS) Supervisor, stated that the reason for the Petroleum Mixing Zone (PMZ) closure presentation is due to the Board statute that states the Board has the right to request that a PMZ closure be considered as a part of the remedial alternatives analysis to bring a site to closure. She stated that DEQ wanted the Board to have a better understanding of DEQ's statutes and rules that provide DEQ staff with the criteria to determine when a PMZ closure is appropriate. Mr. Reed Miner, Sr. Environmental Project Officer, PTCS, presented the qualifiers and definitions that determine what a PMZ is, and how it can be applied.

Mr. Miner stated that a PMZ is an alternative to resolve a release with petroleum-contaminated groundwater. He stated that it is applicable under specific conditions, and is voluntary. The responsible party has to agree to the conditions imposed by the PMZ. Mr. Miner stated that a petroleum release is given the status of "resolved" when:

- All appropriate corrective action has been completed,
- Free product has been removed to the maximum extent practicable,
- The plume is stable or shrinking, natural attenuation is occurring, and
- There are no unacceptable risks to human health and the environment, both in the present and the future.

Mr. Miner stated that institutional control was put in place on all properties that are within a PMZ boundary, including deed notice. The mixing zone notice on a release has to comply with all applicable environmental laws, with the exception of water quality standards within the PMZ. This does not apply if there is contamination in the soils that still exceeds risk-based standards. A PMZ would not be an appropriate remedy if soil contamination was still high.

Mr. Miner stated that a PMZ is not a substitute for a rigorous investigation, and it is also not a substitute for remediation. He stated that all appropriate corrective actions must be completed according to DEQ rule.

Mr. Miner stated that he had received a question if there was a requirement for additional monitoring if a PMZ is put in place. He stated there was no additional groundwater monitoring when a PMZ is used, the wells are abandoned, and the site is closed using a PMZ. It is not a temporary status nor is it a verb. Mr. Miner stated that he has heard statements like “You should just PMZ the site” and stated it is not an action you can just do. He said that investigation and remediation are still required before a PMZ closure can be considered.

Mr. Miner referred to a release that had been closed using a PMZ. This site had a release that was discovered in 2003 at the site of an old UST and dispenser location which had been removed. Soil borings and monitoring wells were installed between 2004 and 2006 to assess the extent and magnitude of the contamination. The remediation done at the site included removal of 70cy (cubic yards) of contaminated soil. The wells were monitored, and it showed there was no free product present. No surface water within 500 feet of the release was contaminated. The plume was stable and shrinking as shown by monitoring done from 2004-2010. The drinking water at this site was provided by the city, and any contamination in the groundwater was not a risk because it was non-potable, and not a source of water for the city. Mr. Miner stated that in 2012, this site was proposed to use PMZ as a closure method. During review, PTCS looked to see if all the corrective actions reasonably required had been done, and if the source area of the contamination had been removed to the maximum extent practicable. It was decided that not enough soil had been removed to meet those criteria. The PMZ closure was denied and a workplan for additional remediation was developed.

Mr. Miner noted another site that had been a gas station from 1984-2008, with a release confirmed in 1993. The underground storage tanks were replaced in 1993 and then removed in 2008. Soil borings and monitoring wells were installed to assess the extent and magnitude of the release at the site. In 1998, there were 375cy of contaminated soil removed from the tank basin, at a maximum depth of 13 feet. In 2014, 305cy of contaminated soil was removed from the dispenser area, to a depth of 17 feet.

Mr. Miner noted that at the second site example, the depth to groundwater was between 12 and 14 feet. The petroleum contamination in the groundwater was delineated, was found to be attenuating, and was contained on-site. There were no third-party impacts. The benzene in the groundwater was measured at 1,730 ug/L (micrograms per liter), and the risk-based standard is 5 ug/L.

Mr. Miner stated that in the second example, the question was asked if additional remediation was necessary. It was decided that there was no free product, the source mass had been removed to the maximum extent practicable, there was no direct-contact risk with the residual petroleum contaminated soil, and the plume was within 500 feet of the source area. It was concluded that there was no present risk, but the question of future risk still had to be addressed.

Mr. Miner stated that PTCS had to consider potential future development at the second site example. The institutional controls looked at: commercial use of the site, that no water supply wells were noted at the site, the extent the excavation was limited, vapor barrier intrusion issues, limits on water service lines, and the disposal of any contaminated soils.

Mr. Miner stated that this second example had institutional controls that informed what the future use of the site would be. It was decided that no further remediation was necessary, but there could be structural vapor barrier needed for any future building, the building would be a slab on grade with a limit of excavation to eight feet, there were limits placed on water service line construction material, and agreement that contaminated soil would be disposed of.

Ms. Smith asked if the institutional controls, Mr. Miner had listed, would be placed on the deed for the land, and would be recorded for future buyers. Mr. Miner stated that was correct.

Mr. Miner stated that this second test case was resolved with a PMZ, which facilitated a property transaction. The buyer didn't want to purchase the land with an open release. The site has been redeveloped, the former building removed, and a new business built.

Mr. Miner stated that PMZs are applicable for releases from petroleum storage tanks, only if there are conditions that ensure both present and long-term protection, and if it is shown that residual contamination in soil and groundwater will continue to naturally attenuate. He noted that there are many specifics that are used to consider the applicability of using a PMZ, and they are:

- The PMZ is included in a work plan (Corrective Action Plan, CAP);

- Thorough investigation and documentation of the release is done;
- Free product is removed to the maximum extent practicable;
- A risk evaluation determines there is no unacceptable risk;
- All appropriate corrective actions have been completed;
- The release complies with all environmental laws, except groundwater quality standards;
- The contaminant plume is stable or shrinking;
- Source area contamination has been removed to the maximum extent practicable and the residual poses no risk;
- The downgradient boundary is less than water quality standards, as established by an investigation, not based on a model;
- The institutional controls (deed restrictions, easements) are applied with all properties within the PMZ boundary;
- The PMZ is within 500 feet of the origin of the release, and not within 500 feet of drinking water wells or surface water, unless DEQ determines an exception is acceptable;
- The Institutional Control and any Engineered Controls are in place to ensure safety;
- The deed notice is applied on all properties within the PMZ.

Mr. Johnson asked if a groundwater control zone is also established as part of meeting the criteria for a PMZ, and the limits of 500 feet distance from drinking or surface water. He asked if it would affect adjacent properties. Mr. Miner stated that DEQ would not approve a PMZ if future site use showed that there might be a risk. He stated that a possible exception would be based on soil types and depth of water. It would be site-specific. Mr. Johnson asked if DNRC was also involved in that decision, or was it only up to DEQ. Mr. Miner stated that was outside of underground storage tank rules, and he couldn't speak to the question.

Mr. Wadsworth stated that the intent was to have the information recorded with the county, much like those for septic systems and their associated required distance from drinking water. Mr. Johnson stated that septic mixing zones don't really affect adjacent properties. Mr. Wadsworth and Ms. Rupp stated that they can.

Mr. Miner stated that over 60 releases have been officially evaluated by DEQ for PMZ closure. He stated that, from 2011 through 2019, there have been four (4) approved PMZ sites. He stated that PMZ closure has always been on DEQ's mind, and with the Release Closure Plan, the idea of a PMZ comes up sooner in the conversation with the owner. He restated that, since it is voluntary, the owner has to agree to the controls that are part of going this route. Mr. Miner stated that, currently there are over 20 releases that DEQ is currently working on that are progressing toward using a PMZ closure.

Mr. Johnson asked if there was a potential for a release to be reopened if a PMZ was used, and also if there was a way for the land owner to get the deed restrictions taken off, in the future. Mr. Miner stated that DEQ always has language in any of their communication that reserves the right for DEQ to reopen or readdress a site if there is new information. He stated that, if an owner wanted to reevaluate the site and have the deed restriction removed, DEQ would not necessarily reopen the release because they would not be the party initiating the review.

Mr. Thamke asked if an owner can conduct their own investigation and submit it to DEQ for evaluation, to get the deed restriction taken off at a later time. He noted that a zoning status being changed to something more environmentally protective might start an owner on the path of wanting to get the restriction lifted.

Mr. Johnson asked if the Fund would have any financial liability at a site closed by PMZ, if DEQ did not require additional investigation or work. If the Fund would have any liability in paying for the investigation to get a deed restriction lifted.

Mr. Wadsworth indicated that with only four (4) sites having been closed using the PMZ option that all the nuances of reopening, at this point, are not completely understood. He indicated that, if there was an owner that used a PMZ to close their site and wanted to change the usage, the Board would most likely be interested in hearing from that person. Especially if that person wanted to change the land usage.

Ms. Steinmetz stated that DEQ's role is to make sure the site is safe for any potential future uses, like a change from residential to commercial. In the scenario where an owner wants to change the site use, and it was closed using a PMZ, DEQ would require investigation to see if it was at an acceptable risk level to make that change.

Ms. Smith asked if using a PMZ was less costly than full remediation, or if the only benefit was faster closure for the owner. Ms. Steinmetz stated that it depended on the type of remediation required, but it would typically be less expensive. She stated that source removal and a thorough investigation were still necessary. She stated that PMZ closure does allow the site to have groundwater that exceeds safety standards, whereas not using a PMZ requires years of monitoring.

Ms. Rupp asked what the Board's role is in choosing a PMZ for closure. Mr. Wadsworth stated that, it would be at the point that a remedial alternative analysis is provided. Each alternative, type of remedy, has a cost associated with it and cost is a concern to the Board. He indicated that doing a limited excavation at a site followed with a PMZ closure would potentially address risk concerns, expedite site closure, and could cost much less.

Mr. Johnson stated that the owner would have to agree to do this. Mr. Wadsworth indicated the laws are not clear on that topic. He stated that the standards related to reimbursement for cleanup were changed because of the Sunburst Texaco case. The laws were changed so that any costs that are associated with getting a site to cleanup above risk-based standards will be paid by the owner. He noted that DEQ can't tell an owner to not cleanup a site to cleaner than 5ppm benzene; they can only tell an owner to cleanup it up to state standards. He indicated that the concept that a site can only be closed using one methodology, and then must be reimbursed by the Fund, based on that method of choice, spawned the PMZ rules. He noted that the idea of the PMZ, and the Board's ability to request that it be considered, was put in statute to save the taxpayers money.

Ms. Rupp asked where the Board's role in the discussion on PMZ's would take place. Mr. Wadsworth indicated that it is normally at the remedy selection stage. He stated that Board staff often have communication with the owner/consultant about the costs of each option versus the time it takes to implement the option.

Mr. Thamke stated that he thought it was DEQ's role to be in charge of remedy selection, not the Board. He stated that it appears that DEQ is being cut out of the decision. Mr. Johnson stated that it also was not the place for the Board to demand that a property owner implement a PMZ, with the restrictions associated with it.

Mr. Wadsworth stated that the law gives the Board the right to request that the plan include a PMZ at a site. Mr. Johnson stated that it would be up to DEQ to determine if it was a viable option, and the chosen option may not be the cheapest. Mr. Wadsworth agreed and stated that the Board has a duty and authority, under the law, to weigh in on the decision. He stated that the place the Board would weigh in is when a corrective action is being decided at a site.

Mr. Wadsworth stated that he could be wrong about specifics in the law. He suggested that the Board do their own research, and have further discussion about this issue. Mr. Johnson stated that he would be interested in what the Petroleum Marketers would think about the issues.

Mr. Johnson stated that he would assume that an owner would want to have a choice on the deed restriction being placed on their property. Mr. Taylor stated that he viewed the deed restriction as more important, if it was applied to commercial property. He stated that if the property was in the county as rural residential, it was not likely to be rezoned by the county, so the land would not likely be used for different purposes. He stated that if he were to eliminate a bulk plant in order to use the land differently, like building a warehouse, having a PMZ would be a good option for commercial land, with the deed restriction.

Mr. Miner stated that in order for DEQ to resolve a release without a PMZ, present and long-term protection of human health and environmental safety was necessary. He stated that if the owner refuses to agree to a deed restriction or institutional control, there is no means of assuring future long term human health. In that case, DEQ would have to request additional remediation.

Ms. Smith stated that anything over five (5) units of housing is considered commercial property. She stated that the delineation is one (1) - four (4) family units on a property will be zoned residentially, and five (5) or more units is considered commercial.

Stakeholder Work Group Update

Mr. Brad Longcake, Executive Director, Petroleum Marketers Association, presented an updated of work being done in the Stakeholder Work Group. He summarized that the work group was started with Leanne Hackney, former Section Supervisor, DEQ Underground Storage Tank, and himself. They were trying to find proactive ways to look at the new regulations being imposed by EPA, and subsequent rule changes adopted by DEQ. He noted that the work group has grown due to challenges during the 2019 Legislative Session.

Mr. Longcake stated there were three (3) sub-groups working on all the different issues. The groups are: a UST Group, Consultant's Stake Holders Group, and a Process Improvement Group. He stated that they are all looking at creating better uniformity through all the groups, and to improve the processes that effect all the groups. He noted that they are including consultants and other responsible parties to try and make the Fund quicker, smoother and more viable. They have gathered many suggestions to address those issues.

Mr. Longcake noted that there was a meeting in November of 2019, (focused on the new EPA regulations and DEQ rule changes), which was held in Bozeman that had around 45 stakeholders present. There was a wide variety of individuals represented. He stated that there was such a great response that more meetings are being planned for 2020. He stated that Ms. Hackney was one of the lynch-pins in putting those meetings on, and with her leaving DEQ, he will have to figure out the way forward with Ms. Hackney's replacement.

Mr. Longcake stated that the groups are working on identifying pinch points, like eligibilities, payments and differing views. He stated that the groups are trying to identify and present solutions to avoid experiencing another Legislative session like the one that took place in 2019.

Ms. Rupp asked if the Board Members could be notified about the meeting schedules. She asked if that would be appropriate. Mr. Longcake stated it was probably an oversight that the Board Members weren't invited. Mr. Longcake stated that the challenge he has is that the meetings are an opt-in type of notification versus a push out that reaches as many people as possible. He stated that the Petroleum Marketers Association is working on creating a database of interested parties, so invitations can be sent to anyone that has stated an interest, instead of that party having to find where the opt-in subscription is located.

Mr. Wadsworth noted that the Board would need to be careful about having a quorum present at any of these meetings, which would be considered four (4) members. Mr. Johnson asked Mr. Chenoweth about any concerns regarding meeting attendance and a Board quorum.

Mr. Chenoweth stated that he would caution about not giving public notice, because the meeting is directly related to the work the Board does. Mr. Schnider stated that if any Board members plan on attending a meeting, they need to notify Mr. Wadsworth.

Mr. Rorabaugh mentioned that Mr. Longcake, Ms. Hackney, Mr. Wadsworth, Ms. Steinmetz, and several other DEQ Department folks were present. He stated it was the best organized meeting he has been to. Mr. Longcake stated that there was a large turnout, as well as quality communication between presenters and the audience.

Board Attorney Report

Mr. Chenoweth presented the Board Attorney Report. He stated that at the last Board meeting, it was decided that Mr. Chenoweth, Mr. Wadsworth, Mr. Johnson and Mr. Breen would attend any mediation session scheduled with Cascade County and their representatives. He noted that mediation has been scheduled on November 19, 2019 and that Mr. Breen was replaced on the Board with Mr. Taylor.

Mr. Chenoweth asked the Board if they wished to name another representative, in place of Mr. Breen, to be present at the scheduled mediation. He noted that Mr. Schnider had recused himself from this proceeding, due to conflict of interest, and stated that the replacement was open to anyone else on the Board that would be able to attend. He stated that he wanted the Board to make the decision on representation.

Mr. Schnider stated that this case has been going on for years and is a large case. He stated that it would take some time to get up to speed on the history. He asked the Board what they wanted to do.

Mr. Chenoweth stated that he wanted to open the opportunity up to Mr. Taylor, even though he was just appointed to the Board. Mr. Chenoweth stated that many of the Board members are new and have the same amount of knowledge of this case as Mr. Taylor would have.

Mr. Thamke asked Mr. Chenoweth what the Board member's role would be at the mediation. Mr. Chenoweth stated that there is a long timeline involved in the history of this case and that he had created timelines to make it easier to

understand the whole case. He stated that Mr. Wadsworth has more of the boots-on-the-ground type of information. Mr. Chenoweth stated that the Board members would be the final say, and be there to approve any final offers that are made between the two parties.

Mr. Johnson asked if the Board members' approval would be the final say in the mediation. Mr. Wadsworth stated that in the past, usually there are two (2) Board members representing the Board because of scheduling and timing issues. Many times, mediations can go on for many months, and scheduling becomes more problematic if there is only one person available to attend the proceeding. Mr. Wadsworth also stated that once there is a final agreement between the parties to the mediation, the approval of the representing Board members is a good-faith agreement. The final decision is made when that agreement is presented to the Board and ratified. It is ultimately the Board's decision.

Mr. Chenoweth stated that representing the Board at a mediation is based on trust. The Board is trusting the representing Members to agree to something that the Board can likely approve. The opposing party is trusting that the representing Members are agreeing to something that can be likely approved by the Board. Mr. Chenoweth stated that the best thing to do would be to be educated and involved in the case, so that a good decision can be made.

Mr. Thamke asked Mr. Johnson if he was comfortable flying solo. Mr. Johnson stated he was, because it was a three-pronged approach working with Mr. Chenoweth and Mr. Wadsworth.

Mr. Chenoweth stated that if this took many months, there is a benefit in having more than one person in case something happens with the one representative. It adds another level of help and another person who is knowledgeable about the case.

Mr. Schnider asked if anyone wanted to volunteer. Mr. Greg Taylor agreed to step in. Mr. Chenoweth asked the Board if they were ok with this decision, and stated that he was seeing a lot of nodding from the Board Members. Mr. Schnider stated that it was ok.

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	The District Court has remanded the case to the Board. Currently, we are planning a settlement conference between the Board and the County.

Fiscal Report

Mr. Wadsworth presented the Fiscal Report to the Board for the end of September FY20. He noted that the total for the category "Regular CY Claim Payments" is reported as \$793,194.15. He stated that is for roughly 13 weeks of activity, which equals a burn rate of about \$61,000/week, and that is about \$30,000 lower than the normal burn rate.

Mr. Schnider asked why Mr. Wadsworth thought that was occurring. Mr. Wadsworth stated that there is usually a little lag time while the consultants are out in the field doing the work and when they bill for the work that has been done.

Ms. Smith stated that during the time period of 9/1 to 9/30, the total of the burn rate was about \$137,000/week, which is a higher burn rate. She asked if there were not a lot of claims that were paid in August or were they deferred until September. Mr. Wadsworth stated that the bulk of those payments were Board Claims that had been approved for payment at the end of August and paid in September.

Ms. Rupp asked for clarification on the meaning of the Settlements category from the Operating Statement. Mr. Wadsworth stated that had to do with legal cases that the Board may have. Those could be cases before a Hearing Examiner, not necessarily at the District Court level. This category contains monies associated with any type of settlement agreed by the Board.

Board Staff Report

Mr. Wadsworth presented the Board staff report. He noted that there were some eligibilities still being worked on that will be eligible with a recommended adjustment to reimbursement. Those eligibilities graph with a status of "pending".

Ms. Smith asked if the eligibility graph referenced the number of applications in true numbers, or if the graph was presented in 1,000's. Mr. Wadsworth stated that the graph was a representation of how many eligibility applications

were received and is a true number. The y axis shows zero (0) through four (4), and that is accurately describing the true number of applications.

Mr. Wadsworth stated that the claim graph (Claim Count) also showed the number of incoming claims, and the other (Claim Value) showed the amount of money being claimed and paid.

Ms. Rupp asked why the eligibility graph showed eligibilities that are still pending for two years and why decisions are not being made for things that transpired two years ago. Mr. Wadsworth noted that in some cases, an owner may decide to withdraw an eligibility application, like the one shown on the graph for November 2017. Getting to that decision takes time. In other cases, there are eligibility applications that are awaiting more information by the owner and are stayed in a pending status awaiting that communication. He noted that in some cases, the Board staff may be recommending ineligibility, and the owner has requested that the Board staff hold that eligibility recommendation, so they can prepare and see if they disagree. Additionally, there are eligibilities that are still in process, and they are “pending”.

Ms. Rupp requested Board staff to add axis titles to all the graphs. Mr. Wadsworth agreed.

Ms. Smith asked if there were any claims (sic, eligibilities) on the Board staff eligibility graph, and what the history was concerning anything prior to September 2017. Mr. Wadsworth stated that the graph was only a window in time. If the graph was expanded to be more years, it became hard to read.

Ms. Smith asked for an additional reference on the eligibility application table to see if there were additional applications that are still pending from before the two-year window that the graph is based on. Mr. Johnson noted that it would be best to have just the applications still in a “pending” status. It was agreed upon.

Petroleum Tank Cleanup Section (PTCS) Report

Ms. Amy Steinmetz, Supervisor, DEQ PTCS, presented the Board with the PTCS Report. She stated that from 8/12/2019 through 10/22/2019, there have been four (4) new releases and 16 closed. The number of new releases from the beginning of the year to date is 25, with 55 begin closed in the same time period. She stated that the total number of confirmed petroleum releases over the past 30+ years was 4,716 with 3,754 of those resolved. This leaves 962 open petroleum releases that PTCS addresses. This number includes a number of releases that are being addressed by other agencies, including EPA. Ms. Steinmetz stated that the total number of releases being addressed by PTCS is about 925. Ms. Steinmetz stated that, by her count, as of the end of June 2019 there are about 622 open and eligible petroleum releases.

Ms. Steinmetz stated that she had told the Board she would provide an overview on legacy releases and the details of those. She stated she would provide a full breakdown at the January 2020 meeting. She noted that any site older than ten years is considered a legacy site. Ms. Steinmetz stated that of the open petroleum releases, 88% are considered to be legacy. She noted that 93% of the 4,716 petroleum releases were confirmed more than 10 years ago. Ms. Steinmetz stated that of the resolved releases 94% were resolved over ten years ago.

Ms. Steinmetz stated that in the first five years of the program, 1989-1994, there were 2,164 confirmed releases and 1,842 were resolved. In the last five years, there have been 153 confirmed petroleum releases and 77 of those are closed.

Ms. Steinmetz stated that within the first five years of the program, problems that had been existing for years were just being discovered. She stated that leak prevention is much more active now than it was at the beginning. Ms. Steinmetz stated that within a five-year time period, 1,842 sites had been closed and those were sites that were easier to identify and close. Those sites have been referred to as “low hanging fruit.” She stated that the remaining sites that are open are not considered low hanging fruit. There is more complexity at those sites and it can have to do with the nature of the contamination and distribution in the subsurface. Many of these sites have no viable, responsible party to clean up the contamination. She noted that, in some cases the current owners are not willing to provide access to the site for investigation and are not willing to take responsibility for any clean up activity needed.

Ms. Steinmetz stated that PTCS is addressing the resolution of some of the old releases through strategic planning. They are interested in doing things faster and more efficiently.

Mr. Johnson asked if there was a correlation between the mandatory tank upgrades and the discovery of multiple releases. Ms. Steinmetz noted that Jay Shearer, Senior Environmental Project Officer, PTCS, put together charts that confirm that type of activity. The results show that a bulk of releases were opened within the first ten years of the program.

Mr. Thamke stated that the UST program is anticipating seeing significant noncompliance for the operational parameters from the latest round of regulatory updates. UST does not think it will impact release discovery, but it will place more onus on the owner/operators for daily walk-throughs and leak detection/prevention. He didn't believe that the new regulations would lead to a higher number of releases being opened.

Ms. Rupp stated that the information was helpful. She stated that, based on the number of open releases and the rates of closure, she estimated it would take roughly 12 years to get caught up. Ms. Rupp asked Ms. Steinmetz if she would like to comment on that, considering what was just presented to the Board.

Ms. Steinmetz stated that part of her next year's goals is to gain a better picture of all the open petroleum releases. She stated that PTCS has been undergoing a process to identify all open releases and what phase of work those sites are in. She said that there are 120 sites that have been shelved for so long, it is unknown what phase of work they are in or what needs to happen at the site. PTCS has hired a consultant to review those files and determine what phase of work those sites are in, and what needs to happen to bring the sites to closure.

Ms. Steinmetz stated that 12 years may be overly optimistic for getting caught up. She noted that timeline would be predicated on a person's view of what is considered to be the status quo. She noted that if having 300 open releases was status quo, then the projected 12-year estimate may not be too optimistic. However, if having 100 open releases is status quo, that may be overly optimistic. Ms. Steinmetz stated that each state has different regulations that impact the ability to get sites to closure. Ms. Steinmetz stated that she would have a thorough presentation to the Board in January 2020. Ms. Rupp commended Ms. Steinmetz on this endeavor and stated that it was fruitful.

Big Arm General Store, Big Arm, Fac #24-12285, Rel #4456, WP #716833875, Priority 3.0

The estimated cost for this work plan is \$109,320.26. The remedial alternatives analysis compared excavation, petroleum mixing zone, and monitored natural attenuation. Excavation was the chosen remedy. Monitored natural attenuation was expensive and time consuming, PMZ would have required the adjacent property owners to agree to deed restrictions, and it wasn't feasible. Excavation will be followed by five (5) years of groundwater monitoring. The estimated cost is \$150,000.00.

Former Rapley Property, Great Falls, Fac #0704772, Rel #4325, WP #716833900, Priority 1.1

The estimated cost for this work plan is \$195,137.57. The remedial alternatives analysis considered no action, monitored natural attenuation, excavation and landfarm disposal of soil, and soil vapor extraction (SVE). The low permeability of the vadose zone and shallow depth to the groundwater table preclude the use of in-situ cleanup technologies such as SVE. Excavation was determined to be the best method for soil remediation because of the clay to silty-clay soils at the site.

This approved work plan consists of the excavation and disposal of up to 1,500 cy of petroleum contaminated soils. This is the second phase of excavation, with the first phase having been completed in 2010. High levels of groundwater contamination remain within the unexcavated portion of the contaminated soil zone. In addition, prior to backfilling the excavation, this work plan proposes to place 1,800 pounds of oxygen releasing compound (ORC) pellets in contact with the saturated zone to enhance the cleanup of the groundwater.

PJG Motorsports, Lewistown, Fac #14-08126, Rel #5213, TASK ORDER, Priority 1.4

Ms. Steinmetz presented the Board with a brief on a Task Order that DEQ used LUST/TRUST monies to implement. She stated that LUST/TRUST stands for Leaking Underground Storage Tank and the TRUST is Federal monies that is granted to each state and can be used in site investigation or remediation under three different conditions.

1. Investigation of an unknown source, investigating where the contamination is coming from,

2. Used if there is a recalcitrant owner, or non-viable owner, and
3. Only if the tanks are Federally regulated.

Ms. Steinmetz stated that PTCS must cost recover in these situations. She noted that, in the case of PJG Motorsports, the site is eligible for the Fund, and the owner did not have the means to pay for work done at the site. That means that PTCS will cost recover the work done at the site that LUST/TRUST monies were used for from the Petro-Fund. For this reason, Ms. Steinmetz brought this Task Order to the Board's attention. Ms. Steinmetz noted that claims would be submitted, and it is understood that the normal cost control would apply to those.

The estimated cost for this work is \$208,871.11. This task order was for removal of the petroleum storage tank system and excavation of contaminated soils. Additionally, preliminary soil borings were installed for assessment purposes, as well as the installation of monitoring/remediation wells for future remediation.

Ms. Rupp asked about the criteria used for "ability to pay". Ms. Steinmetz stated that DEQ wants to do what they can to help people and not breaking them financially. Especially in the cases where the current property owner is not responsible for the contamination, like this site.

Mr. Wadsworth stated that part of this task order includes tank removal, which is a cost that the Fund does not pay for. Therefore, there will be adjustments on those incoming claims for that activity.

Public Forum

Brad Longcake, Executive Director, Petroleum Marketers addressed the Board during Public Forum.

BL: I just want to make a quick comment, that I feel like the Department has made some extremely important changes and moves forward. I am very optimistic in terms of looking for new ideas, willing to talk about different, difficult discussions, and is really trying to find ways to improve the process. I think Ms. Rupp asked a lot of good questions, which are questions that as the Petroleum Marketers, we've asked. You know if you haven't touched a site in twenty years, is there really any issues here? You haven't taken the time to look at it, so now by going back and reevaluating all these sites, really trying to identify a prioritizing system, we can go back and touch something that happened one year ago, five years ago, twenty years ago, but right now we don't know and it's like throwing darts at the wall, hoping that we are spending our money appropriately. By doing these analysis, and really identifying where there are problems, we'll be able to utilize the funds that you guys appropriate, to the best of our abilities. And I think that's what all Petroleum Marketers, and people across Montana want. I want to commend the Department, you guys, especially Amy, and I know LeAnne's gone now, and a number of other guys and consultants that are in the work group, because that is really what we are trying to focus on. We are trying to get these underlying issues taken care of, so we can present solutions to you guys, so you can make informed decisions. That's really what it is. I want to thank the Department. Thank You.

Mr. Schnider asked if there were any other comments for Public Forum, there were not.

The meeting adjourned at 12:46 pm.

Signature - Presiding Officer

Executive Summary
Pelican Oil Inc – Billings
Facility ID #56-05861, Release #1270 and #3799, WPID #33818 and 33817, Claim
ID 20191016A and 20191016B

TYPE OF ACTION: Board review of denied claims for Claim ID 20191016A & 20191016B.

ACTIONS REQUESTED: Claim could not be resolved at the staff level and owner has requested to be come before the board to dispute denied costs associated with Claim ID 20191016A & 20191016B.

BOARD STAFF RECOMMENDATIONS: The board staff recommends denying all costs associated with Claim ID 20191016A & 20191016B due to implementation of work prior to department approval.

ISSUE: Owner conducted corrective action prior to the workplan being subjected to the legally required public review process and before receiving department approval, as required by law.

BACKGROUND: The department requested an additional corrective action plan (WPID 33818 and 33817, for Releases 1270 and 3799, respectively) for screening and treatment of petroleum contaminated media along a utility trench near the petroleum release at Pelican Oil Bulk Plant. Work implemented for this corrective action plan was implemented without first having department approval.

The law requires that the department review the corrective action plan and forward a copy to the Board, local government offices and, when applicable, tribal government offices. The use of the Petroleum Tank Release Cleanup Fund, a public funds, requires notice to those entities before approval or activity and allows for those entities to inform the department of any modification of the proposed plan before the plan is implemented. The owner is to implement the corrective action plan once approved by the department, not before. The department may oversee the implementation of the plan, but can only do that if they know the plan is being implemented and it is to be implemented after it has received review and approval. The department may require reports and monitoring from the owner, but cannot if the plan is implemented prior to approval. The department may undertake inspections during the implementation of the plan, but can only conduct the inspection if they are aware that the activity is being conducted.

The board is required to review each claim received and make the affirmative determination that the owner has complied with the law and any rules adopted pursuant to the law, and only then, as appropriate, reimburse the owner from the fund. In this case the owner did not comply with the law. The owner did not await the department approval of the work plan, did not wait for comments from the Board or local governments, and did not allow for the regulatory agency to exercise its authority under the laws and rules concerning the corrective action at the site as required by law.

Because these claims have been recommended for denial, no evaluation of actual, reasonable, or necessary has been performed on the claims and the activities have not been compared to a department approved plan. In addition, both releases still have a co-pay requirement that must be applied to any claim which is not denied.

STATUTES AND RULES:

75-11-309 Procedures for reimbursement of eligible costs – corrective action plans.

(1)(G) (g) The owner or operator shall implement the corrective action plan or plans approved by the department until the release is resolved. The department may oversee the implementation of the plan, require reports and monitoring from the owner or operator, undertake inspections, and otherwise exercise its authority concerning corrective action under Title 75, chapter 10, part 7, Title 75, chapter 11, part 5, and other applicable law and rules.

(3) The board shall review each claim received under subsections (1)(h) and (1)(i), make the determination required by this subsection, inform the owner or operator of its determination, and, as appropriate, reimburse the owner or operator from the fund. Before approving a reimbursement, the board shall affirmatively determine that:

(a) the expenses for which reimbursement is claimed:

(ii) were actually, necessarily, and reasonably incurred for the preparation or implementation of a corrective action plan approved by the department or for payments to a third party for bodily injury or property damage; and

(b) the owner or operator:

(i) is eligible for reimbursement under 75-11-308; and

(ii) has complied with this section and any rules adopted pursuant to this section.

CHRONOLOGY:

- 3/13/2019 Work Plan Required (WPID 33818 and 33817, Release 1270 and 3799) for screening and treatment of petroleum contaminated media along utility trench near the petroleum release at Pelican Oil Bulk Plant.
- 4/17/2019 Work Plan had been created; (however, the department didn't receive the work plan until 11/8/2019).
- 5/3/2019 Tetra Tech project management activity.
- 8/16/2019-8/23/2019 Implementation of field activities by the owner's consultant.
- 10/16/2019 Claim received for consultant's work (Claim ID 20191016A & ID 20191016B)
- 10/28/2019 Inquired of department project manager, about submittal of a work plan and department approve of any work plan?
- 10/29/2019 Case Manager responded: "Thanks for asking", "I have not received a work plan. I believe the contractor for the city redesigned the sewer line to keep it above the zone of potential contamination. I do not anticipate getting a work plan ..."
- 11/1/2019 Denied claims (no department approval of corrective action plan)

- 11/8/2019 Case manager communication: “I received the work plan referred to above yesterday. While the utility work was redesigned to adjust depth to avoid groundwater, the location was not adjusted therefore there was the potential that contaminated soil would be encountered. Screening of the soil to segregate petroleum contaminated soil from “clean” soil was still needed. It is my understanding that the field work has been completed, but reporting and data analysis has not yet been done. The data collected will help determine future corrective actions. I am reviewing the work plan and intend to approve it.”
- 11/14/2019 Communication with consultant explaining that there isn’t much Board staff can do with the adjustment.
- 11/19/2019 Owner communication requesting to have a hearing before the board regarding denied charges.
- 11/21/2019 Department’s subsequent approval of work that was implemented in August of 2019 for which no proper legal process was followed and no government review was obtained.

BOARD OPTIONS:

1. Ratify the staff recommendation.
2. Reject the staff recommendation with rationale for decision.
3. Provide alternative recommendation with rationale for decision.

November 19, 2019

Ms. Connie Pelican
5817 Danford Road
Billings, Montana 59101

Mr. Ross Eaton
Montana Petroleum Tank Release Compensation Board
PO Box 200902
Helena, Montana 56620

RE: Recommended Adjustments to Claims 20191016A & B for Reimbursement
MDEQ Facility ID 56-05861; Pelican Oil Inc.

Dear Mr. Eaton:

I am disputing the Board staff adjustments for Claims 20191016A & B which were denied in correspondence to me dated November 1, 2019. I would like to have this dispute placed on the agenda to the next Montana Petroleum Tank Release Compensation Board meeting.

Sincerely,


Connie Pelican

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DEC 13 2019

Petroleum Tank Release
Compensation Board



Petroleum Tank Release Compensation Board

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

November 01, 2019

Connie Pelican (OWNER)

Connie Pelican
5817 Danford Rd
Billings, MT 59101

Location Billings
Facility ID 5605861
Facility Name Pelican Oil Inc

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: 20191016B Release ID: 1270 Ordinal: 25
Claim Amount: \$944.77 Reimbursement To-date: \$12,437.61

Adjustments:

<u>Action</u>	<u>Amount</u>	<u>Comment</u>
Denied	\$944.77	No department approval of corrective action plan (75-11-309(3)(a)(ii), MCA).

Total Adjustment \$944.77

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

Sincerely,

Ross Eaton
Fund Cost Specialist

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DEC 13 2019

Petroleum Tank Release
Compensation Board



Petroleum Tank Release Compensation Board

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

November 01, 2019

Connie Pelican (OWNER)

Connie Pelican
5817 Danford Rd
Billings, MT 59101

Location Billings
Facility ID 5605861
Facility Name Pelican Oil Inc

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: 20191016A Release ID: 3799 Ordinal: 23

Claim Amount: \$2,204.45 Reimbursement To-date: \$10,588.11

Adjustments:

<u>Action</u>	<u>Amount</u>	<u>Comment</u>
Denied	\$2,204.45	No department approval of corrective action plan (75-11-309(3)(a)(ii), MCA).

Total Adjustment \$2,204.45

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

Sincerely,

Ross Eaton
Fund Cost Specialist

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DEC 13 2019

Petroleum Tank Release
Compensation Board

Executive Summary
Cenex General Store
Facility ID #09-08212,
Releases #5247 & #471

ELIGIBILITY RECOMMENDATION FOR RELEASE #5247 AND RECOMMENDATION FOR PERCENT REIMBURSEMENT FOR ALL FUTURE AND PENDING CLAIMS

TYPE OF ACTION: Board review of owner's dispute of Board staff's recommendation of 0% reimbursement of all pending and future claims for releases #5247 & #471.

ACTIONS REQUESTED: Request the Board review the facts and circumstances pertaining to the violations for the Cenex General Store, Facility ID #09-08212.

BOARD STAFF RECOMMENDATIONS: The Board staff has determined that petroleum storage tank systems at the Cenex General Store failed to remain in compliance with the rules adopted pursuant to the Montana Underground Storage Tank Act, (75-11-309(3)(b)(ii), MCA). The noncompliance at the facility results in suspension of all reimbursement of pending and future claims. Suspended and future claims are reimbursed according to the effect and duration of the noncompliance, and the period of noncompliance appears to be greater than 180 days. Therefore, consistent with ARM 17.58.336(7)(a), all suspended and future claims for Facility ID #09-08212 will be recommended for 0% reimbursement.

ISSUE: The owner requests a hearing to contest the Board staff's recommendation of 0% reimbursement of all pending and future claims. It is important to recognize, DEQ has approved a work plan to conduct a remedial investigation associated with Releases #471 and #5247, however, given non compliance at the facility no reimbursement is recommended.

BACKGROUND: Release #471 was discovered on 10/31/1990 and release #5247 was discovered on 8/19/2017. The site has had two remedial cleanup activities to date. A free product/groundwater recovery system was installed in 1994 to treat and discharge groundwater and hasn't operated since 1999. There was also an excavation at the northeastern portion of the site which removed 1,550 cubic yards of impacted soil.

CHRONOLOGY:

- 10/31/1990 **Discovery of release #471**
- 10/21/1991 Application for Release #471 Form 1R received.
- 10/10/2006 Routine Inspection
 - Failure to conduct a compliance inspection on an active UST facility every three years which is in violation of ARM 17.56.309. The inspection was conducted on 10/10/2006 but the operating permit expired on 10/9/2006, resulting in 1 day of noncompliance.

- 11/2/2006 Oversight Inspection
- Missing three months of tank leak detection records which is in violation of ARM 17.56.402. The missing records are for January and July of 2006 and December of 2005 (on tanks 8,9,10,11,12, and 13). The violation was issued on 11/2/2006 but the Board staff currently has no information that shows the violation was ever corrected.
 - Failure to have overfill alarm that alerts the delivery driver which is in violation of ARM 17.56.201(1)(c)(ii)(B). The only indicator of an overfill condition is an alarm on the ATG front panel in the manager's office and will not alert the delivery driver of an overfill condition. The violation was issued on 11/2/2006 but the Board staff currently has no information that shows the violation was ever corrected.
- 4/7/2009 Routine Inspection
- Failure to conduct monthly line leak detection monitoring based on a failure to have 12 months, but missing less than 4 months of sampling, testing or monitoring records for the latest 12 months (missing 2 on 6 systems), which is in violation of ARM 17.56.402. This violation was issued on 4/7/2009 and was closed on 9/23/2009, resulting in 169 days of noncompliance.
 - Failure to use spill prevention that is not obstructed by debris or other matter (ARM 17.56.201(1)(c)(i). Having product in the spill buckets will degrade the plastic. Seeps from the spill buckets can cause a substantial release over time. This violation was issued on 4/7/2009 and was closed on 9/23/2009, resulting in 169 days of noncompliance.
 - Failure to properly anchor shear valves to dispenser islands (ARM 17.56.201(1)(b). The shear valves under dispenser 15/16 were not sufficiently anchored. This violation was issued on 4/7/2009 and was closed on 9/23/2009, resulting in 169 days of noncompliance.
- 9/23/2009 Re-inspection
- Failure to use spill prevention that is liquid tight which is in violation of ARM 17.56.201(1)(c)(i). Spill container (spill bucket) on tank #547 was cracked and needed replacement. The violation was issued on 9/23/2009 and was closed on 12/22/2009, resulting in 90 days of noncompliance.
- 8/19/2017 **Discovery of release #5247**
- 1/22/2018 Routine Inspection
- Failure to conduct monthly tank leak detection monitoring based on a failure to have 12 months, but missing less than 4 months of sampling, testing or monitoring records for the latest 12 months, which is in violation of ARM 17.56.402. Unleaded tank, with tag #547 (1 tank for 1 month), is missing records for August 2017. This violation was issued on 1/22/2018 and must be corrected by 12/25/2020. The Board staff currently has no information that shows the violation was ever corrected.
 - Failure to properly anchor shear valves to dispenser islands which is in violation of ARM 17.56.201. The shear valves on the dispensers were not properly anchored. This violation was issued on 1/22/2018 and was closed on 2/28/2019, resulting in 37 days of noncompliance.
- 8/9/2019 **Application for Release #5247 Form 1R received.**

- 11/1/2019 Eligibility Recommendation
- PTRCB staff sends a letter to the owner recommending that release #5247 be eligible for reimbursement, however, with 0% reimbursement for all suspended and future claims.
- 11/1/2019 Suspension of Reimbursement
- PTRCB staff sends a letter to the owner stating that the period of noncompliance is determined to be greater than 180 days for both releases that have applied for eligibility at this site and, therefore, all suspended and future claims for Facility #09-08212 will be recommended for 0% reimbursement.
- 11/6/2019 Owner requests a hearing to contest staff recommendation
- Owner, sent PTRCB staff a letter stating that he requests a hearing to contest the recommendations of 0% reimbursement.
- 11/25/2019 Notification of matter placed on board meeting agenda
- PTRCB staff letter notifying the owner that the board meeting will be held on 1/27/2020.

ADMINISTRATIVE RULES THE BOARD CARES ABOUT:

ARM 17.58.326(1)(f) Applicable Rules Governing the Operation and Management of Petroleum Storage Tanks

- (1) The applicable state rules referenced in 75-11-308(1)(b)(ii) and 75-11-309(1)(b), MCA, are:
- (f) the following requirements in ARM Title 17, chapter 56 are applicable to underground storage tanks:
- (i) the installation and design standards for underground storage systems contained in subchapters 1 and 2;
 - (ii) the spill and overfill prevention and corrosion protection requirements for underground storage tanks contained in subchapter 3;
 - (iii) the release prevention and detection requirements for underground storage tanks and piping contained in subchapter 4;
 - (iv) the testing, monitoring, and recordkeeping requirements contained in subchapter 3 and subchapter 4;
 - (v) the release reporting, initial response, and corrective action requirements contained in subchapters 5 and 6; and
 - (vi) for inactive and permanently closed underground storage tanks, ARM 17.56.701 and 17.56.702, to the extent that those rules require emptying of such tanks.

SUSPENSION OF CLAIMS FOR NONCOMPLIANCE:

75-11-309(3)(b)(ii), MCA. Procedures for reimbursement of eligible costs – corrective action plans.

(3) The board shall review each claim received under subsections (1)(h) and (1)(i), make the determination required by this subsection, inform the owner or operator of its determination, and, as appropriate, reimburse the owner or operator from the fund. Before approving a reimbursement, the board shall affirmatively determine that:

- (b) the owner or operator:

(ii) has complied with this section and any rules adopted pursuant to this section. Upon a determination by the board that the owner or operator has not complied with this section or rules adopted pursuant to this section, all reimbursement of pending and future claims must be suspended. Upon a determination by the board that the owner or operator has returned to compliance with this section or rules adopted pursuant to this section, suspended and future claims may be reimbursed according to criteria established by the board. In establishing the criteria, the board shall consider the effect and duration of the noncompliance.

ARM 17.58.336(7)(a)(c)(e) 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

(c) For claims subject to the provisions of 75-11-309(3)(b)(ii), MCA, the period of noncompliance must begin on the date upon which the board determines that the owner or operator has not complied with 75-11-309, MCA, or rules adopted pursuant to 75-11-309, MCA. The period of noncompliance must end on the date upon which the board determines that the owner or operator has returned to compliance.

(e) The percentages of reimbursement set forth in (7)(a) may be adjusted by the board according to the procedures in (6) upon a substantial showing by the owner or operator that one or more of the following factors applies and would entitle the owner or operator to an adjustment:

- (i) the noncompliance has not presented a significant increased threat to public health or the environment;
- (ii) there has been no significant additional cost to the fund;
- (iii) the delay in compliance was caused by circumstances outside of the control of the owner or operator;
- (iv) there was an error in the issuance of the administrative order or an error in the determination of the date an administrative order was satisfied; or
- (v) any other factor that would render use of the reimbursement schedule in (7)(a) demonstrably unjust.

BOARD OPTIONS:

1. Ratify the staff recommendation.

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

VIOLATIONS:

Inspection Date	Inspection Type	Issue Date	Due Date	Closed Date	ARM	Significance	Non Compliance Day Count
1/22/2018	Routine	1/22/2018	12/25/2020		17.56.402	Minor	still counting
1/22/2018	Routine	1/22/2018	3/11/2018	2/28/2018	17.56.201(1)(b)	Major	37
Release #5247 discovered on 8/19/2017							
9/23/2009	Re-inspection	9/23/2009	12/23/2009	12/22/2009	17.56.201 (1) (c) (i)	Major	90
4/7/2009	Routine	4/7/2009	7/9/2012	9/23/2009	17.56.402	Minor	169
4/7/2009	Routine	4/7/2009	9/25/2009	9/23/2009	17.56.201 (1) (c) (i)	Moderate	169
4/7/2009	Routine	4/7/2009	9/25/2009	9/23/2009	17.56.201	Major	169
11/2/2006	Oversight	11/2/2006			17.56.402	Minor	n/a
11/2/2006	Oversight	11/2/2006			17.56.201	Moderate	n/a
10/10/2006	Routine	10/10/2006	10/9/2006		17.56.309	n/a	1
Release #471 discovered on 10/31/1990							

- ARM 17.56.402 METHODS OF RELEASE DETECTION FOR PIPING
 ARM 17.56.201 PERFORMANCE STANDARDS FOR NEW TANK SYSTEMS
 ARM 17.56.309 REQUIREMENTS FOR COMPLIANCE INSPECTIONS

November 6, 2019

Petroleum Tank Release Compensation Board
State of Montana
PO Box 200902 Helena, MT 59620-0902

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NOV 13 2019

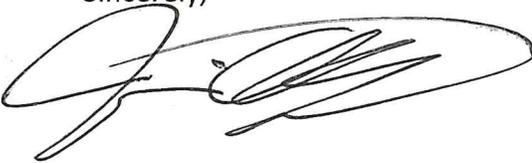
Petroleum Tank Release
Compensation Board

RE: Suspension of reimbursement from the Petroleum Tank Release Cleanup Fund due to violations pertaining to the petroleum storage tank systems for Cenex Zip Trip 59, 1321 S Haynes Ave, Miles City, Facility #09-08212, DEQ Release #471 and #5247.

Dear Sirs,

In regard to the suspension of reimbursement of the above named facility and releases, Cenex Zip Trip respectfully requests a hearing to contest the recommendations of 0% eligibility by your staff as stated in the letter we received dated November 1, 2019.

Sincerely,



Jim Alford

Environmental Health and Safety Manager

Cenex Zip Trip

1-509-535-7701

Jim.alford@chsinc.com



Farmer-owned with
global connections

Executive Summary
Cenex Zip Trip 50 – Park City
Facility ID #48-08910
Release #5102, #1250, and #1120

ELIGIBILITY RECOMMENDATION FOR RELEASE #5102 AND RECOMMENDATION FOR PERCENT REIMBURSEMENT FOR ALL FUTURE AND PENDING CLAIMS

TYPE OF ACTION: Board review of owner’s dispute of Board staff’s recommendation of 0% reimbursement of all pending and future claims for releases #5102, #1250, and #1120

ACTIONS REQUESTED: Request the Board to review the facts and circumstances pertaining to the violations for the Cenex Zip Trip 50, Facility ID #48-08910.

BOARD STAFF RECOMMENDATIONS: The Board staff has determined that petroleum storage tank systems at the Cenex Zip Trip 50 failed to remain in compliance with the rules adopted pursuant to the Montana Underground Storage Tank Act, (75-11-309(3)(b)(ii), MCA). The noncompliance at the facility results in suspension of all reimbursement of pending and future claims. Suspended and future claims are reimbursed according to the effect and duration of the noncompliance, and the period of noncompliance appears to be greater than 180 days. Therefore, consistent with ARM 17.58.336(7)(a), all suspended and future claims for Facility ID #48-08910 will be recommended for 0% reimbursement.

ISSUE: The owner requests a hearing to contest the Board staff’s recommendation of 0% reimbursement of all pending and future claims. It is important to recognize, DEQ has approved a work plan to excavate and dispose of petroleum impacted soils for Release #5102 during tank system upgrade. Given the noncompliance at the facility no reimbursement is recommended. Releases #1120 and #1250 have been resolved, however in the event they are reopened, they are subject to the 0% reimbursement recommendation.

BACKGROUND: On 4/14/2015, diesel impacted soils were discovered during the removal of diesel dispensers and product delivery lines. Impacted soils were removed at approximately 3.5 feet below grade.

CHRONOLOGY:

3/19/1992	Discovery of release #1120
10/16/1992	Application for release #1120 Form 1R received.
7/11/1992	Discovery of release #1250
12/6/1996	Release #1120 resolved.
12/17/1996	Application for release #1250 Form 1R received.
2/18/2006	Routine Inspection

- Failure to install any corrosion protection on metal piping that may contain product, which is in violation of ARM 17.56.201(1)(b). The violation was issued on 2/18/2006 and was closed on 2/17/2009, resulting in 1095 days of noncompliance.
- Failure to conduct monthly line leak detection monitoring based on a failure to have any sampling, testing or monitoring records for the latest 12 months. (no monthly test records within last 12 months) which is in violation of ARM 17.56.402(1)(b). The violation was issued on 2/18/2006 and was closed on 5/26/2006, resulting in the violation being open for 97 days.
- Failure to conduct monthly tank leak detection monitoring based on a failure to have 12 months, but missing less than 4 months of sampling, testing or monitoring records for the latest 12 months, which is in violation of ARM 17.56.402. The violation was issued on 2/18/2006 and was closed on 2/17/2009, resulting in 1095 days of noncompliance.
- Failure to conduct a complete cathodic protection test on metal piping that may contain product which is in violation of ARM 17.56.302(1)(b). The violation was issued on 2/18/2006 and was closed on 2/17/2009, resulting in 1095 days of noncompliance.
- Failure to conduct monthly line leak detection monitoring based on a failure to have at least 9 months of sampling, testing or monitoring records for the latest 12 months (6-8 monthly records within the last 12 months) which is in violation of ARM 17.56.401(1)(c). The violation was issued on 2/18/2006 and was closed on 10/27/2006, resulting in 251 days of noncompliance.
- Failure to conduct monthly line leak detection monitoring based on a failure to have at least 6 months of sampling, testing or monitoring records for the latest 12 months, which is in violation of ARM 17.56.402. The violation was issued on 2/18/2006 and was closed on 5/26/2006, resulting in 97 days of noncompliance.

8/27/2008

Routine Inspection

- Failure to conduct monthly line leak detection monitoring based on a failure to have at least 9 months of sampling, testing or monitoring records for the latest 12 months (6-8 monthly records within the last 12 months) which is in violation of ARM 17.56.401(1)(c). The violation was issued on 9/5/2008 and was closed on 1/26/2009, resulting in 143 days of noncompliance.
- Failure to conduct monthly tank leak detection monitoring based on a failure to have 12 months, but missing less than 4 months of sampling, testing or monitoring records for the latest 12 months, which is in violation of ARM 17.56.402. The violation was issued on 9/5/2008 and was closed on 9/30/2011, resulting in 1120 days of noncompliance.
- Failure to have corrosion protection that meets performance standards on metal piping that may contain product which is in violation of ARM 17.56.302(1)(a). Piping must pass -850 mv test or 100 mv shift test. The violation was issued on 9/5/2008 and was closed on 9/30/2011, resulting in 1120 days of noncompliance.
- Failure to use spill prevention that is liquid tight, which is in violation of ARM 17.56.201. The violation was issued on 9/5/2008 and was closed on 1/26/2009, resulting in 143 days of noncompliance.

11/13/2008

Release #1250 resolved.

- 8/21/2011 Routine Inspection
- Failure to conduct monthly tank leak detection monitoring based on a failure to have 12 months, but missing less than 4 months of sampling, testing or monitoring records for the latest 12 months, which is in violation of ARM 17.56.402. The violation was issued on 8/21/2011 and was closed on 11/15/2012, resulting in 452 days of noncompliance.
- 6/12/2012 Oversight Inspection
- Failure to conduct the most recent, required cathodic protection test, which is in violation of ARM 17.56.302. The violation was issued on 6/12/2012 and was closed on 11/14/2012, resulting in 155 days of noncompliance.
 - Failure to install any corrosion protection on flex connectors that routinely contain product, which is in violation of ARM 17.56.201(1)(b). The violation was issued on 6/12/2012 and was closed on 11/14/2012, resulting in 155 days of noncompliance.
 - Failure to properly anchor shear valves to dispenser islands, which is in violation of ARM 17.56.201. The violation was issued on 6/12/2012 and was closed on 11/14/2012, resulting in 155 days of noncompliance.
- 12/26/2014 Routine Inspection
- Failure to install adequate corrosion protection on an UST which is in violation of ARM 17.56.201. The violation was issued on 12/26/2014 and was closed on 8/29/2015, resulting in 246 days of noncompliance.
 - Failure to set your automatic tank gauge to temporarily disable the pumping system after a failed .2 gallon per hour test, which is in violation of ARM 17.56.407. The violation was issued on 12/26/2014 and was closed on 2/17/2015, resulting in 53 days of noncompliance.
 - Console power light is not working, which is in violation of ARM 17.56.401. The violation was issued on 12/26/2014 and was closed on 2/17/2015, resulting in 53 days of noncompliance.
 - Failure to install adequate corrosion protection on an UST system component, which is in violation of ARM 17.56.201. The violation was issued on 12/26/2014 and was closed on 8/29/2015, resulting in 246 days of noncompliance.
- 4/14/2015 **Discovery of release #5102**
- 9/3/2019 Application for release #5102 Form 1R received.
- 6/26/2019 Oversight Inspection
- Failure to conduct monthly tank leak detection monitoring based on a failure to have at least 6 months of sampling, testing or monitoring records for the latest 12 months, which is in violation of ARM 17.56.402. The violation was issued on 6/26/2019 and must be corrected by 11/20/2019. The Board staff currently has no information that shows that the violation was corrected.
 - Failure to conduct monthly tank leak detection monitoring based on a failure to have the most recent two passing monthly tests and at least 8 months of sampling, testing or monitoring records for the last 12 months, which is in violation of ARM 17.56.402. The violation was issued on 6/26/2019 and must be corrected by 11/20/2019. The Board staff currently has no information that shows that the violation was corrected.

- Failure to program your piping leak detection equipment to temporarily disable the pumping system after a failed leak test, which is in violation of ARM 17.56.408. The violation was issued on 6/26/2019 and must be corrected by 11/20/2019. The Board staff currently has no information that shows that the violation was corrected.
- 11/1/2019 Eligibility Recommendation
 - PTRCB staff sends letter to owner recommending that release #5102 be eligible for reimbursement, however, with 0% reimbursement for all suspended and future claims.
- 11/1/2019 Suspension of Reimbursement
 - PTRCB staff sends a letter to owner stating that the period of noncompliance is determined to be greater than 180 days for each release that has applied for eligibility at this site and therefore all suspended and future claims for Facility #48-08910 will be recommended for 0% reimbursement.
- 11/6/2019 Owner requests a hearing to contest staff recommendation
 - Owner, sent PTRCB staff a letter stating that he requests a hearing to contest the recommendations of 0% reimbursement.
- 11/25/2019 Notification of matter placed on board meeting agenda
 - PTRCB staff letter notifying the owner that the board meeting will be held on 1/27/2020.

ADMINISTRATIVE RULES THE BOARD CARES ABOUT:

ARM 17.58.326(1)(f) Applicable Rules Governing the Operation and Management of Petroleum Storage Tanks

(1) The applicable state rules referenced in 75-11-308(1)(b)(ii) and 75-11-309(1)(b), MCA, are:

(f) the following requirements in ARM Title 17, chapter 56 are applicable to underground storage tanks:

- (i) the installation and design standards for underground storage systems contained in subchapters 1 and 2;
- (ii) the spill and overfill prevention and corrosion protection requirements for underground storage tanks contained in subchapter 3;
- (iii) the release prevention and detection requirements for underground storage tanks and piping contained in subchapter 4;
- (iv) the testing, monitoring, and recordkeeping requirements contained in subchapter 3 and subchapter 4;
- (v) the release reporting, initial response, and corrective action requirements contained in subchapters 5 and 6; and
- (vi) for inactive and permanently closed underground storage tanks, ARM 17.56.701 and 17.56.702, to the extent that those rules require emptying of such tanks.

SUSPENSION OF CLAIMS FOR NONCOMPLIANCE:

75-11-309(3)(b)(ii), MCA. Procedures for reimbursement of eligible costs – corrective action plans.

(3) The board shall review each claim received under subsections (1)(h) and (1)(i), make the determination required by this subsection, inform the owner or operator of its determination, and, as appropriate, reimburse the owner or operator from the fund. Before approving a reimbursement, the board shall affirmatively determine that:

(b) the owner or operator:

(ii) has complied with this section and any rules adopted pursuant to this section.

Upon a determination by the board that the owner or operator has not complied with this section or rules adopted pursuant to this section, all reimbursement of pending and future claims must be suspended. Upon a determination by the board that the owner or operator has returned to compliance with this section or rules adopted pursuant to this section, suspended and future claims may be reimbursed according to criteria established by the board. In establishing the criteria, the board shall consider the effect and duration of the noncompliance.

ARM 17.58.336(7)(a)(c)(e) 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

(c) For claims subject to the provisions of 75-11-309(3)(b)(ii), MCA, the period of noncompliance must begin on the date upon which the board determines that the owner or operator has not complied with 75-11-309, MCA, or rules adopted pursuant to 75-11-309, MCA. The period of noncompliance must end on the date upon which the board determines that the owner or operator has returned to compliance.

(e) The percentages of reimbursement set forth in (7)(a) may be adjusted by the board according to the procedures in (6) upon a substantial showing by the owner or operator that one or more of the following factors applies and would entitle the owner or operator to an adjustment:

(i) the noncompliance has not presented a significant increased threat to public health or the environment;

(ii) there has been no significant additional cost to the fund;

(iii) the delay in compliance was caused by circumstances outside of the control of the owner or operator;

(iv) there was an error in the issuance of the administrative order or an error in the determination of the date an administrative order was satisfied; or

(v) any other factor that would render use of the reimbursement schedule in (7)(a) demonstrably unjust.

BOARD OPTIONS:

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

VIOLATIONS:

Inspection Date	Inspection Type	Issue Date	Due Date	Closed Date	ARM	Significance	Non Compliance Day Count
6/26/2019	Oversight	6/26/2019	11/20/2019		17.56.408	Major	still counting
6/26/2019	Oversight	6/26/2019	11/20/2019		17.56.402	Moderate	still counting
6/26/2019	Oversight	6/26/2019	11/20/2019		17.56.402	Major	still counting
Release #5102 Discovered on 4/14/2015							
12/26/2014	Routine	12/26/2014	6/30/2015	8/29/2015	17.56.201	Moderate	246
12/26/2014	Routine	12/26/2014	11/26/2017	2/17/2015	17.56.401	Minor	53
12/26/2014	Routine	12/26/2014	2/24/2015	2/17/2015	17.56.407	Major	53
12/26/2014	Routine	12/26/2014	6/30/2015	8/29/2015	17.56.201	Moderate	246
6/12/2012	Oversight	6/12/2012	11/14/2012	11/14/2012	17.56.201	Major	155
6/12/2012	Oversight	6/12/2012	11/14/2012	11/14/2012	17.56.201(1)(b)	Major	155
6/12/2012	Oversight	6/12/2012	11/14/2012	11/14/2012	17.56.302	Major	155
8/21/2011	Routine	8/21/2011	11/24/2014	11/15/2012	17.56.402	Minor	452
8/27/2008	Routine	9/5/2008	2/10/2009	1/26/2009	17.56.201	Major	143
8/27/2008	Routine	9/5/2008	11/24/2011	9/30/2011	17.56.302(1)(a)	Minor	1120
8/27/2008	Routine	9/5/2008	11/24/2011	9/30/2011	17.56.402	Minor	1120
8/27/2008	Routine	9/5/2008	2/10/2009	1/26/2009	17.56.401(1)(c)	Moderate	143
2/18/2006	Routine	2/18/2006	5/23/2006	5/26/2006	17.56.402	Major	97
2/18/2006	Routine	2/18/2006	10/30/2006	10/27/2006	17.56.401(1)(c)	Moderate	251
2/18/2006	Routine	2/18/2006	10/9/2009	2/17/2009	17.56.302(1)(b)	Minor	1095
2/18/2006	Routine	2/18/2006	10/9/2009	2/17/2009	17.56.402	Minor	1095
2/18/2006	Routine	2/18/2006	5/23/2006	5/26/2006	17.56.402(1)(b)	Major	97
2/18/2006	Routine	2/18/2006	10/9/2009	2/17/2009	17.56.201(1)(b)	Minor	1095
Release #1250 Discovered on 7/11/1992							
Release #1120 Discovered on 3/19/1992							

- ARM 17.56.408 METHODS OF RELEASE DETECTION FOR PIPING
 ARM 17.56.402 REQUIREMENTS FOR PETROLEUM UST SYSTEMS
 ARM 17.56.201 PERFORMANCE STANDARDS FOR NEW TANK SYSTEMS
 ARM 17.56.401 GENERAL REQUIREMENTS FOR ALL UST SYSTEMS
 ARM 17.56.407 METHODS OF RELEASE DETECTION FOR TANKS
 ARM 17.56.302 OPERATION AND MAINTENANCE OF CORROSION PROTECTION

November 6, 2019

Petroleum Tank Release Compensation Board
State of Montana
PO Box 200902 Helena, MT 59620-0902

RECEIVED
NOV 13 2019
Petroleum Tank Release
Compensation Board

RE: Suspension of reimbursement from the Petroleum Tank Release Cleanup Fund due to violations pertaining to the petroleum storage tank systems for Cenex Zip Trip 50, Exit 429 & I-90, Park City, Facility #48-08910, DEQ Release #1120, #1250, and #5102.

Dear Sirs,

In regard to the suspension of reimbursement of the above named facility and releases, Cenex Zip Trip respectfully requests a hearing to contest the recommendations of 0% eligibility by your staff as stated in the letter we received dated November 1, 2019.

Sincerely,



Jim Alford
Environmental Health and Safety Manager
Cenex Zip Trip
1-509-535-7701
Jim.alford@chsinc.com



Farmer-owned with
global connections

January 27, 2020
ACTION ITEM

ELIGIBILITY RATIFICATION

*Board Staff Recommendations Pertaining to Eligibility
From October 17, 2019, through January 8, 2020*

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

RATIFICATION OF WEEKLY REIMBURSEMENTS

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



Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 10/30/2019

Org Unit: 993050
Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20191015H	9995133	4901	First Interstate Bank	Great Falls	3/1/2013	\$1,292.52	\$130,632.93	\$176.36	Project Management
20191015I	6015014	4435	Superior Lube	Havre	10/7/2005	\$2,540.75	\$419,379.05		Laboratory Analysis w/fee
20191017A	4002755	4948	Farmers Union Oil Bulk Plant	Terry	4/27/2015	\$1,187.50	\$40,258.42		Laboratory Analysis w/fee
20191017C	2906376	3689	Farmers Union Oil Co Circle	Circle	4/15/2015	\$2,345.00	\$142,781.96		Laboratory Analysis w/fee
20191017D	4002755	2619	Farmers Union Oil Bulk Plant	Terry	8/31/1995	\$1,187.50	\$163,648.79		Laboratory Analysis w/fee
20191017E	1401292	3040	Winifred Farmers Oil	Winifred	6/23/1997	\$3,671.00	\$50,406.11		Laboratory Analysis w/fee
20191017H	907083	2938	Cenex Harvest States	Miles City	10/27/1997	\$726.00	\$936,652.98		Laboratory Analysis w/fee
20191017I	4405097	890	Pit Stop 23	Forsyth	11/4/1992	\$360.00	\$105,897.61		Laboratory Analysis w/fee
20191015F	4708591	955	Lyons Motor Inc	Butte	3/31/1992	\$3,536.49	\$279,312.59	\$24.00	Laboratory Analysis w/fee
20190903W	9995118	4835	CarQuest Store	Havre	3/25/2013	\$31,172.98	\$315,101.95		Fieldwork
20190923A	9995118	4835	CarQuest Store	Havre	3/25/2013	\$49,001.96	\$315,101.95		Rem Sys Install
20190923E	701334	2525	Former Dick Grieb Buick Inc	Great Falls	10/1/2004	\$2,409.00	\$45,923.05		
20190927C	707259	3921	Northside Conoco	Great Falls	10/30/2000	\$7,590.85	\$236,603.57		Well Installation
20190927D	703053	4355	Elmers Restaurant	Great Falls	1/23/2006	\$7,306.13	\$372,269.62		Laboratory Analysis w/fee
20191004D	4807859	4012	Gits Conoco	Columbus	6/29/2001	\$3,343.28	\$120,452.91		Well Abandonment
20191011B	704004	549	Westgate Exxon	Great Falls	11/9/2006	\$1,698.00	\$249,782.16		Survey
20191011C	9995062	4125	Big Hole Petroleum Bulk Plant	Wisdom	7/23/2008	\$1,132.63	\$11,008.08	\$1,132.62	Monitoring
20191011D	3008724	2642	Town Pump Inc White Sulphur Springs	White Sulphur S	8/4/1995	\$1,969.00	\$94,122.15		Project Management
20191011E	5608671	2007	Town Pump Inc Billings 2	Billings	1/19/1994	\$4,194.00	\$389,964.01		Laboratory Analysis w/fee
20191011H	701418	3212	Keiths Country Store	Great Falls	10/5/2000	\$2,093.09	\$528,921.07		Miscellaneous
20191011I	403467	4342	MRL Bulk Plant Former Visocan Petroleum	Townsend	10/14/2004	\$1,500.00	\$199,569.40		Report
20191011J	5608671	2007	Town Pump Inc Billings 2	Billings	1/19/1994	\$2,943.70	\$389,964.01		Monitoring
20191015B	307801	2835	Ezzies Wholesale Inc Chinook	Chinook	5/4/2007	\$3,074.70	\$49,639.77		Mobilization

Wednesday, October 30, 2019

Payment Reports _ Weekly Reimbursement by Date

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20191015D	704508	4005	Kernaghans Service 8th Ave N	Great Falls	2/5/2004	\$72,952.78	\$150,708.29		Miscellaneous
20191015E	804017	499	Robertson Oil Co Big Sandy	Big Sandy	11/26/1991	\$3,159.15	\$751,109.54		Miscellaneous
25 claims in the report					Total Reimbursement: \$212,388.01				

Reviewed for Reimbursement by: [Signature]

Date 11/5/2019

Approved for Reimbursement by: [Signature]

Date 11/7/2019



Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 11/6/2019

Org Unit: 993050

Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20190510C	3907583	2861	Montana State Prison	Deer Lodge	5/10/2019	\$15,839.25	\$15,839.25	\$16,431.04	Monitoring Well Installation
20190828C	6015308	5215	Janet Martinson	Whitefish	11/13/2017	\$81,160.90	\$114,361.49	\$129.75	Soil Removal
20190903R	1600464	3358	Stage Coach Inn Corp	West Yellowstone	12/23/1999	\$26,289.14	\$102,567.16	\$20.00	Soil Borings
20190903S	4308725	4110	Town Pump Inc Wolf Point	Wolf Point	9/6/2002	\$1,890.00	\$400,849.62	\$325.00	Report
20190917C	703461	3675	Harvest Hills Conoco	Great Falls	4/16/2002	\$3,532.10	\$81,080.50	\$450.00	Laboratory Analysis w/fee
20190923D	805931	3645	Chouteau County EOC	Fort Benton	9/20/2000	\$3,327.50	\$476,659.93	\$484.00	Work Plan
20191017J	2110030	833	Farmers Union Oil Co	Kremlin	10/2/1991	\$5,649.78	\$462,967.22		Laboratory Analysis w/fee
20191018A	800005	316	Fort Benton Cenex	Fort Benton	9/25/1990	\$5,321.51	\$409,482.64		Fieldwork
20191018F	705777	3529	Mini Mart 768	Great Falls	11/25/1998	\$1,189.77	\$65,524.92		Free Product Activities
20191028A	2100131	3589	Northern Tire Buff N Shine	Havre	6/7/1999	\$1,521.01	\$156,537.17		Project Management
20191031B	1401360	125	Central Montana Coop Denton	Denton	6/22/1993	\$1,652.75	\$64,044.47		Laboratory Analysis w/fee

11 claims in the report

Total Reimbursement: \$147,373.71

Reviewed for Reimbursement by:

[Signature]

Date

11/6/2019

Approved for Reimbursement by:

[Signature]

Date

11/8/2019



Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 11/20/2019

Org Unit: 993050

Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20191104E	2100131	3589	Northern Tire Buff N Shine	Havre	6/7/1999	\$45,392.00	\$201,929.17		Rem Sys Install
20191104H	5313598	4333	Former Mikes Muffler	Glasgow	2/15/2005	\$4,509.00	\$286,945.17		Report
20191104I	1004159	3605	Grain Growers Oil Co Scobey	Scobey	7/24/2007	\$1,780.00	\$887,843.26		Report
20190723K	1510105	4155	Town Pump Inc Whitefish 2	Whitefish	6/24/2003	\$2,339.89	\$957,812.42	\$224.80	Soil Borings
20190125A	1510105	4155	Town Pump Inc Whitefish 2	Whitefish	6/24/2003	\$32,166.45	\$957,812.42	\$141.15	Soil Borings
20190125B	1502459	192	Roundup Country Store Inc	Whitefish	4/19/1990	\$32,166.45	\$63,446.00	\$141.15	Soil Borings
20190206L	1510105	4155	Town Pump Inc Whitefish 2	Whitefish	6/24/2003	\$3,083.24	\$957,812.42	\$26.80	Report
20190411A	1502459	192	Roundup Country Store Inc	Whitefish	4/19/1990	\$3,083.24	\$63,446.00	\$26.80	Report
20190411B	1502459	192	Roundup Country Store Inc	Whitefish	4/19/1990	\$1,319.83	\$63,446.00	\$169.60	Soil Borings
20190411C	1510105	4155	Town Pump Inc Whitefish 2	Whitefish	6/24/2003	\$1,319.83	\$957,812.42	\$169.60	Soil Borings
20190624B	1502459	192	Roundup Country Store Inc	Whitefish	4/19/1990	\$421.80	\$63,446.00	\$92.80	Report
20190624C	1510105	4155	Town Pump Inc Whitefish 2	Whitefish	6/24/2003	\$421.80	\$957,812.42	\$92.80	Report
20190723C	1510105	4155	Town Pump Inc Whitefish 2	Whitefish	6/24/2003	\$25.86	\$957,812.42	\$26.80	Miscellaneous
20190723D	1502459	192	Roundup Country Store Inc	Whitefish	4/19/1990	\$25.86	\$63,446.00	\$26.80	Miscellaneous
20190723L	1502459	192	Roundup Country Store Inc	Whitefish	4/19/1990	\$2,339.89	\$63,446.00	\$224.80	Soil Borings
20191004C	4703757	4368	Vogue Cleaners Corp	Butte	8/8/2005	\$24,581.77	\$189,868.52	\$13.90	Miscellaneous
20191011A	2110030	833	Farmers Union Oil Co	Kremlin	10/2/1991	\$13,865.74	\$476,832.96	\$366.16	Well Installation
20191015J	1401360	125	Central Montana Coop Denton	Denton	6/22/1993	\$3,457.03	\$67,501.50	\$357.00	Mobilization
20191018D	704232	1855	Big Sky Fuel	Black Eagle	6/27/1994	\$3,183.27	\$88,196.92		Laboratory Analysis w/fee
20191018E	704232	3262	Big Sky Fuel	Black Eagle	4/4/2001	\$3,183.27	\$92,879.07		Laboratory Analysis w/fee
20191018G	4203914	2262	Mini Mart 714	Fairview	3/6/1995	\$868.50	\$82,954.99	\$96.50	Work Plan
20191018H	907083	2938	Cenex Harvest States	Miles City	10/27/1997	\$1,619.78	\$938,272.76		Miscellaneous
20191031C	1600464	3358	Stage Coach Inn Corp	West Yellowston	12/23/1999	\$8,646.53	\$111,213.69		Well Installation

Wednesday, December 04, 2019

Payment Reports _ Weekly Reimbursement by Date

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20191101A	9995192	5147	Viridon Prop Fmr Gas Station	Billings	7/18/2017	\$1,030.00	\$38,990.26		Work Plan
20191101B	705775	3492	Mini Mart 766	Great Falls	11/25/1998	\$994.52	\$128,955.02	\$30.76	Project Management
20191101C	800005	316	Fort Benton Cenex	Fort Benton	9/25/1990	\$2,148.24	\$411,630.88		Equipment
20191101F	704232	1855	Big Sky Fuel	Black Eagle	6/27/1994	\$2,958.55	\$88,196.92		Well Installation
20191101G	704232	3262	Big Sky Fuel	Black Eagle	4/4/2001	\$2,958.55	\$92,879.07		Well Installation
20191104A	2106481	3453	Heltnes Service Center	Havre	10/27/1999	\$4,661.88	\$191,459.43		Report
29 claims in the report					Total Reimbursement: \$204,552.77				

Reviewed for Reimbursement by: [Signature]

Date 12/4/2019

Approved for Reimbursement by: [Signature]

Date 12/5/2019



Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 12/4/2019

Org Unit: 993050
Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20191015C	3907856	3984	Interstate 90 Auto Truck Plaza	Deer Lodge	1/12/2001	\$4,869.15	\$243,187.44	\$42.00	Report
20191106F	9995118	4835	CarQuest Store	Havre	3/25/2013	\$4,186.20	\$319,288.15		Rem Sys Install
20191107A	5604962	4959	Zeiler Property	Billings	10/30/2014	\$1,200.00	\$261,782.95		Work Plan
20191107F	1600987	2125	Thriftway #15 (Former Normco Inc)	Three Forks	4/27/1994	\$1,302.98	\$258,005.57		Well Installation
20191113A	1004159	3605	Grain Growers Oil Co Scobey	Scobey	7/24/2007	\$2,454.00	\$890,297.26		Laboratory Analysis w/fee
20191113B	5313598	4333	Former Mikes Muffler	Glasgow	2/15/2005	\$840.00	\$287,785.17		Laboratory Analysis w/fee
20191113C	5302065	3496	Valley County Road Dept	Glasgow	2/16/2000	\$1,936.00	\$101,792.86		Laboratory Analysis w/fee
20191113D	804017	499	Robertson Oil Co Big Sandy	Big Sandy	11/26/1991	\$3,688.19	\$754,797.73		Soil Borings
20191120A	1711117	902	6 Ds Inc	Jordan	2/28/1992	\$3,357.50	\$234,128.06		Mobilization
20191120B	5313643	4030	Nelson Repair Service	Hinsdale	9/16/2002	\$3,325.75	\$14,479.98	\$3,573.25	Report
20190917A	1502014	2424	City Service South Michael's	Kalispell	4/16/2002	\$665.00	\$46,477.09	\$127.00	Work Plan
20190917F	1105754	3563	Trail Star II	Glendive	4/6/2000	\$2,713.44	\$71,204.33		Mobilization
20190923B	2705733	213	Troy Service Center Chevron	Troy	3/1/1990	\$729.63	\$431,910.81	\$54.08	Report
20191009A	3704038	411	MDT 32 Conrad Site	Conrad	10/6/1992	\$12,747.40	\$146,170.01	\$292.50	Soil Removal
20191011G	3708692	1277	Town Pump Inc Conrad	Conrad	9/16/1992	\$1,133.50	\$138,665.11		Mobilization
20191015G	306483	4252	Andys Exxon	Chinook	4/5/2004	\$4,177.48	\$344,478.29	\$105.27	Laboratory Analysis w/fee
20191017F	3203617	4769	Swan Valley Centre	Condon	1/21/2010	\$603.00	\$268,834.22		Laboratory Analysis w/fee
20191017G	3209722	4280	Fort Lolo Hot Springs	Lolo	5/4/2005	\$840.00	\$566,638.13		Laboratory Analysis w/fee
20191017K	9995052	4603	Golden Spike	Havre	6/12/2008	\$2,380.00	\$142,819.89	\$192.50	Report
20191017M	5613793	3835	Equity Coop Association	Harlem	3/14/2002	\$2,781.14	\$87,541.03		Monitoring
20191018I	1505069	2939	Equity Supply Convenience Store	Kalispell	4/27/2012	\$2,219.50	\$371,690.58		Monitoring
20191018J	1804137	3424	Ben Taylor Inc	Cut Bank	5/17/1999	\$383.34	\$483,223.10		Miscellaneous
20191018K	2405517	482	Arnies Gas and Tire Center Inc	Ronan	4/12/1996	\$160.12	\$247,123.33		Miscellaneous

Thursday, December 05, 2019

Payment Reports _ Weekly Reimbursement by Date

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20191018L	3209722	4280	Fort Lolo Hot Springs	Lolo	5/4/2005	\$174.08	\$566,638.13		Miscellaneous
20191113E	407862	2560	Gallatin Farmers	Townsend	6/17/1996	\$10,554.47	\$506,261.62		Laboratory Analysis w/fee
20191021B	2810708	857	Three Rivers Cenex	Twin Bridges	12/23/1991	\$3,333.50	\$262,462.95		Report
20191021C	802363	2032	Chouteau County Dist 1 Shop	Big Sandy	2/22/2000	\$2,619.34	\$35,396.34		Report
20191104F	3609844	730	Petes Conoco	Malta	3/6/1992	\$2,981.50	\$295,530.02		Report
20191104G	3606518	1390	Greens Sales Inc Former Mr Tire	Malta	2/16/1993	\$2,948.00	\$377,997.66		Report
20191106D	1105497	3807	Cenex Harvest States	Glendive	12/15/1999	\$3,425.00	\$324,505.07		Fieldwork
20191106E	9995076	4681	Cross Petroleum Bulk Plant	Glendive	3/10/2009	\$1,554.55	\$398,860.89		Fieldwork

31 claims in the report

Total Reimbursement: \$86,283.76

Reviewed for Reimbursement by: *[Signature]*

Date 12/9/2019

Approved for Reimbursement by: *[Signature]*

Date 12/11/2019



Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 12/11/2019

Org Unit: 993050

Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20191125D	3008724	2642	Town Pump Inc White Sulphur Springs	White Sulphur S	8/4/1995	\$3,498.00	\$132,173.60		Project Management
20191125E	701418	3212	Keiths Country Store	Great Falls	10/5/2000	\$1,516.59	\$535,313.61		Rem Sys Op & Maint
20191125F	708700	2584	Town Pump Inc Great Falls 1	Great Falls	8/14/2000	\$6,652.70	\$121,021.98		Monitoring
20191125I	4405097	890	Pit Stop 23	Forsyth	11/4/1992	\$360.00	\$106,257.61		Laboratory Analysis w/fee
20191125J	907083	2938	Cenex Harvest States	Miles City	10/27/1997	\$2,377.00	\$940,649.76		Laboratory Analysis w/fee
20191126A	1402832	1147	Eddies Corner Inc	Moore	9/23/1992	\$5,722.35	\$85,036.49	\$92.75	Well Abandonment
20190823A	704004	549	Westgate Exxon	Great Falls	11/9/2006	\$4,071.46	\$255,246.83		Report
20190917B	1513373	4494	Department of Military Affairs	Kalispell	3/1/2010	\$3,090.83	\$96,421.89	\$284.00	Report
20191015A	2505639	4225	Oconnells Store	Craig	8/6/1999	\$5,905.92	\$117,310.11	\$152.36	Report
20191104B	2106481	3453	Heltnes Service Center	Havre	10/27/1999	\$2,375.21	\$194,038.89	\$146.75	Mobilization
20191104C	2106481	3453	Heltnes Service Center	Havre	10/27/1999	\$204.25	\$194,038.89	\$1,289.25	Report
20191105A	1603913	5267	Loaf N Jug #729	Bozeman	5/29/2019	\$7,039.44	\$10,390.43	\$8,604.83	Well Installation
20191105B	5613852	3257	Former Farmers Union Madison Valley Ente	Ennis	5/24/1999	\$3,698.25	\$220,896.82	\$154.75	Soil Borings
20191115A	704004	549	Westgate Exxon	Great Falls	11/9/2006	\$1,393.21	\$255,246.83		Monitoring
20191122B	9995062	4125	Big Hole Petroleum Bulk Plant	Wisdom	7/23/2008	\$280.00	\$11,288.08	\$280.00	Project Management
20190903O	2503466	3677	Conoco Pop Inn	Helena	3/23/1999	\$2,506.75	\$672,582.74	\$30.00	Laboratory Analysis w/fee
20191122C	701418	3212	Keiths Country Store	Great Falls	10/5/2000	\$4,875.95	\$535,313.61		Report
20191122D	3008724	2642	Town Pump Inc White Sulphur Springs	White Sulphur S	8/4/1995	\$34,553.45	\$132,173.60		Fieldwork
20191122F	403467	4342	MRL Bulk Plant Former Visocan Petroleum	Townsend	10/14/2004	\$400.00	\$199,969.40	\$82.00	Work Plan
20191125A	2100131	3589	Northern Tire Buff N Shine	Havre	6/7/1999	\$1,524.63	\$203,453.80		Project Management
20191125B	9995051	4591	Former Heritage Bank	Havre	10/20/2008	\$5,951.63	\$102,110.12		Well Abandonment

21 claims in the report

Total Reimbursement: \$97,997.62

Tuesday, January 07, 2020

Payment Reports _ Weekly Reimbursement by Date

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim Reimbursement	Cumulative Reimb	Adjustments	Task Description
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Reviewed for Reimbursement by: [Signature]

Date 1/7/2020

Approved for Reimbursement by: [Signature]

Date 1/7/2020



Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 12/18/2019

Org Unit: 993050

Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20191106C	403456	3946	Town Pump Inc Townsend	Townsend	10/20/2000	\$3,956.90	\$270,751.71		Monitoring
20191125K	712966	4555	AAMCO Transmission (former Moore's)	Great Falls	4/8/2008	\$7,257.00	\$303,442.15	\$12.00	Free Product Activities
20191125L	712966	4555	AAMCO Transmission (former Moore's)	Great Falls	4/8/2008	\$11,449.40	\$303,442.15	\$97.50	Free Product Activities
20191202G	9995118	4835	CarQuest Store	Havre	3/25/2013	\$6,167.92	\$325,456.07	\$36.00	Monitoring
20191213A	9995076	4681	Cross Petroleum Bulk Plant	Glendive	3/10/2009	\$9,739.65	\$408,600.54		Well Installation
20191202I	1600668	5127	Folkvord Investments LLC	Three Forks	8/16/2017	\$1,090.31	\$17,415.59	\$1,090.30	Laboratory Analysis w/fee
20180117A	1402289	4653	Hilger Country Store	Hilger	12/30/2015	\$6,214.74	\$223,623.05		Laboratory Analysis w/fee
20180117B	1402289	4653	Hilger Country Store	Hilger	12/30/2015	\$918.28	\$223,623.05		Report
20180117C	1402289	4653	Hilger Country Store	Hilger	12/30/2015	\$7,113.04	\$223,623.05		Report
20190917D	1512787	1275	Former Cardinal Hardware	Kalispell	4/7/2010	\$13,880.76	\$33,616.84	\$522.50	Laboratory Analysis w/fee
20190924A	2502093	441	Sinclair Retail 25009	Helena	6/19/1991	\$20,294.43	\$443,926.80	\$225.75	Well Installation
20190930A	1502014	2424	City Service South Michael's	Kalispell	4/16/2002	\$3,650.40	\$50,127.49	\$436.00	Project Management
20191031A	6015014	4435	Superior Lube	Havre	10/7/2005	\$3,476.50	\$428,802.56		Monitoring
20191104D	2413105	1585	Safeway Polson	Polson	8/25/1993	\$1,850.52	\$201,226.74		Report
20191107C	5600627	5138	Express Way	Huntley	1/17/2019	\$19,109.74	\$36,982.82		Report
20191122E	5608671	2007	Town Pump Inc Billings 2	Billings	1/19/1994	\$1,221.40	\$391,185.41		Rem Sys Op & Maint
20191202F	1603734	4448	Westgate Station	West Yellowstone	3/23/2006	\$1,247.50	\$400,327.55		Project Management
20191202H	1105497	3807	Cenex Harvest States	Glendive	12/15/1999	\$6,134.50	\$330,639.57	\$3,832.85	Laboratory Analysis w/fee
20191202N	5605749	3281	Kwik Way 17	Billings	5/15/1998	\$46,520.30	\$104,719.14	\$10.85	Soil Removal
20191206A	6015014	4435	Superior Lube	Havre	10/7/2005	\$5,947.01	\$428,802.56	\$39.00	Laboratory Analysis w/fee

20 claims in the report

Total Reimbursement: \$177,240.30

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim Reimbursement	Cumulative Reimb	Adjustments	Task Description
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Reviewed for Reimbursement by: *Donna K. K...* Date *12/31/2019*

Approved for Reimbursement by: *Jenny Wadawaty* Date *1/7/2020*



Petroleum Tank Release Compensation Board

Weekly Reimbursement Summary for 1/1/2020

Org Unit: 993050

Account: 67201

Claim ID	Facility ID	Release ID	Facility Name	City	Initial Claim	Reimbursement	Cumulative Reimb	Adjustments	Task Description
20190625A	5605861	3799	Pelican Oil Inc	Billings	4/21/2003	\$402.50	\$10,990.61	\$569.10	Work Plan
20190625B	5605861	1270	Pelican Oil Inc	Billings	4/16/2003	\$172.50	\$12,610.11	\$243.90	Work Plan
20191106A	4905153	4213	Oie Motor Co Inc	Big Timber	7/30/1999	\$331.19	\$150,767.03		Mobilization
20191106B	4905153	104	Oie Motor Co Inc	Big Timber	10/21/1999	\$331.19	\$373,518.04		Mobilization
20191118A	9995174	5094	Bennett Motors Office Lot	Great Falls	11/20/2017	\$11,385.10	\$461,579.79		Well Installation
20191122A	3201296	3756	Missoula County Airport Authority	Missoula	5/23/2001	\$12,931.81	\$103,479.68	\$18.48	Well Installation
20191125C	3708692	1277	Town Pump Inc Conrad	Conrad	9/16/1992	\$1,029.00	\$139,694.11		Laboratory Analysis w/fee
20191125H	6015070	4542	Former Amoco	Polson	5/15/2008	\$3,320.00	\$696,027.15		Laboratory Analysis w/fee
20191202D	4905153	4213	Oie Motor Co Inc	Big Timber	7/30/1999	\$4,693.26	\$150,767.03		Fieldwork
20191202E	4905153	104	Oie Motor Co Inc	Big Timber	10/21/1999	\$4,693.26	\$373,518.04		Fieldwork
20191202J	3406686	1790	Park Farmers Coop	Wilsall	6/15/1998	\$9,024.97	\$177,054.80		Miscellaneous
20191202K	1600464	3358	Stage Coach Inn Corp	West Yellowstone	12/23/1999	\$24,308.86	\$135,522.55		Well Installation
20191204A	3613519	2573	Greens Sales Inc	Malta	5/27/1997	\$3,199.85	\$102,000.88		Mobilization
20191205B	705779	3511	Mini Mart 769	Great Falls	11/25/1998	\$612.51	\$166,431.94		Monitoring
20191210B	1603254	5291	Jenkins Garage	Three Forks	3/15/2019	\$19,030.51	\$19,030.51		Laboratory Analysis w/fee
20191210C	5613940	3889	Paxsons Carpets	Miles City	1/16/2015	\$11,429.97	\$11,931.97	\$11,429.98	Well Installation
20191216A	4709420	813	Cenex Petroleum Inc Butte	Butte	3/3/1992	\$1,038.70	\$573,046.73	\$12.44	Miscellaneous

17 claims in the report

Total Reimbursement: \$107,935.18

Reviewed for Reimbursement by: Ann K. Reed

Date 1/10/2020

Approved for Reimbursement by: Jung Wadsworth

Date 1/14/2020

Friday, January 03, 2020

Payment Reports _ Weekly Reimbursement by Date

CLAIMS OVER \$25,000.00 *
January 27, 2020

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

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

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

Reviewed for Reimbursement by: *Tracy Wedemuth* Date *1/14/2020*

Board Approval by: _____ Date _____

20191011F

**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:	Big Hole Petroleum Bulk Facility
Street Address:	Highway 23
City:	Wisdom, MT
DEQ Facility Identification Number:	99-95062
DEQ Petroleum Release Number: (only one release #)	4125

RECEIVED

OCT 11 2019

Petroleum Tank Release Compensation Board

2. Owner – Name and Address		3. Operator – Name and Address		4. Payee – Name and Address	
Ed Stede/ Big Hole Petroleum				Olympus Technical Services, Inc.	
P.O. Box 175				765 Colleen St	
Wisdom, MT 59761				Helena, MT 59601	
Attn:		Attn:		Attn:	Alan Stine
Phone Number:		Phone Number:		Phone Number:	406-443-3087
Fax Number:		Fax Number:		Fax Number:	
Email Address:		Email Address:		Email Address:	astine@olytech.com
Do you want to receive Email about this claim?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Do you want to receive Email about this claim?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Do you want to receive Email about this claim?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

5. Claimant – Name and Address		6. Consultant – Name and Address		7. Any other person – Name and Address	
Olympus Technical Services, Inc.		Olympus Technical Services, Inc.			
765 Colleen Street					
Helena, MT 59601					
Attn:	Jennifer Steilmann	Attn:	Preston Chase	Attn:	
Phone Number:	406-443-3087	Phone Number:		Phone Number:	
Fax Number:	406-443-0232	Fax Number:		Fax Number:	
Email Address:	jsteilmann@olytech.com	Email Address:	pchase@olytech.com	Email Address:	
Do you want to receive Email about this claim?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Do you want to receive Email about this claim?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Do you want to receive Email about this claim?	Yes <input type="checkbox"/> No <input type="checkbox"/>

8. Total amount of this claim (including all page 2's):	\$32,337.69
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E-MAILED
10-18-19

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 _____ Date

(SEAL)

by _____

Petroleum Tank Release Compensation Board

Notary Public

Printed or typed

Notary Public for the State of _____

Residing at _____

My Commission Expires _____

RECEIVED

OCT 11 2019

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

Jennifer Steilmann
Claimant Signature

10/07/19
Date

Jennifer Steilmann
Typed Name of Claimant

State of Montana

County of Lewis & Clark

Signed and Sworn before me on this day 10/7/19 Date

(SEAL)

by Jennifer Steilmann

Janie L. Danbrook

Notary Public

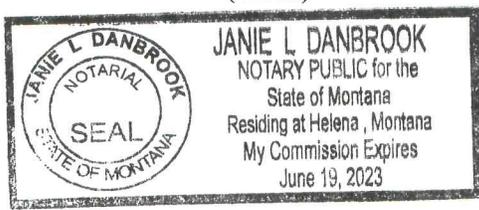
Janie Danbrook

Printed or typed

Notary Public for the State of Montana

Residing at Helena, MT

My Commission Expires June 19, 2023



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



Petroleum Tank Release Compensation Board

Work Plan Task Costs

Facility ID: 9995062 FacilityName: Big Hole Petroleum Bulk Plant City: Wisdom

Release ID: 4125 WP ID: 10894 WP Name: R-B-LIF/PT/GWM WP Complete: WP Date: 08/24/2018

Task #	Task Name	Phase	Estimated Cost	Actual Cost	Balance	Comment
1	Work Plan	R	\$1,827.84	\$1,827.84	\$0.00	
2	Project Management	R	\$2,576.00	\$2,016.00	\$560.00	
3	Mobilization	R	\$2,439.00	\$1,578.00	\$861.00	
4	Monitoring	R	\$1,302.00	\$1,158.25	\$143.75	
5	Fieldwork	R	\$7,842.00	\$1,324.00	\$6,518.00	
6	Survey	R	\$1,369.60			
7	Miscellaneous	R	\$28,085.60	\$27,339.29	\$746.31	
8	Equipment	R	\$439.40	\$439.40	\$0.00	
9	Lodging/Per Diem	R	\$1,030.00	\$133.00	\$897.00	
10	Laboratory Analysis w/fee	R	\$6,365.00	\$1,847.00	\$4,518.00	
11	Report	R	\$1,250.00			
12	Report	R	\$4,010.00			
13	Report	R	\$4,916.00			
Total:			\$63,452.44	\$37,662.78	\$25,789.66	

Board claim. All contacts notified 12-9-19. Consultant agreed to recommended adjustment on 12/10/19.



Petroleum Tank Release Compensation Board

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

December 09, 2019

Jerry Mellon (OWNER)

Beverly Winkley

P.O. Box 174

Plevna, MT 59344

Location

Plevna

Facility ID

1301243

Facility Name

Plevna Garage (4 U Husky)

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: 20191106G

Release ID: 3804

Ordinal: 2

Claim Amount: \$29,417.76

Reimbursement To-date: \$0.00

Adjustments:

<u>Action</u>	<u>Amount</u>	<u>Comment</u>
Reduced	\$150.00	Per email dated 11/20/2019, sample handling fee costs were not included in any invoices listed on Form 3.
Reduced	\$913.00	Groundwater monitoring costs exceed the standard rate to sample 4 wells.
Reduced	\$42.50	Project management activity implemented prior to work plan approval date.

Total Adjustment \$1,105.50

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

Sincerely,

Ross Eaton
Fund Cost Specialist

20191106G

061

**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:	Plevna Garage
Street Address:	Corner of HWY 12 & Main Street
City:	Plevna, MT 59334
DEQ Facility Identification Number:	13-01243
DEQ Petroleum Release Number: (only one release #)	3804

RECEIVED

NOV 6 2019

Petroleum Tank Release Compensation Board

2. Owner – Name and Address		3. Operator – Name and Address		4. Payable to: – Name and Address (Required)	
Jerry Mellon & Beverly Winkley				Great Northern Development Corp	
PO Box 174				233 Cascade St	
Plevna, MT 59344-0174				Wolf Point, MT 59201	
Attn:		Attn:		Attn:	Tori Matejovsky
Phone Number:		Phone Number:		Phone Number:	406-653-1840
Fax Number:		Fax Number:		Fax Number:	406-531-1840
Email Address:		Email Address:		Email Address:	torimatejovsky@gmail.com
Do you want to receive Email about this claim?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Do you want to receive Email about this claim?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Do you want to receive Email about this claim?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

5. Claimant – Name and Address		6. Consultant – Name and Address		7. Any other person – Name and Address	
Great Northern Development Corp		NewFields		NewFields	
233 Cascade St		700 SW Higgins Ave, Suite 15		700 SW Higgins Ave, Suite 15	
Wolf Point, MT 59201		Missoula, MT 59803		Missoula, MT 59803	
Attn:	Tori Matejovsky	Attn:	Chris Cerquone	Attn:	Anne Marie Brinkman
Phone Number:	406-653-1840	Phone Number:	406-549-8270	Phone Number:	406-549-8270
Fax Number:	406-531-1840	Fax Number:		Fax Number:	
Email Address:	torimatejovsky@gmail.com	Email Address:	ccerquone@newfields.com	Email Address:	ambrinkman@newfields.com
Do you want to receive Email about this claim?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Do you want to receive Email about this claim?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Do you want to receive Email about this claim?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

8. Total amount of this claim (including all page 2's):	\$29,417.76
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E-MAILED
11-13-19

108
1

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 _____

Date

by _____

(SEAL)

RECEIVED

NOV 6 2019

Petroleum Tank Release Compensation Board

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.

Tori Matejovsky
Claimant Signature

10/29/19
Date

Tori Matejovsky
Typed Name of Claimant

State of Montana

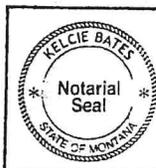
County of Roosevelt

Signed and Sworn before me on this day 10-29-2019

Date

by Tori Matejovsky

(SEAL)



KELCIE BATES
Notary Public for the State of Montana
Residing at WOLF POINT, MT
My Commission Expires August 29, 2022

Kelcie Bates

Notary Public

Printed or typed Kelcie Bates

Notary Public for the State of MT

Residing at Wolf Point

My Commission Expires 8/29/2022

Submit this completed claim and supporting documents to the following address:

**PETROLEUM TANK RELEASE COMPENSATION BOARD
PO BOX 200902, HELENA MT 59620-0902**



Petroleum Tank Release Compensation Board

Work Plan Task Costs

Facility ID: 1301243 **FacilityName:** Plevna Garage (4 U Husky) **City:** Plevna
Release ID: 3804 **WP ID:** 716833885 **WP Name:** R-B-SB/WI/GWM **WP Complete:** **WP Date:** 05/14/2019

Task #	Task Name	Phase	Estimated Cost	Actual Cost	Balance	Comment
1	Work Plan	R	\$1,145.00			
2	Project Management	R	\$2,421.50			
3	Mobilization	R	\$4,727.60			
4	Lodging/Per Diem	R	\$1,058.00			
5	Fieldwork	R	\$4,320.00			
6	Well Installation	R	\$11,115.16			
7	Equipment	R	\$589.96			
8	Survey	R	\$1,000.00			
9	Monitoring	R	\$1,488.00			
10	Laboratory Analysis w/fee	R	\$12,910.00			
11	Report	R	\$2,995.00			
Total:			\$43,770.22			

Overview of Legacy Releases
Ms. Amy Steinmetz
Petroleum Tank Cleanup Section
Section Supervisor

January 27, 2020
REPORT ITEM
INFORMATIONAL

BOARD ATTORNEY REPORT

PTRCB Case Status Report as of January 8, 2020.

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

Petroleum Tank Release Compensation Fund Budget Status Report Operating Statement December 31, 2019						
	Legislative Approp.	Standard Budget	Rev/Exp through 12/31/2019	Projected Rev/Exp	Total FY20 Projected Rev/Exp	Projected Fiscal Year End Balance
Revenues:						
MDT Fee Revenue Estimate	7,722,800	7,722,800	4,154,433	3,633,849	7,788,282	65,482
Estimated STIP interest earnings	80,000	80,000	38,160	47,388	85,548	5,548
Misc Revenue- Settlements	500	0	1,000	0	1,000	1,000
Total Revenues:	7,803,300	7,802,800	4,193,593	3,681,237	7,874,830	72,030
Expenditures: (Includes current year expenses only)						
Board						
Personal Services*	393,150	392,594	195,264	221,000	416,264	(23,670)
Contracted Services	85,000	85,000	27,457	45,000	72,457	12,543
Contingent Contract Services	1,000,000	1,000,000	0	0	0	1,000,000
Operating	166,913	166,913	64,287	74,500	138,787	28,126
Subtotal	1,645,063	1,644,507	287,009	340,500	627,509	1,016,998
DEQ Regulatory						
Personal Services*	1,153,051	1,153,051	582,839	620,000	1,202,839	(49,788)
Contracted Services	50,000	50,000	20,142	15,000	35,142	14,858
Abandoned Tank Cleanup (Restricted/OTO)	500,000	500,000	0	350,000	350,000	150,000
Operating & Transfers	411,691	411,691	198,133	230,000	428,133	(16,442)
Subtotal	2,114,742	2,114,742	801,114	1,215,000	2,016,114	98,628
Administrative Budget Remaining						1,115,626
Claims/Loan						
Regular Claim Payments	4,990,000	4,440,000	1,534,484	1,915,524	3,450,008	989,992
Accrual - FY20 for use in FY21		550,000	0	550,000	550,000	0
Loan Repayment (All loans paid in full)		0	0	0	0	0
Subtotal	4,990,000	4,990,000	1,534,484	2,465,524	4,000,008	989,992
Total Expenses:	8,749,805	8,749,249	2,622,607	4,021,024	6,643,631	2,105,618
Increase/(Decrease) of Revenues over Exp as of December 31, 2019			\$1,570,987	(\$339,787)	\$1,231,200	

Accrual Information	
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	Claims
Accrued in FY2019 for use in FY2020	549,247
Total Payments	381,039
Accrual Balance - written off at FYE	168,209

Guarantee of Reimbursement (A Accruals)	
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Accrued in FY2017 for reimbursement in FY2020	30,989
Accrued in FY2017 for reimbursement in FY2022	253,761
Accrued in FY18/19 for reimbursement in FY2022	181,870
Total Payments	0
Accrual Balance	466,620

Average Monthly Claims	
------------------------	--

FY20 to 12/31/19 - Current Year Only	255,747
FY20 to 12/31/19 - Current Year + Accruals	319,254

Actual Claims Paid in FY 2020 (Current Year + FY 19 Accruals)	1,915,522
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	Fund Balance	Cash Balance
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Beginning Balance	4,084,373	3,813,262
Revenues	7,874,830	7,874,830
Expenditures (affecting balance)	6,832,396	6,450,605
Projected Balance at 6/30/20	5,126,807	5,237,488

Revenue	
---------	--

Revenue & Transportation Interim Committee	
Revenue Estimate set 11/19/18 for FY20	7,352,000
Biennial Report Revenue Estimate for FY20	7,600,000
MDT FY20 Revenue Estimate	7,157,000
MDT FY20 Revenues Collected	58% 4,154,433

Settlements	
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Settlements received during FY2020	1,000
Settlements received to date	2,512,687

At \$.0075 per gallon sold, the revenue collected this year is equivalent to **553.9** million gallons sold.

* Personal Services appropriation assumes 2% vacancy savings, no overtime & no professional growth pay increases. Based on current incumbent or vacancy at snapshot.

Cash Flow Analysis - FY20

	Actual					
	July-19	August-19	September-19	October-19	November-19	December-19
Beginning Cash Balance	3,813,262.20	4,375,987.85	4,681,668.17	4,382,138.96	4,795,772.16	4,925,728.68
Revenue						
MDT Revenue (\$.0075/gallon)	644,424.00	673,395.00	763,567.00	770,216.00	662,136.00	640,695.00
STIP Earnings	-420.48	6,913.49	8,552.68	8,275.46	7,758.67	7,080.59
Settlements						
Other Misc Revenue	0.00	0.00	0.00	0.00	0.00	1,000.00
Total Revenue	644,003.52	680,308.49	772,119.68	778,491.46	669,894.67	648,775.59
Expenditures						
Petro Board Claims	0.00	87,736.70	705,457.45	179,077.67	343,922.47	218,289.38
Petro Board Staff	23,471.98	45,188.00	50,321.54	45,834.67	52,271.34	69,921.40
Prior Year Adj & Accrual Payments	-8,550.97	90,635.11	183,860.82	14,022.06	0.00	77,007.16
Abandoned Tank Cleanup (Restricted/OTO)	0.00	0.00	0.00	0.00	0.00	0.00
DEQ Regulatory	66,356.86	151,068.36	132,009.08	125,923.86	143,744.34	182,011.55
Total Expenditures	81,277.87	374,628.17	1,071,648.89	364,858.26	539,938.15	547,229.49
Ending Cash Balance	4,375,987.85	4,681,668.17	4,382,138.96	4,795,772.16	4,925,728.68	5,027,274.78

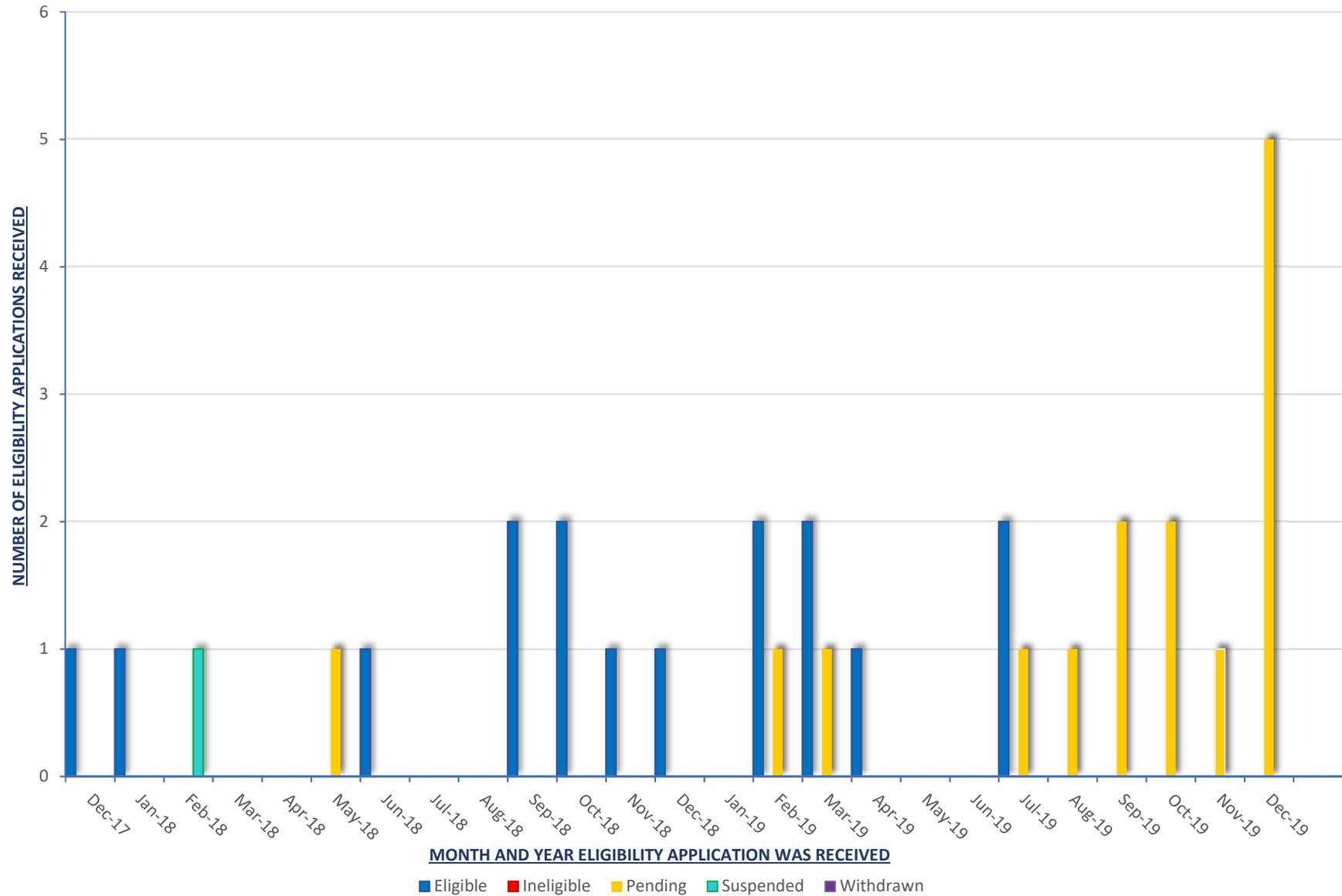
Cash Flow Analysis - FY20

	January-20	February-20	March-20	Projected April-20	May-20	June-20
Beginning Cash Balance	5,027,274.78	4,993,382.81	5,069,353.81	5,145,324.81	5,221,295.81	5,297,266.81
Revenue						
MDT Revenue (\$.0075/gallon)	578,974.00	610,975.00	610,975.00	610,975.00	610,975.00	610,975.00
STIP Earnings	7,388.03	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00
Settlements						
Other Misc Revenue	0.00	0.00	0.00	0.00	0.00	0.00
Total Revenue	586,362.03	618,975.00	618,975.00	618,975.00	618,975.00	618,975.00
Expenditures						
Petro Board Claims	319,254.00	319,254.00	319,254.00	319,254.00	319,254.00	319,254.00
Petro Board Staff	68,500.00	50,000.00	50,000.00	50,000.00	50,000.00	72,000.00
Prior Year Adj & Accrual Payments	0.00	0.00	0.00	0.00	0.00	0.00
Abandoned Tank Cleanup (Restricted/OTO)	50,000.00	50,000.00	50,000.00	50,000.00	50,000.00	100,000.00
DEQ Regulatory	182,500.00	123,750.00	123,750.00	123,750.00	123,750.00	187,500.00
Total Expenditures	620,254.00	543,004.00	543,004.00	543,004.00	543,004.00	678,754.00
Ending Cash Balance	4,993,382.81	5,069,353.81	5,145,324.81	5,221,295.81	5,297,266.81	5,237,487.81

**Petroleum Tank Release Compensation Fund
Budget Status Report
Monthly Expenditure/Projection Summary
December 31, 2019**

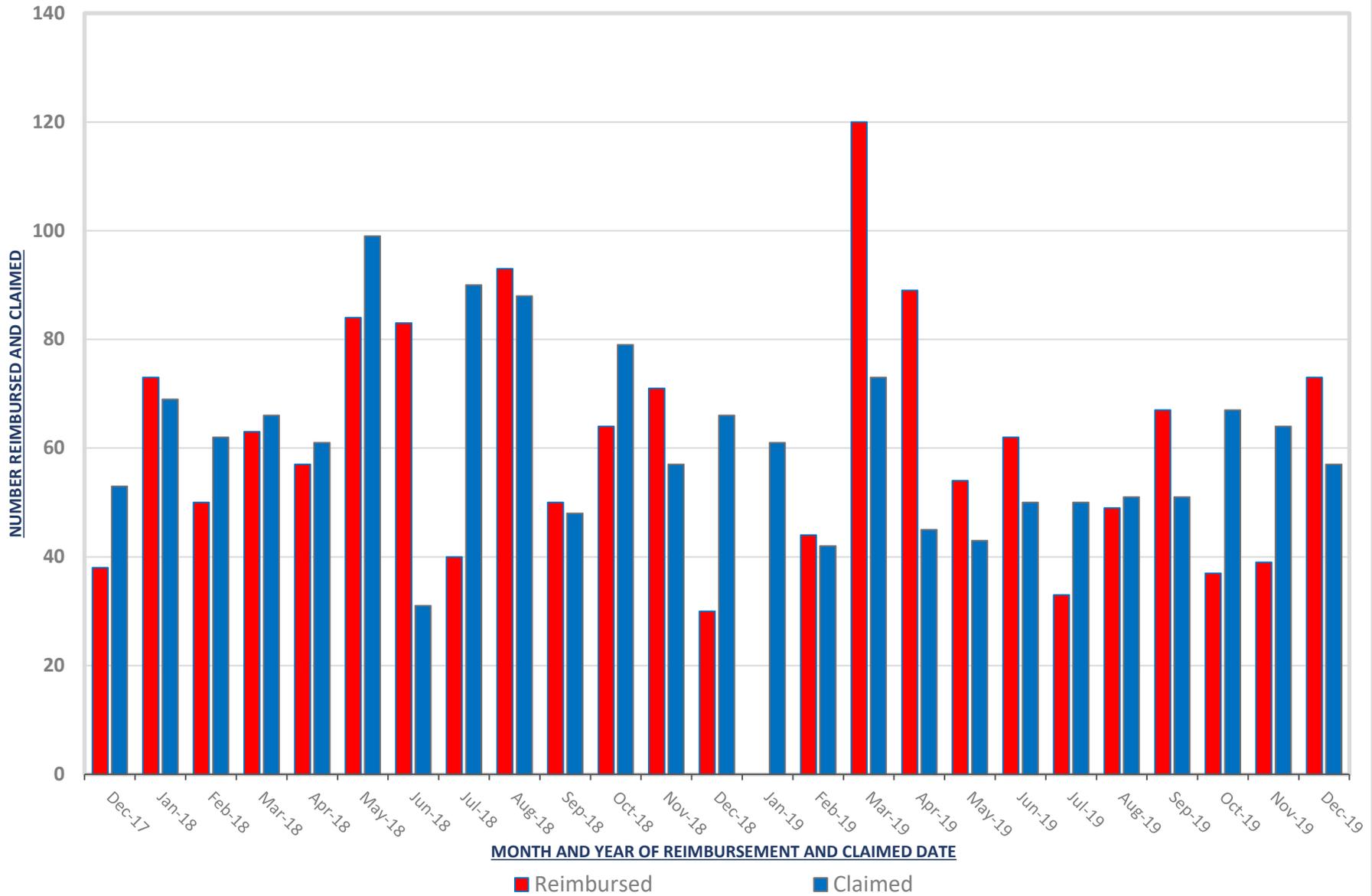
EXPENDITURE SUMMARY		PERIOD ENDING 07/31/19	PERIOD ENDING 08/31/19	PERIOD ENDING 09/30/19	PERIOD ENDING 10/31/19	PERIOD ENDING 11/30/19	PERIOD ENDING 12/31/19	PERIOD ENDING 01/31/20	PERIOD ENDING 02/29/20	PERIOD ENDING 03/31/20	PERIOD ENDING 04/30/20	PERIOD ENDING 05/31/20	PERIOD ENDING 06/30/20	FY20 TOTALS
REVENUE														
	MDT Fees	644,424.00	673,395.00	763,567.00	770,216.00	662,136.00	640,695.00							4,154,433.00
	Stip Earnings	-420.48	6,913.49	8,552.68	8,275.46	7,758.67	7,080.59							38,160.41
	Misc Revenue						1,000.00							1,000.00
	Total Revenue	644,003.52	680,308.49	772,119.68	778,491.46	669,894.67	648,775.59	0.00	0.00	0.00	0.00	0.00	0.00	4,193,593.41
BOARD														
	Personal Services	21,274.72	30,409.68	31,082.16	31,642.34	32,390.33	48,464.82							195,264.05
	Contracted Services	0.00	3,137.75	5,601.93	5,304.52	4,690.77	8,722.44							27,457.41
	Contingent Contract Services													0.00
	Operating	2,197.26	11,640.57	13,637.45	8,887.81	15,190.24	12,734.14							64,287.47
	Subtotal	23,471.98	45,188.00	50,321.54	45,834.67	52,271.34	69,921.40	0.00	0.00	0.00	0.00	0.00	0.00	287,008.93
CLAIMS														
	Regular CY Claim Payments	0.00	87,736.70	705,457.45	179,077.67	343,922.47	218,289.38							1,534,483.67
	Subtotal	0.00	87,736.70	705,457.45	179,077.67	343,922.47	218,289.38	0.00	0.00	0.00	0.00	0.00	0.00	1,534,483.67
DEQ Regulatory														
	Personal Services	63,312.25	91,539.83	97,741.35	92,856.29	95,962.60	141,426.59							582,838.91
	Contracted Services	0.00	8,958.11	4,888.08	1,208.63	4,899.88	187.13							20,141.83
	Abandoned Tank Cleanup (Restricted/OTO)	0.00												0.00
	Operating	3,044.61	50,570.42	29,379.65	31,858.94	42,881.86	40,397.83							198,133.31
	Subtotal	66,356.86	151,068.36	132,009.08	125,923.86	143,744.34	182,011.55	0.00	0.00	0.00	0.00	0.00	0.00	801,114.05
CURRENT YEAR EXPENDITURE TOTALS		89,828.84	283,993.06	887,788.07	350,836.20	539,938.15	470,222.33	0.00	0.00	0.00	0.00	0.00	0.00	2,622,606.65
PRIOR YEAR EXPENDITURES			95.28	-45.61			-15,839.25							-15,789.58
TOTAL EXPENDITURES		89,828.84	284,088.34	887,742.46	350,836.20	539,938.15	454,383.08	0.00	0.00	0.00	0.00	0.00	0.00	2,606,817.07
Board & DEQ Non-Claim costs		89,828.84	196,256.36	182,330.62	171,758.53	196,015.68	251,932.95	0.00	0.00	0.00	0.00	0.00	0.00	1,088,122.98
Claims Accrual Payments		0.00	93,288.40	183,906.43	14,022.06	0.00	89,821.89							381,038.78
Guarantee of Reimbursement (A Accruals)														0.00
PROJECTION SUMMARY		PERIOD ENDING 07/31/19	PERIOD ENDING 08/31/19	PERIOD ENDING 09/30/19	PERIOD ENDING 10/31/19	PERIOD ENDING 11/30/19	PERIOD ENDING 12/31/19	PERIOD ENDING 01/31/20	PERIOD ENDING 02/29/20	PERIOD ENDING 03/31/20	PERIOD ENDING 04/30/20	PERIOD ENDING 05/31/20	PERIOD ENDING 06/30/20	FY20 TOTALS
REVENUE														
	MDT Fees							578,974.00	610,975.00	610,975.00	610,975.00	610,975.00	610,975.00	3,633,849.00
	Stip Earnings							7,388.03	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00	47,388.03
	TOTAL REVENUE PROJECTED	0.00	0.00	0.00	0.00	0.00	0.00	586,362.03	618,975.00	618,975.00	618,975.00	618,975.00	618,975.00	3,681,237.03
BOARD														
	Personal Services							45,000.00	32,000.00	32,000.00	32,000.00	32,000.00	48,000.00	221,000.00
	Contracted Services							7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	45,000.00
	Contingent Contract Services													0.00
	Operating							16,000.00	10,500.00	10,500.00	10,500.00	10,500.00	16,500.00	74,500.00
	Subtotal	0.00	0.00	0.00	0.00	0.00	0.00	68,500.00	50,000.00	50,000.00	50,000.00	50,000.00	72,000.00	340,500.00
CLAIMS														
	Regular CY Claim Payments							319,254.00	319,254.00	319,254.00	319,254.00	319,254.00	319,254.00	1,915,524.00
	FYE20 Accrual												550,000.00	550,000.00
	Subtotal	0.00	0.00	0.00	0.00	0.00	0.00	319,254.00	319,254.00	319,254.00	319,254.00	319,254.00	869,254.00	2,465,524.00
DEQ Regulatory														
	Personal Services							130,000.00	90,000.00	90,000.00	90,000.00	90,000.00	130,000.00	620,000.00
	Contracted Services							2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	15,000.00
	Abandoned Tank Cleanup (Restricted/OTO)							50,000.00	50,000.00	50,000.00	50,000.00	50,000.00	100,000.00	350,000.00
	Operating							50,000.00	31,250.00	31,250.00	31,250.00	31,250.00	55,000.00	230,000.00
	Subtotal	0.00	0.00	0.00	0.00	0.00	0.00	232,500.00	173,750.00	173,750.00	173,750.00	173,750.00	287,500.00	1,215,000.00
PROJECTION TOTALS		0.00	0.00	0.00	0.00	0.00	0.00	620,254.00	543,004.00	543,004.00	543,004.00	543,004.00	1,228,754.00	4,021,024.00

Board Staff Eligibility Graph

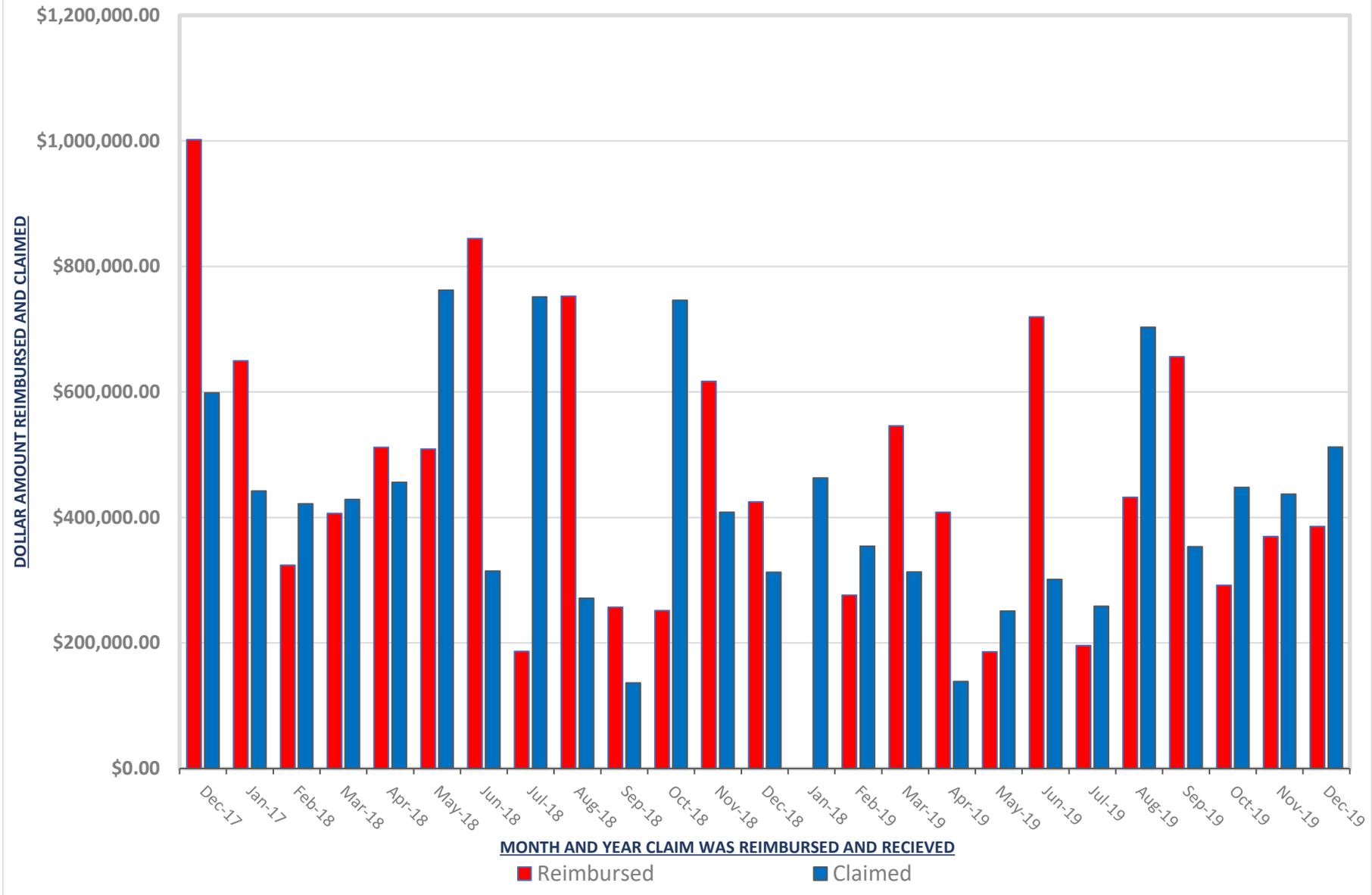


All Pending Eligibilities Since April 13, 1989 is 25, inclusive of those graphed above

Board Staff Claim Count Graph



Board Staff Claim Value Graph





Petroleum Tank Cleanup Activity Report

January 13, 2020

Summary of Confirmed and Resolved Petroleum Releases

Petroleum Release Activity since Last Report – October 22, 2019 to January 13, 2020

Release Status	Activity
Confirmed Releases	9
Releases Resolved (Closed)	8

Petroleum Release Activity from – January 1, 2020 to January 13, 2020

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

Summary of All Petroleum Release Activity to January 13, 2020

Total Confirmed Releases	4725
Total Resolved Releases	3762
Total Active Releases	963