

PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
August 17, 2020
TELECONFERENCE MEETING

Board Members in attendance were Greg Taylor, 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. Board Member Jason Rorabaugh joined the teleconference call at 10:13.

Presiding Officer Schnider called the meeting to order at 10:04 a.m.

Approval of Minutes June 8, 2020

Mr. Thamke made a motion to approve the June 8, 2020 meeting minutes. Ms. Smith seconded. The motion was unanimously approved by roll call vote, with Mr. Rorabaugh absent.

Claim Adjustment Dispute, Swan Valley Centre, Facility #3203617, Release #4769, Claim #20190307F, Condon

Mr. Schnider asked if there was any presenter or representative on the call for the claim dispute from Swan Valley Centre. Ms. Pirre sent out an instant message to the group on the SKYPE call to see if there was any responder that needed to be unmuted. There was no representative in the meeting for this dispute. The Chairman continued to the next agenda item.

Eligibility Ratification

Mr. Wadsworth presented the Board with the applications for eligibility that were tabulated in the Board packet (see, table below). Mr. Thamke noted that Dillon was spelled incorrectly, it has been corrected for these minutes.

<i>Location</i>	<i>Site Name</i>	<i>Facility ID #</i>	<i>DEQ Rel # Release Year</i>	<i>Staff Recommendation Date Eligibility Determination</i>
Butte	Northwest Petroleum Facility	5614033 TID 30689	5388 December 2019	Received 5/4/2020. Recommended Eligible.
Dillon	Town Pump Inc Dillon 2 TREAD – Town Pump of Dillon 2	108696 TID 17674	5350 July 2019	Received 5/6/2020. Recommended Eligible.
Updated Information on Ratified Eligibility				
Great Falls	First Interstate Bank	9995133	4901	Eligibility granted July 16, 2012. New Form 1R received 7/2/2020, to include found tanks; 2 - 500 gallon steel tanks. New information indicates that these are the source of eligible contamination for release #4901.

Mr. Rorabaugh recused himself from any matters associated with Rocky Mountain Supply or its customers. Mr. Schnider recused himself from voting on any matters that are associated with Payne West Insurance. Mr. Taylor recused himself from any matters dealing with Ben Taylor Inc, Simmons Petroleum Inc., and the bulk plant at Sunburst. Mr. Johnson recused himself from voting on any matters associated with RTI and its clients, and Yellowstone Soil Treatment, and its clients. Ms. Smith recused herself from any matters pertaining to First Interstate Bank. Ms. Rupp recused herself from any matters associated with the Montana University System.

Mr. Thamke recused himself from any matters regarding reimbursement to the Department of Environmental Quality.

Ms. Rupp made a motion to accept the staff recommendation of eligibility for the two (2) releases and one augmented release as presented. Mr. Taylor seconded. The motion was unanimously approved by roll call vote.

Weekly Reimbursements

Mr. Wadsworth presented the summary of weekly claim reimbursements for the weeks of May 20, 2020 through July 22, 2020, and recommended the Board ratify the reimbursement of the 151 claims, which totaled \$746,447.57 (see, table below). There was one denied claim.

WEEKLY CLAIM REIMBURSEMENTS August 17, 2020 BOARD MEETING		
Week of	Number of Claims	Funds Reimbursed
May 20, 2020	26	\$99,911.44
June 3, 2020	18	\$58,601.51
June 10, 2020	8	\$116,675.39
June 17, 2020	27	\$127,917.21
June 24, 2020	23	\$124,679.63
July 8, 2020	21	\$80,926.03
July 22, 2020	28	\$137,736.36
Total	151	\$746,447.57

Mr. Wadsworth presented Claim 20200707D, which was denied because it was a duplicate invoice of that claimed in Claim 20200618Q.

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

Mr. Thamke made a motion to approve the weekly claims and denied claim as presented. Ms. Rupp seconded. The motion was unanimously approved by a roll call 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). He noted that the co-pays on the table were estimates.

Facility Name Location	Facility-Release ID#	Claim#	Claimed Amount	Adjustments	Penalty	Co-pay	**Estimated Reimbursement
Big Mountain One Stop Inc.	1504804 2854	20191107B	\$30,704.50	\$217.00	-0-	-0-	\$30,487.50
Flying J Inc Travel Plaza Rocker	4709893 3374	20200515B	\$53,369.94	\$73.85	\$5,329.61	-0-	\$47,966.48
Oelkers Inc Bulk Plant Culbertson	9995090 4712	20200610A	\$56,200.08		-0-	\$9,229.64 Co-Pay met with this claim	\$46,970.44
Total			\$140,274.52				\$125,424.42

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

Ms. Smith 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 roll call vote.

Discussion Item

Ms. Marla Stremcha, Acting Section Supervisor, Petroleum Tank Cleanup Section (PTCS), presented an update on the Legislative transfer from the Petroleum Tank Release Cleanup Fund (Fund).

Ms. Stremcha stated that the 2019 Legislature allocated a one-million-dollar transfer from the Fund to the Department of Environmental Quality (Department) to be used, at the Department's discretion, to address petroleum release sites that lacked the financial resources to move cleanup forward. The Department's project selection considerations were to help eligible sites meet their co-pay, but were limited to property owners that did not cause the contamination at their site. The further criteria used include owners that don't meet the Department's program definition of an owner/operator, or the owner/operator does not have the ability to pay, as determined by an ability-to-pay analysis. The Department also considered providing funding for sites that are ineligible because the release discovery predates the existence of the Fund. Ms. Stremcha noted that the considerations included: if there were no other funding sources available, the current owner didn't cause the contamination, the current owner didn't have an ability to pay, or they did not qualify for Orphan Share funding or Brownfields funding.

Ms. Stremcha stated that her Section instituted a plan over the last year, using the stated criteria, to conduct a release file review. The Department hired an outside contractor to review a minimum of 60 releases that are currently unassigned, or that need further evaluation, to prepare a release closure plan and identify releases for closure. This process will identify releases needing corrective action that qualify for the money transferred from the Fund. Ms. Stremcha stated that corrective action plans would be implemented for the work on projects that meet the selection criteria.

Ms. Stremcha stated that in May of 2020, PTCS completed a postcard mailing to property owners that may be eligible for this funding. She stated that many of the owners included in this mailing have not been contacted for many years. There were about 20 owners that responded favorably to this mailing.

Ms. Stremcha stated that within the first year of the transfer, from July 1, 2019 through June 30, 2020, Fiscal Year 2020 (FY20), the first \$500,000 of the transferred money was to be used and allocated. During that time period, the contractor had completed a review of 31 petroleum releases, and there have been three (3) closures. Work plans for 12 projects have been written. Of the 31 releases that were reviewed, two (2) of them predate the Fund and the responsible party is no longer involved. The Department has no jurisdiction over those sites, because there is no owner/operator or responsible party that fits their legal definitions. The Department found four (4) sites that are eligible for the Fund, one (1) of which doesn't have an owner, or responsible party and three (3) sites that do not have the ability to pay. The Department is trying to help those owners meet their copay. During this same period of time, roughly \$594,000.00 has been allocated for 12 projects. The total includes costs associated with the release file review work. She stated that roughly \$250,000 has been invoiced for the work that happened within FY20, and she doesn't expect to see the rest of it until the contracts for that work end after November 1, 2020. She stated that there is still a lot of work taking place in the Fall of 2020.

Ms. Stremcha stated that initial meetings have been held, and the PTCS Project Managers are writing memos justifying the chosen sites' and their qualifications for the use of the money. PTCS has a selection process, with both the LUST Trust and Brownfields funding sources considered. The Case Managers that oversee that type of funding, as well as the Department Attorney, were part of the evaluation to ensure that other funding sources were considered before using the money transferred from the Fund.

Ms. Stremcha stated that, for FY21, there remains roughly \$400,000 left to allocate of the money that was transferred to the Department. She indicated that the remainder of the work is going to be writing the task orders for the work, and the associated work will need to be completed by the end of June 2021. She noted that there needed to be projects in place, and stated there are enough projects to use the rest of the money, as planned.

Mr. Johnson asked if owners of recently acquired property would be eligible if the site had previous violations. He noted a site that had been granted eligibility, had violations and lost eligibility, the site changed hands and the new owner took over and performed corrective action. Mr. Johnson wanted to know if that type of site was being considered for the monies that had been transferred, because the eligibility for the site was lost, but the new owner was trying to be responsible. Ms. Stremcha stated that all that had happened prior to the new owner purchasing the land was a permanent record and the eligibility status couldn't be changed by PTCS, that was an issue for the Board.

Mr. Johnson stated that in this type of scenario, the new owner should have some access to the funding, if it is available. Ms. Stremcha stated that those types of situations do occur, but the sites that would fall under that type of scenario haven't been considered for the transferred funds, at this time.

Mr. Brad Longcake, Executive Director, Montana Petroleum Marketers and Convenience Store Association, thanked Ms. Stremcha and the Department for the work being done. Mr. Longcake stated that his members had some concerns about the criteria and decisions about how the monies are being used. He noted the fact that there are people that have not been following the rules or guideline suggestions that either the Department or the regulations require them to do. The Petroleum Marketers members' biggest concern about this is that time and money is being spent going back, reviewing, and working on sites with these types of issues, when there are hundreds of eligible releases that are in good standing that could be using this money. He noted there are many other funding sources, if those locations fit the criteria to use Brownfields and other resources. The problem on this is that there isn't a desire to fix an issue, but the members don't want to reward people that are blatantly not following the requirements.

Mr. Longcake noted that the biggest question that the members have is why, after 20 to 25 years, some of these issues are just now coming to light, or was it that the Department didn't know where the problems were. He asked why the focus isn't directed to sites that the problems are already known and spending the money on those. He stated that as more time allows, the Department can come back and research some of those legacy sites. He stated that as the conduit/messenger for the constituency of the Petroleum Marketers, his responsibility is to relay the information from his members to the Board. He is also making sure that the members have, and understand, all the facts on how the money is being allocated, and why. Mr. Longcake restated that the members are expressing concern and discontent on why the monies are not being used on sites that are already eligible that just need work plans to move forward.

Ms. Stremcha stated that the Department is not trying to reward or benefit anybody that has been a bad player. She stated that the majority, if not all the sites being considered, don't have an ability to pay, and these properties have

transferred hands three or four times, and/or(?) the original owner has passed away. She stated that the legacy releases still need to be addressed at some point.

Ms. Stremcha stated that this Legislative transfer from the Fund to DEQ took place because of the successes the Department has had in the past. In 2014 and 2017 there were Legislative Fund transfers provided for closing releases and getting some of the legacy releases addressed. Those transfers came with very strict conditions. The transfers highlighted that there is a financial need for the people that want to do cleanup at these sites. In many cases, the current owners are not the original responsible parties, and the cleanups are costly. The transfers are trying to help address some of these sites that just don't have any funding. If there's a source like LUST Trust funding, or if the site is eligible for Brownfields, those two funding sources are considered first. PTCS is trying to just address releases that don't have any financial source to pay for cleanup. These sites have owners that didn't cause the contamination, but they are now stuck with the cleanup. She noted that PTCS is obligated to follow EPA funding requirements, and other requirements from other funding sources, even the Legislature, to get these releases closed. She stated that everybody wants these legacy releases closed.

Ms. Stremcha noted that this was a collaborative effort to see what type of sites should be addressed, and that PTCS was not trying to reward any bad players. She stated that none of the bad players are really involved or even around, and they are trying to use the monies efficiently. There are at least four (4) current owners that are eligible and need their copay met, but they have no ability to pay. The Department is trying to help these owners reach copay, so that the rest of the cleanup will be done using the Fund.

Ms. Stremcha noted that LUST Trust has limits, such as; the site must be federally regulated, and the owner doesn't have the ability to pay for cleanup, or is recalcitrant. Both Brownfields and LUST Trust have strict rules for what those monies can be used for.

Mr. Johnson stated that with Orphan Share and Brownfields, there is a determination if there is any economic benefit that has been derived from a lowered property value during a subsequent transaction on contaminated property, and he asked if that was being factored into the considerations used by the Department. Ms. Stremcha stated that many times the property has changed hands several times, it was inherited, or the current owner has no idea that there is contamination at the site. Another scenario is where the current owner believes that the contamination has been cleaned up, but no documentation has been sent by the Department indicating the release is closed. Mr. Johnson denotes we don't know how much they paid for it or if they had a cost reduction. Ms. Stremcha responds there is no consideration being given to this factor because it is too hard to know given all the variables stated.

Mr. Longcake stated that there was no one from his group that would argue the importance of the cleanup of some of those locations. The issue comes from some of these sites that have been on the books for a long time. There is a question about the urgency. There is a question of why, after 30 years of not looking at the release, is the Department now looking at the release, when there are already releases that have known issues that could be cleaned up.

Mr. Longcake stated that the second issue is that the money was taken out of the Board-controlled system that's very cost competitive, where the costs are evaluated. He noted that Ms. Stremcha had stated that the money was given to the Department to use at their discretion, to help sites without the ability to pay. He asked why the people that Ms. Stremcha noted were the subsequent owners of these legacy releases couldn't still contribute to their copay. He also asked why the Department couldn't use the one-million-dollar transfer as a loan source.

Mr. Longcake noted that there is agreement that cleanup needs to happen. He stated that giving consideration to legacy sites with new owners would be different if there wasn't already a backlog of Fund eligible locations. He asked why those were not the top priority. He stated that when those sites were addressed, then money could be used to address sites that haven't been touched in 30 years. He stated that his members asked why those old sites had urgency to be addressed within the next six (6) months.

Ms. Stremcha stated that the legacy sites had not been sitting on the shelf for 30 years, and that they have been reviewed. She stated that 80% of the releases occurred in the first decade the Fund was in existence, 1990 through 2000. She said that the Department has cleaned up 82% of those releases, but those are still the highest number of open releases. During the Legislative funding in 2014, these legacy sites were reviewed to determine if they qualify for the Orphan Share funding and they did not qualify.

Ms. Stremcha stated that the Department reviewed legacy releases with different criteria over the years, and found that many of the old sites do not have a funding source, or the Department doesn't have the legal authority to mandate compliance with cleanup at those sites. The Department can mandate cleanup to an owner/operator that causes a release, and those releases are a high priority for closure. At the legacy sites, the owner/operator that caused the release is no longer involved, either through property transactions, or they have passed away.

Ms. Smith stated that there would always be leaks, and the Fund is going to be used for remediation of those leaks. She questioned whether they would get addressed if the older ones were pushed aside. She noted that there is a two-pronged approach being taking to work on sites that have been ignored or not been eligible, and working through the hundreds of active cases, and allocating funding as quickly and responsibly as is possible.

Ms. Stremcha indicated that there are sites that are not Fund eligible that are being worked on, as well as the ones that are eligible. She stated that those are also a high priority, and the Department is trying to use the transferred money for those sites. She stated some of them have sat for a long time, and noted that the Department has had some of these sites for 20 to 30 years.

Ms. Smith asked if the 945 active releases reported on in the packet was a summary of confirmed and resolved, as reported by the Petroleum Tank Cleanup Section, and provided during that section of the Agenda. Ms. Stremcha stated that the active releases number includes sites that are not overseen by the Department, which includes some that are overseen by EPA, or other sections of the Department. She stated that there are roughly 860 that are overseen by her section.

Mr. Longcake asked how those 900 plus releases were prioritized. He stated that he understood the Department was currently focused on a small group of sites that they didn't know what to do with, and he asked if those were really the most important, in terms of resources and personnel. He asked if personnel were looking at all the funding options, and how did the Department prioritize who is doing what. He stated that would affect the workflow and output for each one of those separate buckets of funding categories. He stated that one of the issues raised by his members was workload and output if the Department is focusing on Brownfields and the one-million-dollar transfer. The question is if the Department can still produce the workplan requests, reviews, and approvals for those sites currently eligible for the Fund.

Mr. Longcake stated that the underlying root of all the issues raised is the question of how to ensure that the Department is maximizing each of the resources for the use of the transferred dollars, while still being able to produce the same amount of work through-put as before there was a transfer. It seemed like, if the focus is on one, something else has to be given a lower priority. He asked how the Department is prioritizing which funding area is getting focused on more.

Ms. Stremcha stated that the Department does have multiple priorities, as has always been the case. The consideration of Brownfields or LUST Trust is always a consideration to work through. She noted that there has been other special legislative funding in the past. She stated that the Department didn't hire additional staff, but outside contractors were hired to help with some of the file review, and this was part of how the transferred money was used. She noted that the workload for the staff is considered, and there are shifts in focus which require the staff to move to other tasks, like putting task orders in place and getting work plan request letters out. She noted that these types of shifts in focus come in waves throughout the year, and that the staff does understand these priorities, and do the best that can be done, along with hiring outside help.

Mr. Johnson stated that, comparing the amount of closures being accomplished with the transferred funds to how much it costs for a normal Fund eligible sites to come to closure, it appears that more sites are being brought to closure for one-million-dollars than can normally be accomplished. Ms. Stremcha stated that it was hard to make a dollar-for-dollar comparison. However, the Department currently had 12 projects that were active. She stated that there will be another 12 more. She noted that the time constraints of \$500,000 each year, for two years, makes it more difficult to compare to sites that are Fund eligible and are brought from investigation all the way to cleanup. Currently the Department is looking at sites that have background information and bringing those sites to closure.

Mr. Johnson stated that it might be difficult to compare the two, because of the process being streamlined. He stated that he didn't see any kind of inefficiency with the task order that Ms. Stremcha had talked about. He felt the inverse was true, and in his perspective, there was more efficiency in the cleanups and closures. He noted that the

starting point for these sites had a lot of existing data, and that helped get those sites off the books, and still use the closure per dollar reference.

Mr. Longcake stated that it wasn't a matter of efficiency, and didn't think using a dollar-for-dollar comparison was a good example, because of all the variables already stated. He noted that the Department was constrained by a use-it or lose-it time frame of the biennium. Mr. Longcake indicated that his question was focused on the fact that there are only so many DEQ personnel hours per day, and the focus is in one area versus another. He noted that the output for all the areas can't be done within the same period of time. He pointed out that if the focus is on one specific area and funding source, then another area will not get the expected level of attention, and, as a result, would have less work accomplished.

Mr. Longcake stated that, if the Department is closing sites that haven't been reviewed for a while, versus something that is currently eligible, then the use of that data is saying that one area is better than another. That is not an equal comparison. He noted that his members raised this issue because it didn't appear to be consistent. The member base is not arguing that cleanup needs to happen and it needs to be done efficiently. The question is about how time is focused, and why it is focused on certain areas, when there are other areas where people already have copays and are in the process of cleanup with a good standing.

Mr. Longcake thanked Ms. Stremcha for her explanations and time.

Proposed Board Meeting Dates for 2021

Mr. Wadsworth noted that the proposed Board meeting dates for 2021 were included in the Discussion Items section of the packet for the Board's review. He stated that these would become an action item for the Board to ratify at the November 9, 2020 Board meeting.

Mr. Schnider asked Board members to get in touch with Mr. Wadsworth, Ms. Pirre or himself, if the proposed dates conflicted with their schedules for the upcoming year.

Board Attorney Report

Kyle Chenoweth, attorney for the board, stated that the only case on which to report is the Cascade County case. He stated that briefings were still happening at the Supreme Court level. The briefing schedule calls for four (4) separate briefs over time. Cascade is currently working on their second brief, and the third of four briefs in the series. Their brief is due a week from Wednesday, August 26, 2020. The Board's response would be due two weeks after that date, which is the Wednesday after Labor Day, September 9, 2020, if it was filed on the last day. At that point, it would be in the Court's hands.

Mr. Chenoweth stated that he couldn't provide an estimation of the date the Court would render their decision, but after Labor Day 2020, everything would likely be submitted to the Court for their decision. He noted that cases at the Supreme Court can be held from three (3) to 12 months. He stated that some of the subject matter that's specific to the Board is stuff that a lot of these justices and their clerks haven't really handled in the past. It may be a situation where they have to dig in to learn about the issues and processes surrounding the case.

Mr. Johnson asked if Mr. Chenowith would need any support from the board members, from either Mr. Schnider or himself on anything he is doing. Mr. Chenoweth stated that he did not.

Mr. Chenowith stated that he anticipated the brief from Cascade County to arrive on Wednesday, August 26, 2020, at which point a reply brief will be drafted. He stated that it would be a shorter brief than before. Mr. Chenoweth offered to send the draft to anybody on the Board that was interested, as well as copies of the briefs submitted by Cascade County. He stated that they were public documents and available to anyone.

Fiscal Report

Mr. Wadsworth presented the fiscal report, as of June 30, 2020, the fiscal year end. He highlighted the financial impact of COVID-19. He stated that the revenue stream over the last 10 years is cyclic by nature. He noted that the revenue projections for FY2020 were \$7.3 million, and the actual end-of-year amount was \$7.9 million. The numbers were strong at the beginning of the fiscal year, but the COVID-19 pandemic had a negative impact on the

actual numbers reported for fiscal year end. We are doing better than some other states. Mr. Wadsworth stated that the revenue for July was better than June.

Mr. Johnson asked if the June 2020 report amounts were correct. Mr. Wadsworth stated that they were and reflected the revenue collected in May also.

Ms. Smith asked if the budget would be adjusted to the smaller revenue dollar amount for the upcoming 2021 fiscal year. Mr. Wadsworth stated that the budgeted amounts are based on several numbers. The Montana Department of Transportation does an estimate in terms of what they believe the revenues are going to be. The Federal Energy Information Administration also does an estimate on what they think their revenue projections are going to be. The Legislative Fiscal Division also does the projection with regards to what they think their numbers are going to be. All those projections are taken collectively to formulate a budget for the program. He stated that he would expect to see the impacts of COVID-19 reflected in the numbers that are finalized, and they may be based on a six (6) or three (3) month average, to try and get a better feel for the true impacts, as they happen.

Board Staff Report

Mr. Wadsworth presented the Board with the Board staff reports.

Petroleum Tank Cleanup Section (PTCS) Report

Ms. Stremcha, presented the Board with the PTCS Report. There have been 7 new confirmed releases and 10 resolved since the last Board meeting. There have been 14 confirmed releases and 31 resolved releases since January 1, 2020. There have been 4,738 confirmed releases and 3,793 resolved releases from the start of the program through July 31, 2020. The number of active releases is at 945.

Ms. Rupp stated that she appreciated the overview of active and closed releases, as presented by PTCS. She stated that the resolved releases barely outnumber the confirmed releases and asked if that was due to the releases that were still open being complicated legacy sites. Ms. Stremcha stated that there was a combination of factors, such as several new release discoveries happening simultaneously with sites being written for closure. She stated that there were currently at least 20 sites that are pending closure. She noted that even when a site is approved for closure, there is still site restoration, well abandonment, and remediation systems that may need to be decommissioned before the site work is finished. She also stated that the restoration work traditionally happens during the summer and fall, and then the site and work done is reviewed. She noted that the process can take a little bit of time to get all the way through the cleanup process.

Ms. Rupp stated that she understood that the field season was seasonal. Ms. Stremcha confirmed that, and noted that finding wells is difficult in the winter, with frozen ground and snow cover.

Mr. Johnson asked if the number of confirmed releases included suspect releases. Ms. Stremcha stated that releases are not counted until they are confirmed.

The upcoming work plans that exceed \$100,000 were presented to the Board.

Big Hole Petroleum Bulk Facility, Fac#99-95062 (TID 17173), Rel #4125, WP #716834102, Priority 1.1

The estimated cost for this DEQ-approved work plan 34102 (WP) is \$479,727.98. DEQ requested this WP to remove previously inaccessible petroleum-source soil during upgrades to the Facility's aboveground storage tank (AST) systems. On June 5, 2020, DEQ was notified that the current ASTs and fueling pad are scheduled to be removed in September 2020; this upgrade will allow access to petroleum-contaminated soil before the new concrete pad is poured and new ASTs installed. This release was reported in August 2002, when an estimated 400,000 gallons of unleaded gasoline was released from a split in the AST.

A Laser Induced Fluorescence (LIF) investigation, and a Membrane Interface Probe (MIP) investigation were performed in 2019. There was two (2) feet of observable product in one of the monitoring wells in June 2020. Some additional analysis was done to fingerprint the contamination, and it was found to be weathered gasoline with some heavier hydrocarbons.

There are five (5) shallow domestic wells within 50 to 200 feet of the current known dissolved phase groundwater plume. These wells are installed between 15 to 30 feet deep, and are within the same aquifer as the groundwater contamination. These wells have been sampled twice, and the reports are non-detect for petroleum contaminants.

WP tasks include the following: project management; excavation and soil screening; separation and stockpiling of non-impacted overburden soil; disposal of petroleum-contaminated soil at a landfarm; dewatering of excavation and land application of contaminated water at landfarm; ORC backfill amendment; monitoring well installation; collection of field data and samples; laboratory analyses and data validation; site restoration; and data analysis, conclusions, recommendations, and reporting. Approximately 4,500 cubic yards are expected to be excavated to depths between the surface and 15 feet below ground surface, to remove vadose zone petroleum contaminated soil. DEQ expects the proposed actions in the plan will remediate petroleum source areas and promote resolution of the release.

Ms. Rupp asked if the contaminated soils at this site would be removed and landfarmed. She asked how far the soils would have to be transported to reach the landfarm. Mr. Stremcha referred the question to Latysha Pankrantz, Environmental Project Officer, PTCS who referred the question to the consultant, Preston Chase, Olympus Technical. Mr. Chase stated that the landfarm was located 4 to 5 miles away, to the west of Wisdom, MT.

Mr. Johnson asked if there was still a limit of 2,400 cubic yards of soil that could be accepted at a landfarm, and if the amount of soil would have to be split between two different landfarm facilities. Mr. Chase indicated that the load would be split between two facilities.

Ms. Rupp asked for more information regarding landfarming soils. Mr. Thamke state that there is a one-time land farm permit application, and the limit for those applications is 2,400 cubic yards of contaminated soil that can be accepted.

Mr. Johnson asked Mr. Thamke what the logic was for setting a limit. Mr. Thamke stated that it has been reviewed many times, and the regulatory threshold keeps being set at 2,400 cubic yards. The program is trying to do a balance of the cost of regulatory oversight and still ensuring that the site is environmentally sound. He stated that the average number of releases, and how much contaminated soil was produced from that average is what was considered when reaching a cap. This analysis showed that the vast majority of sites would be under 2,400 cubic yards of contaminated soil to dispose of, and so it was considered a reasonable threshold.

Mr. Johnson asked if deviations were considered, or if the threshold was ironclad. Mr. Thamke responded that deviations create a deviant regulatory threshold.

Mr. Johnson stated that a deviation would mean a more rigorous review of the system and scientific evidence, if the threshold would exceed that 2,400 cubic yards. Mr. Thamke stated that it may be better to just get a landfarm permit at that point. Mr. Johnson and Mr. Thamke agreed to continue the discussion of this issue later.

Mr. Wadsworth stated that there are adjustments to the requested work plan budget. He noted that the estimated work plan budget was \$472,798.00, and the Board staff budget review was performed, and the budget amount the Board staff would approve is \$444,921.52. The bulk of the adjustments are associated with mobilization, and some lodging.

Northwest Petroleum, Fac #56-14033 (TID 36689), Rel #5388, WP #716834025, Priority 1.1

The estimated cost for this Remedial Investigation Work Plan is \$130,109.90. The purpose of this investigation is to determine the extent and magnitude of petroleum contamination at the Facility. WP tasks include the following: project management; laser induced florescence (LIF); monitoring well installation; collection of field data and samples; laboratory analyses and data validation; data analysis, conclusions, recommendations, a release closure plan, and reporting. DEQ requires the release be investigated to evaluate cleanup and resolve the Release.

The Facility is a fuel transfer facility that is adjacent to a railroad spur where diesel is offloaded from rail tank cars to eight (8) 25,000-gallon USTs. This property was vacant until the Facility was built in 2001, with additions added in 2004. The release occurred on December 24, 2019, when a power outage caused mechanical failure, causing the transfer pump to turn on, which resulted in approximately 755 gallons of diesel fuel being released. Initial response to the release included removal of contaminated snow and diesel fuel on the ground surface. Approximately 200

gallons of diesel was recovered, and the remaining 550 gallons entered the pea gravel that surrounding the eight USTs.

Mr. Wadsworth stated that the estimated budget for this work plan is \$130,109.99, and the total from the Board staff budget review has a revised total of \$121,937.69. The bulk of the adjustments are for the Hydrovac System. There's a little bit of adjustment in the work plan preparation, and a bit of adjustment in the mob for Hydrovac.

Mr. Schnider asks if there are any other questions or discussion on the work plans over \$100,000. Mr. Taylor asked if there was someone from Northwestern Petroleum to speak. Ms. Pirre stated that the person on the call from Northwest Petroleum was Bill Haney, and he is no longer on the call.

Public Forum

Mr. Schnider opened the public forum, allowing more than a minute, and no one responded. Mr. Schnider stated that there were legislative auditors on the call, and the auditors will be on most of the calls going forward through the audit process. He stated that if anyone has any questions, as it relates to the audit, to contact Ms. Pirre, Mr. Wadsworth, or himself.

The next proposed Board Meeting is November 9, 2020.

The meeting adjourned at 11:33 a.m.


Signature - Presiding Officer