

PETROLEUM TANK RELEASE COMPENSATION BOARD  
MINUTES  
November 13, 2023  
IN-PERSON AND TELECONFERENCE HYBRID MEETING

Board Members in attendance were Kristi Kline, Calvin Wilson, Jess Stenzel, Grant Jackson, Tom Pointer, and John Monahan, with Heather Smith arriving later via Zoom. Also in attendance were Terry Wadsworth, Executive Director; Garnet Pirre and Ann Root, Board staff; and Aislinn Brown, Board Attorney.

Presiding Officer John Monahan, called the meeting to order at 10:00 a.m.

**Election of Presiding and Vice-Presiding Officers**

**Mr. Jackson moved to nominate Mr. Monahan to be re-elected as Presiding Officer. Mr. Wilson seconded. Motion passed unanimously by roll call vote with Mr. Monahan having abstained and Ms. Smith not yet in attendance.**

**Mr. Monahan moved to nominate Ms. Kline as Vice-Presiding Officer. Ms. Kline accepted. Mr. Stenzel seconded. Motion passed unanimously by roll call vote with Ms. Smith not yet in attendance.**

**Approval of Board Meeting Dates for 2024**

**Ms. Kline moved to approve the meeting dates for calendar year 2024. Mr. Jackson seconded. Motion passed unanimously by roll call vote with Ms. Smith not yet in attendance.**

**Approval of September 11, 2023 Minutes**

**Mr. Jackson moved to approve the September 11, 2023, Board minutes. Mr. Pointer seconded. Motion passed unanimously by voice vote with Ms. Smith not yet in attendance.**

**Eligibility Ratification**

Mr. Wadsworth presented the Board with a summary of the eligibility ratifications. There were two (2) releases recommended eligible, 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>
Saint Regis	Saint Regis Exxon	3105827 TID 25073	6330 Feb 2022	Reviewed 10/11/2023. Recommended eligible. Resolved 9/29/2023.
West Yellowstone	Three Bears Lodge Inc.	1610357 TID 21582	6544 April 2023	Reviewed 10/25/2023. Recommended eligible.

***Mr. Monahan recused himself from any matters regarding Hi-Noon Petroleum, Noon's Food Stores, and any of their dealer locations. Mr. Pointer recused himself from any matters associated with customers of Tank Management Services. Mr. Stenzel recused himself from any matters regarding Payne West Insurance or any Payne West clients or their parent company Marsh & McLennan. Mr. Wilson recused himself from any matters regarding Valley Farm Supply. Ms. Kline and Mr. Jackson expressed no known conflict of interest.***

**Mr. Stenzel moved to ratify the eligibilities as presented. Mr. Jackson seconded. The motion passed unanimously by voice vote with Ms. Smith not yet in attendance.**

### Weekly Reimbursements

Mr. Wadsworth presented a summary of weekly claim reimbursements for the weeks of September 6, 2023 to October 18, 2023 and recommended the Board ratify the reimbursement of the 80 claims, which totaled \$635,191.21.

WEEKLY CLAIM REIMBURSEMENTS November 13, 2023 BOARD MEETING		
Week of	Number of Claims	Funds Reimbursed
9-6-23	14	\$113,212.84
9-13-23	3	\$128,054.82
9-20-23	21	\$158,220.95
10-4-23	25	\$160,193.65
10-18-23	17	\$75,508.95
<b>Total</b>	<b>80</b>	<b>\$635,191.21</b>

Mr. Monahan asked Mr. Wadsworth about the week of October 18, 2023, as there had only been \$75,508.95 reimbursed that week. Mr. Wadsworth stated that was the total of claimed amounts available for reimbursement that week. He stated that, once in a while, a lower weekly amount could occur.

Mr. Monahan asked Mr. Wadsworth if he was referring to paying invoices that had been received from contractors or consultants. Mr. Wadsworth indicated that contractors or consultants sent in invoices as a component of a claim which could contain a number of invoices. It was discussed that invoicing was part of ongoing project activity which results in the level of claim activity that is received.

*Mr. Monahan recused himself from any matters regarding Hi-Noon Petroleum, Noon's Food Stores, and any of their dealer locations. Mr. Pointer recused himself from any matters associated with customers of Tank Management Services. Mr. Stenzel recused himself from any matters regarding Payne West Insurance or any Payne West clients or their parent company Marsh & McLennan. Mr. Wilson recused himself from any matters regarding Valley Farm Supply. Ms. Kline and Mr. Jackson expressed no known conflict of interest.*

Mr. Pointer moved to approve the weekly claims as presented. Mr. Jackson seconded. Motion passed unanimously by voice vote with Ms. Smith not yet in attendance.

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

Mr. Wadsworth presented a summary of the claims over \$25,000 (See table below).

Facility Name Location	Facility- Release ID#	Claim#	Claimed Amount	Adjustments	Penalty	Co-pay	**Estimated Reimbursement
Bikini Coffee Chinook	6015353 5419	20230821G	\$43,303.57	\$5,332.85	-0-	\$4,734.30	\$33,236.42
Flying J Havre	2108665 475	20230731C	\$87,204.69	-0-	-0-	-0-	\$87,204.69
<b>Total</b>			<b>\$130,508.26</b>	<b>\$5,332.85</b>	<b>-0-</b>	<b>\$4,734.30</b>	<b>\$120,441.11</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. Monahan recused himself from any matters regarding Hi-Noon Petroleum, Noon's Food Stores, and any of their dealer locations. Mr. Pointer recused himself from any matters associated with customers of Tank Management Services. Mr. Stenzel recused himself from any matters regarding Payne West Insurance or any Payne West clients or their parent company Marsh & McLennan. Mr. Wilson recused himself from any matters regarding Valley Farm Supply. Ms. Kline and Mr. Jackson expressed no known conflict of interest.*

Ms. Kline asked Mr. Wadsworth about the co-pay on the Bikini Coffee site. Mr. Wadsworth answered that the co-pay listed was what the Board staff was expecting the copay adjustment to be. It is included as a remainder of the required co-pay for the release and is presented as an estimate, as it is possible that another claim could be paid before this Board claim, thus potentially satisfying the outstanding co-pay amount. The timing of claim activity would determine how the co-pay is satisfied, and Board claims are delayed for Board review by the Board at a scheduled Board meeting. This was why the co-pay amounts on the Board claim table are presented and given as an estimated amount.

**Ms. Kline moved to approve the Board Claims over \$25,000. Mr. Wilson seconded. Motion passed unanimously by voice vote with Ms. Smith not yet in attendance.**

### **Proposed Rule Making Package**

Mr. Wadsworth provided the Board with a summary of the Proposed Rule Making Package. This Proposed Rule Making Package was related to Senate Bill 334, which had been enacted during the 2023 Montana Legislative Session and signed by the Governor. The bill added language to the Board's statutory framework and the addition requires the Board to promulgate rule in accordance with the bill. Therefore, the Board staff had worked with the Board's attorney to draft a rule package.

This rule package also provided the opportunity for cleanup of some of the unused rules and to clarify language. The cleanup was consistent with the Governor's Red Tape Relief Initiative to remove outdated language from the rules. The Board staff, as well as the Board attorney, recommended the Board's approval for the rule package to move forward.

Mr. Wadsworth stated that, if approved, the rule package would go through the public hearing process. He asked for the Board to approve of the rule package which would grant the Board staff authority to continue the process with the presented package. He stated that after the public hearing and public comment, if there were any significant comments, they would be brought back to the Board for the Board's review and consideration before a Final Adoption of the package was made by the Board.

**Ms. Kline moved to approve the Rule Making Package as presented. Mr. Jackson seconded. Motion passed unanimously by voice vote with Ms. Smith not yet in attendance.**

### **Board/Staff Business Process for Change Orders (Form 8-Corrective Action Plan Modification)**

Mr. Wadsworth presented the Board with a summary of the business process for work plan change order forms (Form 8). He stated that it had been Ms. Kline's suggestion to discuss the rules and business practices surrounding Form 8s. He noted the percentage of work plans (WP) with Form 8s changed over time, noting that WPs with Form 8s were relatively low as of the mid-2000s to 2010, when only 5% of WPs had a Form 8. The number of WPs with Form 8s increased to 15% after 2010 for unknown reasons.

Mr. Wadsworth stated that there was concern over those Form 8s that significantly increased costs over the original WP budget. There was not only an increase in percentage of WPs that had Form 8s, but also an increase in the amount of dollars added to a WP with a Form 8.

Mr. Monahan asked Mr. Wadsworth if there was a specific threshold that triggered the Board review of a Form 8 associated with a WP. Mr. Wadsworth answered with the following points:

- In the past, the threshold for a claim to come before the Board for review was \$25,000 or more in claimed costs.
- A number of years ago, the Board requested that any WP over \$100,000 come before the Board for discussion, because the Board wanted an opportunity to see what had occurred or was likely to occur on a large WP.

- The way the Board staff interpreted this was that any WP with a budget over \$100,000 was supposed to come before the Board for review such as the following scenarios:
  - If there were changes to an existing WP cost that were \$100,000 or more the WP would be brought before the Board, because a change of this size indicated that initial estimates had not been well-scoped and the change in the scope was worthy of Board review.
  - If there was a \$100,000 WP and the WP came before the Board, and subsequently a Form 8 added additional costs to the WP, the change to the WP would also need to be heard before the Board.
  - If the changes to an existing WP cost resulted in the total work plan costs exceeding \$100,000, the scope of work would be brought before the Board because the Board desired to see scopes of work that met the \$100,000 threshold.

Mr. Wadsworth stated that part of the challenge for the Board staff was to find a way to reduce the number of Form 8s and their associated costs. He explained that change orders are not uncommon with construction or environmental cleanup projects. What was uncommon was that the change orders for WPs funded by the program were sometimes for a lot larger amount than the original WP. This causes one to question the process that is being used to develop the original plan. As an example, if a house was estimated to be built for \$400,000, only to have changes to the plans inflate construction costs to \$800,000, there would be questions as to what caused the significant change in scope.

Mr. Wadsworth noted another issue with change orders. A remedial alternatives analysis (RAA) presents different cleanup options and the anticipated costs of those options, which allows selection of the most cost-effective option as the chosen remedy. Adding the costs of a change order to the costs of the original work plan may make the chosen remedy ultimately more expensive than another option included in the RAA. This becomes a different type of threshold problem. As an example, an excavation had been estimated to cost \$100,000, the implementation and use of a soil vapor extraction air sparging system was estimated at \$150,000, and other alternatives would have been \$175,000 and \$200,000. A change order to the excavation, indicating additional costs of \$200,000, is submitted. In this case, the excavation would have gone up from \$100,000 to \$300,000. The excavation remedy is now expected to exceed all of the other alternatives.

Was the alternatives analysis that was relied upon to estimate which method of cleanup was the most cost-effective cleanup technology sufficient for the Board to make an alternative assessment? Was the scope of the contamination problem not well-defined from the start? Did the wrong soils get excavated, resulting in larger soil volumes? What is the issue that caused the scope creep? Are all of the alternatives presented in the alternatives analysis not as reliable as the Board preferred in order to make an informed decision on the most cost-efficient method?

Mr. Wadsworth explained that one of the problems presented by large Form 8s was that they did not provide the opportunity for the statutorily required review, thus usurping the legally required business process wherein local governments review the work before it is done. Mr. Wadsworth explained the business process outlined in §75.11.309 MCA:

- The statute expects that the city government, as well as the county government and tribal government, have the opportunity to see what the public funds would be used for before the activity was conducted. The process allows them to provide their input. While this input did not always occur, as said entities were not always interested in commenting, there had been and could be situations where the added work causes a problem for a local or tribal government. In the case where the local governments had an opportunity to review and comment on the original work plan, and a Form 8 was subsequently submitted for that WP, the city engineer would not have an opportunity to provide additional input, because the Form 8 did not go through the same legal process due to not being a WP.

Mr. Wadsworth provided an example of the challenges large Form 8s present when compared to the statutory framework. He noted the Stockton Oil site discussed at the June 5, 2023, Board meeting. Redevelopment was being conducted at the site. The redevelopment had started with a certain scope of work and associated budget. That scope, through the change order process, eventually tripled the size of the excavation from its original estimate. It appeared the significant cost increase from the initial cost estimate was a result of not conducting a thorough site assessment. The lack of information for the initial scope of work in turn made it difficult for the Board to assess if cost-saving alternatives were possible. If there were cost savings possible from economies of scale. And the inaccurate initial scope of work resulted in usurping the legally required business process outlined in §75.11.309 MCA.

Mr. Wadsworth stated that there was a balancing act where Form 8s are used. If a WP had a Form 8 that added \$8,000 in groundwater monitoring, it was unlikely that people would care. However, when a \$100,000 WP turned into a \$350,000 WP for which there was the potential, for example, for off-site work or an impact to traffic, then there should be an opportunity for the city or county government to weigh in on the action. In this, there was potential for improvement of the work plan at the

start. Mr. Wadsworth stated that one option could be to require any change in work proposed that exceeds some threshold to be submitted as an additional WP. This could allow more WPs to be reviewed by local governments as required by law.

Based on any suggestions proposed by the Board, the Board staff and attorney would work towards a solution that could better take such situations into account.

Ms. Smith asked Mr. Wadsworth if work on a site stopped when a Form 8 was being prepared, or if the owner, operator, and consultant continued to work on remediation and submitted the Form 8 later. Mr. Wadsworth stated that, in the ideal case where the Form 8 was a change in scope that needed to have Board review, the additional work would wait because there would be time needed for approval of the additional work. He noted, however, as was the case with Stockton Oil described in the example, the environmental consultant working on the site had not realized that their activities had exceeded the original scope of work for the site. Therefore, the consultants had done more work than the originally agreed scope of work and it was done before any Form 8 was prepared or submitted. When a contractor has done work beyond the originally estimated scope, it is better to pause work and assess what to do before moving forward. In such instances, it is advisable to seek additional assistance from the Board, to confirm that costs already incurred will be reimbursable. If the desired change in scope was managed such that the business process was completed before it was time to conduct the activity, it would be unlikely that sitework would be paused. Under the law, work is required to be approved before it is conducted, so Form 8s are usually received before the work is done, which makes the Stockton Oil site an anomaly. Proper planning is important because the scope of work, how the consultants handled it, and when the Board has their next meeting can all affect the timeframe.

Mr. Wadsworth stated that there are many factors that can alter cost and scope. For example, before 2005, during tank removal, soils would be dug out. Then, digging might continue until all the accessible contaminated soils were removed. This approach was not necessarily found to be the most cost-effective. The size of the excavator buckets and the trucks to haul the dirt away could significantly change the cost per cubic yard, as larger excavators and trucks could do the job faster. There are situations where the backhoe that is being used to pull a tank does not have a long enough reach to remove all the contaminated soil present. This can lead to the pit being backfilled, which in turn can lead to the backfill having to be dug up again at a later date to get at the contaminated soils at the very bottom. In this situation, money is wasted.

Mr. Pointer asked Mr. Wadsworth if the initial spike on WPs with Form 8s was triggered by a change in cleanup methods. Mr. Pointer noted that a lot of newer sites often had excavation and PetroFix applied that led to it being cleaned up in a projected five (5) years, while older sites often remained stuck in groundwater monitoring for over 20 years. He asked if, because of this, the newer sites had a more expensive cost up-front with a quicker solution, while older sites had funds distributed more broadly over a greater number of years. Mr. Pointer asked if both the newer and older sites in question generally matched up in terms of total amount spent, or if one type had greater expenditures than the other.

Mr. Wadsworth answered that he believed more excavations were being conducted than had been done before, and that this was part of the percent jump. Another component was that some of the consultants had not, in the past, been planning long-term with the goal of closure in mind. When the remedial alternatives analysis did not point to closure, it was difficult for Board staff to compare costs of alternatives presented. He noted that, if an excavation was planned, chances were that three (3) events of groundwater monitoring had also been planned to be conducted following that excavation. This can be included in a Form 8, but it is helpful for it to be part of the initial WP. If the excavation would cost large, over \$500,000, but the groundwater monitoring events are a small percentage, i.e. \$20,000, of the original plan, it would need to be decided whether it was more appropriate to put the monitoring events on a Form 8 or to have a new WP created for them. Since they are a separate type of work, from the Board staff's perspective, it would be more appropriate to have a new WP prepared because of requirements in §75.11.309 MCA, related to giving the community an opportunity to weigh in on the work proposed for a site.

Mr. Pointer asked Mr. Wadsworth if the Form 8 might be a result of the preliminary WP not comprehensively covering the scale of contamination at a given site. He recalled one of the recent WPs discussed in Whitefish, which had near doubled in scope after a Form 8 was submitted. He asked if there had been insufficient soil borings or monitoring wells installed to assess the level of contamination at the site.

Mr. Wadsworth answered that he agreed that insufficient soil borings and monitoring wells as well as other limited, preliminary WP activities can cause change orders to be more numerous. He expressed that establishing standards for investigation could help prevent this sort of scope creep from the onset. He noted that placing the right number of wells in strategic locations helps delineate the scope of the problem and is more ideal than Form 8s from the Board staff's perspective.

Mr. Wadsworth stated that proper assessment of the level of contamination at the site is very important. He noted a site in Conrad, discussed at a previous meeting, where the local groundwater was non-potable. The WP had proposed excavation of several areas on-site. One of the areas proposed for excavation was an area where there was no groundwater contamination. The consultant had proposed excavating it because the soil concentrations were above the thresholds present in the risk-based screening levels (RBSL) table. The Board staff agreed that the soil concentrations were above RBSLs, however, the Board staff did not agree that this data predicted leaching into the groundwater at that particular site, as the site conditions were not consistent with the mathematical model used for the RBSLs. Because of the costs associated with excavation, the Board staff wondered if it would be more cost effective to have more groundwater monitoring wells to assess the leaching to groundwater so that the scope of excavation might be more accurately defined and limited, as opposed to the proposed area of excavation using the RBSL table. Because the near-surface groundwater at the Conrad site is non-potable water and leaching to groundwater does not appear to be occurring, could contaminated soils potentially be left in place? If so, the remaining issue would be dermal exposure. Mr. Wadsworth stated that the way the RBSL table was drafted was the most conservative model of exposure to contamination for the most vulnerable population. As a result, standards appear to be being used in such a way that standards for children's exposure to contamination in the first two feet of soil were driving the decisions at the site. This may not be appropriate, because the soils were entirely covered by asphalt roads and common sense would say that there would be no child exposure in the middle of an intersection.

He mentioned that a similar assessment issue was encountered by Board staff several years ago at a site in Brady. In Brady, the depth to groundwater was 2,000 feet. This resulted in the natural soils providing a large carbon filter to absorb any contaminants on their way down towards the groundwater. Because of filtering capability of the natural soils, one would never observe concentrations in groundwater that exceeded Maximum Contaminate Levels, MCLs, because the petroleum plume would not exceed 2,000 feet. Although the RBSL table was being used at the site as a soil threshold, the table did not apply to the conditions at the site.

Mr. Monahan noted that in 2021 and 2022, around 11% of the WPs had come back with Form 8s and asked Mr. Wadsworth how many of the 11% would have been considered a reasonable change order by the Board staff versus how many appeared to be an egregious use of funds. Mr. Wadsworth stated that he did not have an answer to his question at this time, as he had insufficient data to draw that conclusion. He added, however, that he could conduct more research before the next Board meeting if it was wanted.

Mr. Monahan asked Mr. Wadsworth if there was a trigger for when a WP needed to be evaluated for a change order, and if such a review was the duty of the Board or the Department of Environmental Quality (Department). A change in the scope of work or a change in the costs trigger a need for a Form 8. Mr. Wadsworth stated that in most cases, the Department approves the Form 8 before the Board staff gets it. If it is only a change in cost the Department may not sign them (e.g., costs have gone up since vendor estimates were obtained, etc.). Mr. Wadsworth stated that the Board staff had not been tracking Form 8s until about 2006 and that the data on Form 8s for the years of 2004 and 2005 could be inaccurate, but the tracking of Form 8s in recent years is more reliable. He stated that although 2021 and 2022 had been up by 11% in Form 8 activity, the increase would not be a concern if the percent change in the WP cost was small (2%).

Mr. Stenzel asked Mr. Wadsworth about what percentage of the WPs in the ratification of weekly reimbursements had featured Form 8s. Mr. Wadsworth asked for clarification on the question. Mr. Stenzel stated that his question was what percentage of the over \$600,000 included in the weekly reimbursements were related to expenditures incurred by Form 8s. Mr. Wadsworth answered that the information to answer this question was not available at this time, but he would see if it would be worth looking into.

Ms. Smith asked Mr. Wadsworth about the number of adjustments for the weekly reimbursements, and if they were caused by Form 8s. Ms. Smith additionally asked if innovations in remedial alternatives over time had affected the upward trend in Form 8s. She asked if looking to remediation alternatives had contributed to a greater number of adjustments as well. Mr. Wadsworth answered that, to address the first question, the adjustments were adjustments made specifically to claims that had to do with information contained inside the claim alone and usually pertain to work plans.

Ms. Smith asked if there were Form 8s associated with the claim adjustments. Mr. Wadsworth replied that claim adjustments were not usually associated with Form 8s, but the adjustments on a claim could either be caused by a Form 8, or it could have been adjusted based on what had been on the original WP itself. He cited examples from recently adjusted claims showing what had caused their adjustments. He described several categories of potential adjustments; 1) Adjustments to claims requesting reimbursement for markups on items for which markups are not allowed by rule, 2) Adjustments if the consultant

charges rates that are over what is reasonable, based on allowed rates, and 3) Adjustments for excess mobilization time and costs, as a consultant may charge for more than the number of allowed trips to a site.

Mr. Wadsworth provided an example of dealing with unnecessary mobilization costs. The example was about an employee who had forgotten to take the tools necessary for the site activity with him when he headed for a site. In this scenario, it was expensive for the employee to return to the office from the site to obtain the tools and then return again to the site because of the distance to the site. The employee was instead instructed to go to the nearby hardware store and purchase the tools necessary to accomplish the job at the site. When the employee was done with the work at the site, he returned to the office, which was the return mobilization expenditure. Due to the error made by the employee, the client was not charged for the tools, mobilization to the hardware store, or the time spent finding and acquiring the tools. Had the employee went back to the office to obtain the tools an additional round-trip mobilization would have occurred. If the additional round trip mobilization costs are claimed, the Board staff will adjust those costs from the reimbursement.

Mr. Wadsworth state that the question of whether remediation alternatives had contributed to a greater number of changes or Form 8s, was good question to ask. The answer is difficult to determine from the Board's business process. He provided an example, where a WP that was proceeding through the business process when the site was sold before the work got started and the new owner of the site wanted to proceed with a different remediation alternative. As a result, the original WP was set aside, and a new WP was created. This is a circumstance where there is a change in the remediation alternative, but the change did not result in the submission of a Form 8. He stated that, in such cases, he recommended the creation of an entirely new WP instead of the submission of a Form 8 because of the significance of the change. Because of the change in direction was at the choice of the owner, the Board staff would adjust the WP preparation costs, since reimbursement had already been made for the original WP to the prior owner. The change was driven not by technical decisions, but rather the site being sold and the decisions of the new owner.

Mr. Wadsworth provided other examples where changes in remedial alternatives often influence changes in Work Plans. Most of the desired changes resulted from the sale of the property. There can be many reasons for wanting to change a remedial alternative and sometimes the changes are being driven by owner decisions and as such, the Fund should not bear the extra costs involved in the changeover.

Mr. Wadsworth stated that there were a number of sites that had come before the Board that were associated with a change in remedial alternatives where an excavation was being proposed because the property was being redeveloped. In several of these cases the only thing that had been done at the site was groundwater monitoring to ensure that the contaminant plume had not worsened. Now, however, a site would be excavated because of redevelopment. In these cases, the owner would want to make sure the soil contamination was completely addressed before passing the site on to a new owner. The issue with these sites was that a plan which was expected to take many years was now being compressed, leading to increased annual costs.

Mr. Monahan noted a case that had been previously heard before the Board about a site in Polson. In this case, the Board had authorized the additional funds to finish cleanup at the site. Mr. Wadsworth answered that the owner had performed excavation and incurred costs, and that the Board had agreed to reimburse the owner for the excavation.

Mr. Monahan asked Mr. Wadsworth who the owner would have followed up with in this case once cleanup was complete. Mr. Wadsworth answered that the owner would have followed up with the Department. He added that the Board staff would see the task of excavation as part of the overall WP. If the construction WP had just been for the excavation at the site, then the fencing and the removal of the fencing would likely be considered part of the same WP. However, the following groundwater monitoring that would take place at the site would likely be part of a new WP created later. The Board staff would be expecting incoming claims for the fencing removal as part of the current excavation WP, and then they would later see the next WP come in for new tasks such as groundwater monitoring. Groundwater monitoring was usually conducted following an excavation to examine how the contamination was responding to the excavation.

Mr. Monahan asked Ms. Latysa Pankratz, Section Supervisor, Petroleum Tank Cleanup Section (PTCS), about the upward trend in WPs with Form 8s. He asked what the Department's perspective was, as well as how concerned she was about the seeming increase in WPs with Form 8s.

Ms. Pankratz answered that part of their business process was to reduce the back-and-forth of WP request letters and WP reports. The Department used Form 8s to keep activity on the site moving forward. She stated that, prior to joining the Department, she had experience as a project officer and had used a Form 8 before. The Form 8 is viewed by Ms. Pankratz as an excellent tool to reduce delays on a project, but that she understood Mr. Wadsworth's perspective in terms of the fiscal impact

that larger Form 8s had. She stated that she appreciated his perspective in this discussion, as she had never had a prior discussion on Form 8s. She believed it would be beneficial for the Department and Board staff to collaborate and find where the Form 8 process was effective and cost-efficient as well as where Form 8s needed to be re-evaluated.

Ms. Pankratz outlined the Department's process and agreed that this was a good discussion to have. She noted that the Department was the one that approved the WP as well as sent the WP out for sanitarian review, and that the Department had the ability to request a modification to a WP. She stated that after a modification request, they did not send out the WP for an additional review. She indicated that it would be important to consider how the Form 8 process affected stakeholders in real-time as well as the work moving forward and that she would be happy to have a larger discussion on the subject.

Mr. Monahan asked Ms. Pankratz if the Department had a percentage threshold for incoming Form 8s for when they significantly increased the size of the original WP. Ms. Pankratz answered that the Department did not have a threshold for this. She answered that, often times, the Department was looking at situations where they were concerned with not slowing down the redevelopment of the sites but knew that they were going into the sites with less-than-ideal data and information. Because of this, the excavations tended to be larger in cost due to being planned more in the interest of time than money. She stated that the Department did not have a funding threshold in place, but that it would be something worth discussing. She added that she understood the fiscal side of this topic.

Mr. Monahan stated that he believed the Board's concern was that when a WP Form 8 came in, especially one with a change over \$100,000, there was a problem of who was liable for the significant jump in costs. He stated that he wanted to see future discussions and conversations on this issue between the Board and the Department.

Ms. Pankratz provided her comments on RBSLs to the Board. She noted it could be worth discussing them with relation to why the Department cleaned sites up in a certain way. She stated that the example of a child exposure to soils was an oversimplification when it came to the portrayal of RBSLs, and that the more accurate example was if it was safe for a child to play in the dirt. She stated that RBSLs also concerned commercial workers. If a landscaper was on-site to plant trees, or if construction workers were performing labor on-site, RBSLs took into account these individuals' risk at being exposed to contaminated soil. She stated that she could not recall if, at the Conrad site, RBSLs had been exceeded within the first two (2) to 10 feet of soil depth for direct contact, but if this was present, it would be something the Department would need to consider. If workers were out working on redeveloping this site, they would be exposed to the contaminated soil, and the risk of the contamination would need to be assessed first. She explained that, in Conrad, the contamination was leeching into groundwater. The Department's assessment factored this in as well. She stated that, if the Board was interested in a broader discussion of RBSLs, she would be happy to provide it.

Mr. Monahan stated that this would be a good discussion to have, as he noted that many of these topics were beyond his current sphere of knowledge of the petroleum business. He asked Ms. Pankratz if he was correct in his understanding that some of the RBSL levels were set by the Federal government. Ms. Pankratz answered that this was correct. She stated that, with groundwater, they had what was referred to as a DEQ Seven (7) Standard, and that this was more of a legal, human health standard as opposed to some of the other numbers the Department used to grade contamination. She stated that the RBSL values the Department would start with for a site were more conservative, with the values then being adjusted to account for site-specific risks-based situations.

Mr. Monahan stated that he believed this would be an excellent discussion to have and asked Ms. Pirre to make the discussion an item on a future meeting agenda.

Ms. Kline commented that everyone would probably agree there had been many changes since the year 2000, and that rules were rules, but did not always apply across the board. She noted that one had to be careful of the monster created by a rule, as a rule didn't apply to every situation. She stated that they had all been seeing changes across the state, different soils across the state, costs for things such as landfills were going up, and things had been changing quickly. She stated that part of the broader discussion was the evaluation of these changes, and that it was important to protect the owner and operator in this. Owners and operators were the ones responsible from the beginning, but Ms. Kline noted that they often got lost in the process over time. She added that the other thing she had noticed in her experience was the changes in ownership, which sometimes caused communication between the owner and operator, the Department, and the Board to deteriorate. She noted that, with the local government side of things, they were struggling with not having sanitarians in every county, and that often sanitarians had to oversee multiple counties. To summarize, there were many changes affecting the factors discussed. She added that RBSL qualifiers were abstract to an extent, as nobody would actually eat, drink, and sleep on top of a contaminated patch, but that the rules were written as if this was a possibility in order to quantify risk. She stated that all of these things would need to be taken



into consideration, and that she would caution on assigning a percentage of Form 8 increase as a threshold, due to the large difference between counties on things such as landfill costs. She stated that she saw contingencies such as Form 8s and massive influxes in expenditures as an entirely new plan, and that because of this, she looked forward to future discussions on the topic. Ms. Pankratz thanked Ms. Kline and stated that she agreed.

It was noted that there would need to be time for some additional research and there was a desire to have similar topics as discussion item on future Board meeting agendas. The discussion would be planned for a meeting with less activity so that proper attention could be focused on the topic.

### **Board Attorney Report**

Ms. Brown stated that she had been researching the legal end of the Form 8 discussion, which included how the documents came to exist. She added that, as far as she could tell, there was no official rule that required them. She stated that her input on this discussion would be limited, and that a collaborative process with the Board and the Department as proposed by Ms. Pankratz was the best way forward from a legal standpoint. This was because there was no rule that would be repealed or acted on for Form 8s, and also because the document fell under the Department's jurisdiction rather than the Board's. She stated that regulatory and statutory changes could still be considered.

Regarding the rule-making packet, Ms. Brown indicated that she had been working with Board staff to draft the proposed rule changes presented at today's meeting. She would be conducting the public forum for the rule revision and that she believed it would not receive much comment.

### **Fiscal Report SeptFY24**

Mr. Wadsworth presented the Board with the summary for the Fiscal Report for September of Fiscal Year 2024. He stated that he had nothing of significance to report to the Board and was available for questions.

Ms. Smith asked Mr. Wadsworth about how the Legislative appropriation was \$8.4 million, but the Board looked to provide about \$7.7 million. She asked Mr. Wadsworth if he knew why there was this disparity in funds. Mr. Wadsworth answered that the biggest difference was associated with the amount projected by Board staff for claims. More is appropriated than what is expected to be received.

Ms. Smith asked Mr. Wadsworth if he expected more or less in 2024. Mr. Wadsworth answered that he expected more than what was predicted for claims.

Ms. Smith asked if there was a lack of available consultants that caused the shortage in claim activity. Mr. Wadsworth answered that it was likely caused by a shortage of work being conducted.

Ms. Smith thanked Mr. Wadsworth.

There was no further discussion.

### **Board Staff Report**

Mr. Wadsworth presented the Board with the Board Staff Report. He noted that there was information included in this report that had been prepared for the Interim Budget Committee. That same information had been made available on the Board's website.

Mr. Monahan asked, to clarify, that the Fund presently had \$5.4 million in the bank, and the Board had obligated \$8.4 million in work that would be done between now and a future point. Mr. Wadsworth answered that this was correct. Mr. Monahan noted that, if legislators wanted to pull money out of the Fund, it would put the Fund in the negative. Mr. Wadsworth recommended to keep in mind that part of the planned \$8 million in work would come in as claims within a year. He stated that, if there was a WP that consisted of a soil-vapor extraction system installation and operation for around five (5) years, the first-year costs which are associated with system installation would be the costliest part of the WP. The next year there would be operation and maintenance expenditures for the system, which would be ongoing for the remaining five (5) years. As illustrated in this example, it was impossible to get 100% of the WP reimbursed within the first year because the work was planned to occur over a five-year period.

Mr. Monahan asked if the expenditures would still eventually come due as bills (*sic claims*). Mr. Wadsworth answered that, yes, these expenses would come in due time. Mr. Wadsworth stated that if the \$5 million balance in the Fund was compared with the obligated \$8 million, there was a \$3 million difference that would still take a year to be claimed against the Fund.

### **DEQ Petroleum Tank Cleanup Section Report**

Ms. Pankratz presented the Board with the PTCS report. She stated that, since the last report, there had been eight (8) confirmed releases and 12 releases resolved. The total for the January 1, 2023 through October 20, 2023, was 22 confirmed releases and 33 resolved releases. Because of this, there were 896 releases still open. However, there had been one release resolved between the time the report was compiled and the time of the meeting, meaning that the remaining open releases were truly at a total of 895. Among the open releases, there were 705 releases that were considered federally regulated. Ms. Pankratz stated that she mentioned this because, at the September 11, 2023 Board meeting, Ms. Kline had asked how many releases were regulated at the federal level.

Mr. Monahan asked Ms. Pankratz if federally regulated releases had rates and types of cleanups determined by the federal government. Ms. Pankratz answered that this was not the case, but rather that federally regulated releases were the releases that PTCS was required to report to the Environmental Protection Agency (EPA).

Mr. Wadsworth provided the Board with the background of federally regulated releases, as Montana's State Petroleum Tank Release Cleanup Fund (Fund) was slightly different than other states' Funds. He noted that, in most states, the original intentions of their Fund were to cover the federally regulated requirement of having \$1 million of coverage for any releases that occurred from federally regulated tanks. Montana, at the time of the Fund's implementation, went beyond this through the inclusion of above-ground storage tanks (ASTs) as well as residential heating oil tanks. These types of tanks are not federally regulated. He stated that Ms. Pankratz and he would need to look at the specific language, but that the information could be found in §75.11.509, MCA as to which types of tanks were or were not federally regulated. Tanks that were federally regulated were ones that were required to have the \$1 million worth of coverage and were tanks that the Underground Storage Tank (UST) Section were required to inspect. Tanks that were covered by the fund but not federally regulated included things like heating oil tanks at residential facilities regardless of if they were above or below ground, but less than 1,100 gallons in storage capacity. ASTs that did not have underground lines were also not federally regulated but were still potentially eligible for assistance from the Fund.

Mr. Monahan asked Ms. Pankratz about what it meant when the report stated that 12 cases (*sic releases*) had been resolved in the last year. Ms. Pankratz answered that the 12 resolved releases had been in the timeframe from the September 11, 2023 Board meeting up to the November 13, 2023 Board meeting.

Mr. Monahan asked if there was an individual list of each of the resolved releases in the reports. Ms. Pankratz answered that the Department tracked them. Mr. Monahan asked if a record was provided in materials such as the Department's website. Ms. Pankratz answered that the information was not published on the website.

Mr. Wadsworth stated that the list could be made available. He noted that the most recent number of resolved releases, along with the releases resolved within the year, was provided in every Board meeting packet. However, the individual, resolved release numbers were not published as a list. He stated that looking at the Department's GIS mapping database would identify if a release was open or closed. This GIS database is a published tool.

Mr. Monahan stated that he believed having an individual list of resolved releases at each Board meeting would be helpful. He noted that it would be useful information to provide to state representatives when they asked why certain sites were still open and not closed. The Board would be able to show representatives where a site was closed by district and could help illustrate how the Fund had been helping the people of Montana in this way. He noted that, when representatives saw the bottom-line numbers alone, it didn't impart to them how much the Board, Board staff, and the Department had been doing to move releases to closure. He noted that, during the Board's last meeting, a few representatives did not believe that the Board had been accomplishing their tasked goals.

Ms. Pankratz concurred with Mr. Monahan's suggestion but stated that she would need a timeframe within which to provide the list for future reference. There would also be the matter of whether the list would comprise resolved releases within the year, or releases from one (1) Board meeting date to the next.

Mr. Monahan asked the Board if anyone had additional input. He stated that a running total with the dates of closure could help inform representatives of the when and where of each resolved release. Ms. Pankratz stated that this would be a large undertaking, as there were 3,944 closed releases. Mr. Monahan clarified that the list would only be for releases resolved within the years leading up to future legislative sessions.

Ms. Kline asked if there was a way to determine how old a given release was. Ms. Pankratz answered that there was, and that she had loose numbers on-hand. She stated that, of the total 895 releases, there were 594 releases that were legacy releases. Legacy releases covered releases that had been discovered from 1985 (inception of the Department's release cleanup program) to 1999. The remaining 301 releases had been discovered between the years 2000 and 2023. Ms. Kline thanked Ms. Pankratz.

Mr. Monahan asked if the legacy releases were ones that were harder to clean up, or if they were ones that had not been considered a high priority and therefore had been left to subside through natural causes. Ms. Pankratz answered that she believed it was a mix of such things. She noted that some factors that affected these releases included changes in facility ownership, no contact with the new owner, the release having low priority and getting shelved in favor of working on more imminent releases, and difficulties accessing the source area of a release. She stated that there were a variety of causes that could affect legacy releases, and it would take work to categorize each legacy release by the cause for its delay.

Mr. Monahan stated that such categorization could be useful information for the Board to have. He stated that his experience with the 2023 Legislative Session was somewhat frustrating in that he believed the legislature's perception of the legacy releases was that the Department and the Board staff had not been doing their job, despite this not having been the case. He stated that, if they knew that some of the legacy releases were releases with contamination that was inaccessible, this could change the legislators' perception. He stated that it was the desire of the Board and the Department to work with a release owner toward a solution rather than proceed to enforcement. He noted that a report on delays in cleanup could help if someone came before the Board with a site that had not been cleaned up in 30 years. The research on the type of contamination and soil it was in would help explain the 30-year delay and show that the cause was not because the Department or the Board staff had not been doing their job. He concluded that, for these reasons, it would be good to create a handout detailing these things in order to help inform the legislature's perspective on the Department and the Board. Such a report would help show that there was progress being made and releases had continued to move to closure.

Ms. Pankratz stated that this made sense, and that creating such a report would help to track the Department and the Board's side of the story. She noted that legacy releases were complicated, and that there were multiple reasons why some releases could not be moved forward. This was hard to see in just a number. Mr. Monahan stated that he agreed.

*Roy Stanley Chevrolet, Facility #15-00065, TID 20509, Rel #473, WP #34474, Kalispell, Priority 1.3*

Ms. Pankratz provided the Board with a summary of the WP over \$100,000. The WP had come before the Board at the previous Board meeting on September 11, 2023. The WP had exceeded \$100,000 due to excavation costs. There had been test pits dug to test if the anticipated excavation boundaries would remove all of the contamination. The test pits determined that there would need to be additional yardage excavated. A Form 8 was added, which brought the WP budget from \$256,805.26 to \$609,206.64. She stated that she believed that the consultant and project officer were available for questions.

Mr. Monahan noted that this WP was an example of a WP that had doubled or tripled after the introduction of a Form 8. Ms. Pankratz stated that she believed that the Form 8 had been anticipated and that she thought there had been communication between the project officer, consultant, and the Board staff, but that she would defer to Mr. Reed Miner, project manager at the Department, or the consultant to verify her statement.

Mr. Wadsworth stated that, to summarize the WP's history, there had been an estimated 1,270 cubic yards of soil to excavate as part of the original excavation work plan. The actual total combined volume of soil excavated would be 2,865 cubic yards. This was over double the original, estimated volume.

Mr. Wadsworth stated that it was also important to note that, by the time the excavation project would be completed under its current Form 8, the release cleanup cost would total \$875,795.22. This would leave around \$100,000 left of available funds for the release. He stated that he was certain that groundwater monitoring would follow the excavation on this release. He noted that, because of this, the site's total would be over \$900,000 in expenditures before the release was closed.

Ms. Kline asked, for the purpose of clarity, when \$982,500 was reached the expenditures were 100% on the owner. Mr. Wadsworth answered that this was correct.

Mr. Miner introduced himself to the Board. He confirmed Ms. Pankratz's statement that he was available for questions. Mr. Monahan asked if an accurate estimate of the increase in costs would be 60%, as well as how the excavation volume went from 1,270 cubic yards to 2,865 cubic yards of soil. He asked if the 2,865 cubic yards of soil excavation was ever an estimate in the original WP.

Mr. Miner answered that the consultant had put forth a reasonable expectation as to the volume and magnitude of the excavation. He stated that one of the things that needed to be done prior to this was moving a gas line. There was an understanding that the initial excavation boundary would potentially expand, and the gas line was moved not just to the proposed extent of the excavation, but wider than that to accommodate potential expansion. During investigations where the extent of groundwater contamination was being assessed, monitoring wells were often installed 30 to 50 feet apart. He stated that it would not make sense to install monitoring wells every 10 feet. In reality, the excavation had only expanded by 10 feet, but when one of the side walls was 90 feet long, the soil excavated ended up being a much bigger volume. He stated that the proposed excavation was close, given the known unknowns that were present on site. A test pit had been dug to confirm the initial proposal, and based on those test pits, it was quickly realized that the scope of excavation needed to be expanded. Mr. Miner stated that the proposed expansion had not been removed at that point in time, but that the Department did anticipate the potential for an expansion. This included another test pit to know whether or not expansion would be needed. The test pit and excavation were done in a much more cost-effective way by using equipment that was already on-site. This was more cost-effective than installing additional monitoring wells or soil borings every 10 feet. These options were chosen over a more fine-tuned investigation because of the contingencies in place. Mr. Miner noted that the consultant had reached out to the contractor and renegotiated rates. As discussed at previous meetings, there was an economy of scale. The contractor had already met and negotiated reduced rates. Mr. Miner noted that Ms. Pankratz had reported some numbers in reverse, as the initial budget was around \$350,000 while the Form 8 was around \$250,000. He stated that while the volume of soil had more than doubled, the pricing had not.

Ms. Kline stated that the main concern was that so much soil was being removed and sent away, generally to a landfill. There was a possibility that, with a large volume of soil, the landfill or landfarm could refuse what was being sent to them. This, in turn, would lead to alternatives being assessed along with their potential costs. Ms. Kline asked Mr. Miner if this potential was something the Department had on their radar as a possibility going forward. She stated that she did not know what the practice was for landfills or counties in this case but wondered if this concern needed to be a consideration for the WP going forward.

Mr. Miner stated that this consideration had been factored in. He noted that different landfills had different policies, but that in Kalispell, the landfill had different times of the year where they would accept soil. Landfarms had certain volume requirements depending on what type of landfarm was sought. He stated that this was a concern in the situation that would need to be addressed. He stated that one of the concerns that the Department tried to walk the tightrope on was, as was mentioned, the maximum extent of estimated costs could be proposed. Because of this, a WP could end up with \$250,000 obligated that never ends up being used. In this, there was the dilemma of if it was better to over-estimate or under-estimate potential costs. With the contingencies in place, the Department would propose a reasonable estimate, fact-check it, find if the estimate needed to be bigger, and see if the landfill would be willing to accept the proposed volumes of soil within certain timeframes. The consultant had negotiated better rates. He stated that a lot of the concerns that had been brought up in the past had since been addressed.

Ms. Kline stated that, from the Board's perspective, whenever a WP was for the Kalispell area, the landfill and landfarms were always a concern. She noted that these were issues that pertained to that specific area and could possibly not be an issue with cases in other parts of the State of Montana. She stated that the Board's main concern was the pricing as well as the real estate available for soil disposal. She stated that these issues were a high priority for any project within the area.

Mr. Raye Suratt, Senior Engineer, Water and Environmental Technologies, addressed the Board. He stated that he had reached out to the Kalispell landfill to obtain preliminary information on what the landfill would accept as well as negotiate a less frequent sampling regime. The Kalispell landfill was not open to doing less sampling. However, the landfill would accept the estimated waste soil provided.

Ms. Kline noted that there was a concern in this WP exceeding the funding the Board could provide, which would put the remaining expenditures on the owner. She stated that she was uncertain if this was something the Department could follow up on with the owner. Ms. Pankratz confirmed that the Department did follow up with the owner in these cases and would still regulate the release through to closure.

Mr. Monahan asked what the expected closure date was for the site. Ms. Pankratz answered that she could not provide an answer on this.

Mr. Monahan noted the location of the release, and asked if there was any concern over the contamination plume leaching into Spring Creek. Ms. Pankratz stated that she would defer this question to Mr. Miner or Mr. Suratt as they were more familiar with the site data. Mr. Miner answered that the close proximity of Spring Creek was a concern. Topographically, the creek was much lower than the groundwater was. It was something the Department was closely inspecting. He stated that samples had been collected in the past, and that Spring Creek was a concern in that it was a sensitive receptor that was assessed as the site was evaluated for closure. He stated that one of the determining factors in prompting excavation at the site was that there was not a potential for any petroleum mixing zones or other sorts of administrative closure that remediation needed to address. He stated that, based on the samples that were available, the extent of the excavation proposed by the Form 8 was what was needed to remediate the site.

Mr. Monahan asked if the extra 10 feet of excavation were added in the interest of protecting the creek. Mr. Miner stated that the excavation had been in the interest of remediating the soil and preventing groundwater contamination. Because of this, the contamination would not enter Spring Creek. He stated that, at that point, there was not a concern of soil contamination migrating into the creek, but rather the groundwater. The WP was created both with the intent to protect Spring Creek as well as clean the groundwater in accordance with state laws.

Mr. Pointer asked Mr. Miner if there were any procedures the Department needed to follow with taking the soil to the landfill. He noted that it sounded counter-intuitive to move contamination from one site to another. He noted that, at many meetings, there was the discussion of thousands of yards of soil that was hauled to landfills. He asked what happened to the soil once it was sent to a landfill, and if it was monitored until it could be backfilled.

Mr. Miner answered that he was partially correct, as landfills tilled and recycled contaminated soil. Landfills often had monitoring systems in place. Landfills were generally lined so as to keep contamination from escaping, and therefore had its own monitoring system in place. Landfills also used the soil to fill on top of waste, which in turn exposed the contamination to the sun and allowed it to naturally degrade. Because of this, there was no additional monitoring from the Department once the soil was sent to a landfill but landfills themselves were monitored by the DEQ solid waste program and the landfill in general.

Mr. Wadsworth noted that, when contaminated soil was used as cover, it was usually in very thin layers. Through this method the contaminated soil would get plenty of oxygen exposure and would be broken down by decomposers such as bugs. Because of this, contaminated soil at a landfill was not seen as a problem.

Ms. Kline asked if it was correct to think that once the soil went to the landfill, it was the landfill's responsibility. Ms. Pankratz confirmed this was correct. Ms. Kline asked if this was why there were limits to what a landfill would accept in terms of soil volumes. Ms. Pankratz noted that this was what Mr. Suratt had discussed before, as the landfill would not let the Department reduce their sampling, but as long as the samples met the landfill's threshold, it could be disposed of there.

Former Downtown Conoco, Facility #56-06967, TID 30152, Rel #4465, WP 34770, Roundup, Priority 3.0

Ms. Pankratz provided the Board with a summary of the WP over \$100,000. She stated that the facility had begun as a fueling facility in the 1960s. The release was discovered in 2006 when petroleum-contaminated soil was discovered during the replacement of the spill buckets and containment sumps on each of the three (3) USTs. The release had multiple remedial investigations from 2006 up to 2023. The site had been purchased by a new owner. There had been a remedial investigation performed by Pioneer Technical Services in 2023. However, Tetra Tech, Inc. had since become the new owner's preferred consultant. The WP was for an excavation in combination with tank removal and site redevelopment.

Ms. Kline noted that there was a change in consultant with the change in ownership at the site. She stated that while this did not hinder the process, there could be potential concerns to deal with in regard to this change.

Mr. Monahan asked if the owner of the release had anything to add to the discussion.

Mr. Mitch Goplen, Vice President of Facility Services, Billings Clinic, introduced himself to the Board and stated he was available to answer any questions regarding the facility. He thanked the Board for their assistance. He stated that there was also a representative from Tetra Tech, Ms. Pam Reed, Environmental Scientist, on the phone that would be available to answer

more technical questions. He stated that he understood the purpose of cost controls and Form 8s, and that he was open to the minimization of excess expenditures.

Mr. Wadsworth presented comments on the WP provided by the Board staff. He stated that the total reimbursed for work at the facility so far had been \$63,172.00. With the copay, the total costs for cleanup at the site increased to \$80,672.00. With the addition of the \$128,000 WP, the total was put over the \$100,000 threshold requirement that was promulgated by SB 334. The total reimbursement at the site, if all went according to plan, would amount to an estimated \$209,000.00. He stated that most of the cost differences between the consultant's WP and the Fund reimbursement costs were the costs related to the tank removal. Tank removal costs were not reimbursable by the Fund.

Ms. Kline asked if, since the property was under new ownership, the release would now quickly proceed to closure. She noted that, with the new WP, the contamination that couldn't previously be accessed would now be able to be cleaned up quickly. She asked if this was the intent. Ms. Pankratz confirmed that the intent of the increased WP budget was to quickly move the release to closure.

Mr. Monahan noted, to follow up on Ms. Kline's question, that even after the tanks and contaminated soil were excavated, there would still be a few years of groundwater monitoring on-site. He asked if, aside from monitoring, this would be a release that would be closed quickly. Ms. Pankratz replied that this was correct.

Mr. Monahan asked if, assuming all the contaminated soil was removed, the site would be remediated. Ms. Pankratz responded that this was her understanding, although it would take the analysis of groundwater monitoring samples and a compliance monitor post-excavation to confirm for certain.

Mr. Monahan asked if the site had to be closed before the new owners could start construction on it. Ms. Pankratz answered no. Mr. Monahan asked how contamination could be monitored if a structure was built over contaminated soil. Mr. Reed answered that the property had been purchased for expansion. The goal had been to get the site completely cleaned up before any building commenced on it. This was why the owners and Tetra Tech had attended the meeting, as they wanted to plan accordingly.

There was no further discussion.

#### **Public Forum**

There was no discussion during the public forum.

The next proposed Board meeting is on February 5, 2024.

The meeting adjourned at 12:03 p.m.



Signature - Presiding Officer