

PETROLEUM TANK RELEASE COMPENSATION BOARD  
 MINUTES  
 April 20, 2020  
 TELECONFERENCE MEETING

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

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

**Approval of Minutes January 27, 2020**

Ms. Smith noted she had not been present at the January 27, 2020 meeting and asked that the minutes be corrected to reflect her absence. She also stated she would be abstaining from voting on the minutes due to her absence.

Ms. Rupp noted that there was a typographical error at the top of Page 13. Mr. Johnson was referred to as Ms. Johnson.

**Ms. Rupp made a motion to approve the January 27, 2020 meeting minutes with the noted corrections. Mr. Johnson seconded. The motion was unanimously approved by roll call vote, with Ms. Smith abstaining.**

**Guarantee of Reimbursement Form 4, Butch's Exxon, Fac #4301508, Rel #640, WP #716833941, Poplar**

Mr. Wadsworth presented the Board with the staff recommendation to approve the Guarantee of Reimbursement for Butch's Exxon. He stated that the Guarantee includes language that states that the environmental contractor will be designated by the owner to receive no more than 20% of the actual, reasonable, and necessary costs associated with the Department of Environmental Quality (Department)-approved Corrective Action Plan. The consultant's reimbursement will occur within the normal business process time frame, from the date on which the claim is considered properly filed with the Board. In addition, Great Northern Development Corporation (GNDC) will be designated by the owner to receive the remaining 80% of the actual, reasonable, and necessary costs associated with the Department-approved Corrective Action Plan. GNDC's reimbursement is to occur within 60 months from the date on which the claim is considered properly filed with the Board.

Mr. Wadsworth noted that the claims will all be subject to the normal business process and Board laws noted in §75-11-309(3), MCA. He explained that the claims may undergo adjustments as they are processed for reasonable, actual and necessary costs, as usual.

**Mr. Thamke made a motion to approve the Guarantee of Reimbursement for Butch's Exxon, Facility #4301508, Release #640, as presented. Ms. Smith seconded. The motion was unanimously approved by roll call vote.**

**Eligibility Ratification**

Mr. Wadsworth presented the Board with the applications for eligibility that were tabulated in the Board packet, (see, table below). There were no questions from the Board.

<i>Location</i>	<i>Site Name</i>	<i>Facility ID #</i>	<i>DEQ Rel # Release Year</i>	<i>Eligibility Determination – Staff Recommendation Date</i>
Billings	SOCO Express 15 <sup>th</sup> & Broadway	5604956	5261 Dec 2017	Reviewed 2/21/2020. Recommended eligible.
Billings	SOCO Express	5604954	5273 Dec 2018	Reviewed 2/24/2020. Recommended eligible.
Great Falls	Central Bike and Key	0032392 TID	5367 Oct 2019	Reviewed 2/28/2020. Recommended eligible.

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

**Ms. Rupp made a motion to accept the staff recommendation of eligibility for the three (3) releases presented. Mr. Taylor seconded. The motion was unanimously approved by roll call vote.**

**Weekly Reimbursements and Denied Claims**

Mr. Wadsworth presented the summary of weekly claim reimbursements for the weeks of January 1, 2020 through March 11, 2020, and recommended the Board ratify the reimbursement of the 172 claims, which totaled \$1,030,533.54 (see, table below). There was one (1) denied claim.

<b>WEEKLY CLAIM REIMBURSEMENTS April 20, 2020 BOARD MEETING</b>		
<b>Week of</b>	<b>Number of Claims</b>	<b>Funds Reimbursed</b>
January 15, 2020	22	\$104,126.89
January 22, 2020	28	\$151,355.01
January 29, 2020	18	\$213,187.50
February 5, 2020	21	\$60,203.73
February 12, 2020	16	\$77,854.83
February 19, 2020	22	\$86,342.92
February 26, 2020	19	\$73,367.54
March 4, 2020	14	\$82,199.57
March 11, 2020	12	\$181,895.55
<b>Total</b>	<b>172</b>	<b>\$1,030,533.54</b>

Mr. Wadsworth presented the one (1) claim being denied. Claim #20191021A, Release #2697 was requested to be withdrawn by the consultant.

Ms. Rupp asked if the volume of claims being received was within our normal expectations, or if the COVID-19 health situation was impacting them. Mr. Wadsworth stated that they were close to normal and noted there may be a small decline in the future. Mr. Johnson stated that the work for which claims were being made, as shown in the table above, was done before the restrictions were put in place for COVID-19.

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

**Mr. Rorabaugh made a motion to approve the weekly and denied claims as presented. Ms. Smith seconded. The motion was unanimously approved by a roll call vote.**

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

Mr. Wadsworth presented the Board with four (4) claims for an amount greater than \$25,000 that had been reviewed by Board staff since the last board meeting (see, table below). He noted that the co-pays on the table were estimates. There were no questions from the Board.

<b>Facility Name Location</b>	<b>Facility-Release ID#</b>	<b>Claim#</b>	<b>Claimed Amount</b>	<b>Adjustments</b>	<b>Penalty</b>	<b>Co-pay</b>	<b>**Estimated Reimbursement</b>
Farmers Union Oil Fairview	4203363-3606	20191004A	\$65,455.54	\$34,365.92	-0-	\$13,809.35 Copay met with this claim	\$17,280.27
Chouteau County Fort Benton	805931-3645	20191121A	\$56,128.60	\$277.15	-0-	-0-	\$55,851.45
Former Econo Lumber Glasgow	9995002-4395	20200103S	\$29,666.72	\$535.38	-0-	-0-	\$29,131.34
MDT Nashua Tank Nashua	6015325-5285	20200103U	\$29,659.22	\$925.38	-0-	\$14,366.92	\$14,366.92
<b>Total</b>			<b>\$180,910.08</b>				<b>\$116,629.98</b>

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

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

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

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

**Petroleum Tank Cleanup Section (PTCS) Report**

Ms. Marla Stremcha, Acting Section Supervisor, PTCS, presented the Board with the PTCS Report. She stated that the PTCS Report that was included in the packet was incorrect and provided the correct numbers in the meeting. She stated that the total number of confirmed releases was 4,727, total resolved was 3,772, and the total number of active releases is 955. She stated that since the last Board meeting and from the beginning of 2020, there have been 2 confirmed releases and 10 releases resolved.

Butch's Exxon, Poplar, Fac #43-01508, Rel #640, WP #10821/716833941, Priority 1.4

Mr. Wadsworth noted that this work plan is associated with the Guarantee of Reimbursement that the Board approved earlier in the meeting. The total budget for the work plan is \$334,053.00. The anticipated work includes soil removal, well installation and groundwater monitoring.

Valier Co-Op Supply, Valier, Fac #37-10231, Rel #4383, WP #716833877, Priority 2.0

Mr. Wadsworth stated that this work plan has a budget request of \$310,535.57. The Board staff's work plan budget review allows a total budget of \$280,489.07 for reasonable, actual and necessary costs.

Mr. Johnson asked if either of the applicants (owner or consultant) for these work plans was on the phone. There was no response.

Mr. Johnson asked what the reduction in the work plan budget was for. Mr. Wadsworth stated that the largest ticket items were for project management and mobilization. The consultant had written a work plan that included mobilizing every day from their office to the site and back. If the consultant mobilized, and then stayed in a hotel, it saved over \$5,000.

Mr. Johnson asked if there was any dispute or disagreement, or if that would happen later when a claim was filed. Mr. Wadsworth stated that the non-obligation letter was sent by Board staff two months prior to the meeting and no communication has been received back.

Mr. Thamke discussed the impacts of COVID-19 on field work getting done and the need for the Governor's approval to go into the field. He also spoke about communities that didn't want to provide lodging for out-of-towners and said that in some situations mobilizing daily to and from a site may make sense in the current circumstances.

Mr. Thamke asked Mr. Wadsworth if consultants had reached out with this type of problem. Mr. Wadsworth stated that no one has reached out. He indicated that if consultants did reach out on the current COVID-19 restrictions that he would direct them to Ms. Stremcha to work through approvals or delay of work.

Mr. Johnson noted that remediation efforts are part of what is considered essential work by the Governor's Directive, and that they have some subcontractors that only can come from out-of-state to perform needed on-site field work. He expressed concerns about a quarantine imposed on travelers. Ms. Stremcha stated that if the company is coming in for work, they can enter and work in the State. Ms. Stremcha noted that PTCS has been delaying some work, but work can be done as long as it follows directives and there is a plan in place.

Mr. Schnider stated that there were two Legislative Auditors on the conference call and asked them to introduce themselves and present the Board with any information they had.

Mr. John Harrington, Performance Auditor, introduced himself and his colleague, David Singer, Performance Auditor, Legislative Audit Division. Mr. Harrington stated that they were doing an audit/risk assessment of the Board, the Fund, and the relationship to the Department of Environmental Quality. He stated that they were gathering information. They had spoken with Mr. Wadsworth already, and would be speaking to the Board members in the future. He stated that the audit looked like it would take place, and work would be conducted through the summer. He noted that the schedule would be tight.

Mr. Johnson asked how long an audit takes from the beginning until the final report is submitted. Mr. Harrington said that their goal, while ambitious, was to have everything wrapped up by the end of the calendar year and have something in to the Legislators for the next Legislative Session.

Mr. Taylor asked when the last audit had taken place. Mr. Harrington stated it was close to 17 years. Mr. Wadsworth stated that the last audit started in 2001, a report was filed in 2003, and follow-up was done in 2005 and 2007. Mr. Harrington noted that follow-up is a normal part of the process, and it is done to see if the recommendations made in the report are being implemented.

Mr. Johnson asked if the audit process included contacting other stakeholders. Mr. Harrington said absolutely. He stated that input would be sought from owners, consultants, and other people that are impacted by the Board. Mr. Singer stated that the stakeholder group may also include people from the private sector.

Mr. Johnson stated that he expected there would be a public outreach and Mr. Harrington agreed.

The Board discussed how to conduct the June 8, 2020 meeting, either via Skype, Zoom, or face-to-face. Mr. Schnider stated he would reach out to the Board by mid-May on what was possible, and what was preferred for the conduct of the next Board meeting.

Public Forum:

Brad Longcake, Executive Director, Petroleum Marketers Group briefly addressed the Board.

BL: Thank you for allowing my participation in this meeting. Thanks to the auditors for their participation. As you know, I have been working to get the audit moving and would be happy to be a point of contact for any questions regarding the audit. Thanks again.

The meeting adjourned at 10:50 a.m.

  
Signature - Presiding Officer