

PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
April 22, 2024
IN-PERSON AND TELECONFERENCE HYBRID MEETING

Board Members in attendance were Kristi Kline, Tom Pointer, Calvin Wilson, Grant Jackson, and John Monahan, with Heather Smith and Jess Stenzel in attendance 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 10:02 a.m.

Approval of February 5, 2024 Minutes

Mr. Jackson moved to approve the February 5, 2024 minutes as presented. Mr. Pointer seconded. Motion passed unanimously by voice.

Eligibility Dispute, Donald Baide Property, Fac #0032518, Rel #6538, Hobson

Mr. Wadsworth provided the Board with a summary of the disputed eligibility. There were a number of noncompliance issues related to the site's aboveground storage tanks (ASTs). Per §75-11-308, MCA, it was required that an AST complied with the laws and rules in effect at the time of discovery in order to be eligible for the Fund. Therefore, the Board staff had recommended the release ineligible.

Ms. Kline noted that ASTs were regulated by the fire marshal, and asked Mr. Wadsworth if the fire marshal had inspected the ASTs. Mr. Wadsworth answered that he could not confirm if the fire marshal had inspected the ASTs or not.

Mr. Pointer noted that the AST had an installation date of 2017, and asked if that was the time when the AST had been registered and where the date had come from. Mr. Wadsworth answered that the date originated from the eligibility application that was submitted to the Board. He stated that ASTs were not required to be registered with the state of Montana.

Mr. Donald Baide, owner of the Donald Baide Property, introduced himself to the Board. He stated that this was a minor spill and apologized that he had not been up to date on all of the rules and regulations. He stated that extreme precautions were taken to address the situation adequately. He stated that he had performed the cleanup that had been requested of him and stated that what had occurred had not resulted from negligence, but rather not being informed what had to be done. He requested the Board look at the case favorably, and to grant any compensation possible. He stated that he had spent over \$30,000 cleaning up the release to an excess, and that he hoped the Board would use consideration in their decision.

Mr. Monahan asked if a representative for the owner was present. Mr. Baide answered that he, as the owner, was the only representative present. Mr. Monahan asked Mr. Baide if he had hired a consultant company to aid in remediation. Mr. Baide answered that he had personally handled the remediation himself. He was told that because of the small scope of the release it was not necessary to hire a consultant. He then stated that he had hired a local contractor to perform remediation. Tests and probes into the water table showed negative signs of contamination afterward. He stated that the release had occurred in the winter, with the spill mostly going over frozen ground and ending up on top of ice.

Mr. Chris Herman, Department of Environmental Quality (Department) Environmental Science Specialist, stated that he had been the one who had been contacted at the time of release through the DEQ leak line. He stated that, when Mr. Baide called the Department, he had informed Mr. Baide that he could hire a consultant or not hire one. Mr. Baide stated at the time that he did not want a consultant. Mr. Herman stated that he was the one who took samples of the contaminated soil that had been excavated by the contractor. He stated that, after the excavation, he had taken augured soil samples further down from what had been dug out, and that the samples had come back non-detect afterwards. He stated that he had never received any receipts for the later transportation of the contaminated soil to the landfill.

Mr. Monahan asked Mr. Herman if, in the eyes of the Department, the release was considered closed. Mr. Herman answered that the release was ready for closure, and all he had left to do was write the report on it. All soil samples had returned non-detect upon analysis after excavation.

Mr. Baide stated that he had all the transportation receipts for the contaminated soil to the facility in Great Falls. He stated that he had never been asked to provide the receipts, but that he had all the documentation.

Mr. Monahan stated that he did not see any dollar amount claimed for the work performed on this site. Mr. Baide stated that the amount spent for remediation was \$30,000. He stated that he did not understand how to submit remediation expenditures for reimbursement.

Mr. Wadsworth answered that the issue before the Board with this case was whether or not the AST at the facility was eligible for reimbursement from the Fund. He stated that he believed everyone was waiting to determine whether the release was eligible before any costs were submitted to the Board. He stated that he was unaware of any costs having been submitted at this point, as the eligibility was still pending.

Mr. Monahan stated to Mr. Baide that, in the Board’s report for the site, it was indicated Mr. Baide had been sent a self-inspection checklist in September 2023, but there was no indication that he had ever sent the self-inspection checklist back. Mr. Baide stated that he had completed and sent back the self-inspection checklist, but he was informed that the Department had never received it. Because of this, a second self-inspection checklist was provided.

Mr. Monahan asked if the Department had a date for when they received the checklist back. Mr. Baide stated that he had sent out the most recent checklist about a month ago. Mr. Monahan asked if it had gone to the Department or the Board staff. Mr. Baide stated that the second one had been sent to the Board staff. He stated that he could not recall where he had sent the initial checklist from September 2023.

Mr. Monahan asked who had installed the AST. Mr. Baide answered that he had.

Mr. Jackson moved to ratify the staff recommendation of ineligibility to the release. Ms. Kline seconded. Motion passed unanimously by roll call vote.

Eligibility Ratification

Mr. Wadsworth presented the Board with a summary of the eligibility recommendations for ratification. There were two (2) releases recommended eligible and three (3) releases recommended ineligible, see table below. The Donald Baide property had been addressed as an action item earlier in the meeting.

<i>Location</i>	<i>Site Name</i>	<i>Facility ID #</i>	<i>DEQ Rel # Release Year</i>	<i>Eligibility Determination – Staff Recommendation Date</i>
Belgrade	Flying J	1605735 TID 21368	6598 July 2023	Reviewed 3/7/24. Recommended Eligible.
Greenough	Paws Up Ranch LLC	3201458 TID 31141	6643 Nov 2023	Reviewed 3/22/24. Recommended Eligible.
Hobson	Donald Baide Property	0032518 TID 32518	6358 Mar 2023	Reviewed 1/12/24. Ratified Ineligible at the 4/22/24 Board Meeting.
Whitefish	Two Bear Properties	TID 32480	6312 Sept 2024	Reviewed 5/1/23. Recommended Ineligible – 2 nd Ineligible letter sent 3/8/24.
Whitefish	Two Bear Properties	TID 32480	6312 Nov 2024	Reviewed 5/1/23. Recommended Ineligible – 2 nd Ineligible letter sent 3/8/24.

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 customers and dealings 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 Farmers Supply. Ms. Smith recused herself from any matters related to American Bank. Mr. Jackson and Ms. Kline expressed no known conflict of interest.

Mr. Wilson moved to ratify the eligibility recommendations as presented. Mr. Jackson seconded. The motion passed by rollcall vote. Mr. Monahan, Mr. Stenzel, and Mr. Pointer recused themselves from voting.

Weekly Reimbursements

Mr. Wadsworth presented a summary of weekly claim reimbursements for the weeks of January 31, 2024 to March 27, 2024 and recommended the Board ratify the reimbursement of the 111 claims, which totaled \$649,936.98, (see, table below). There were four claims from the weekly batch of 2-28-24 withheld from ratification at the request of the owner. These claims were 20211217L, 20220126G, 20220915E, and 20221121B, Release 4769, Swan Valley Center.

WEEKLY CLAIM REIMBURSEMENTS April 22, 2024 BOARD MEETING		
Week of	Number of Claims	Funds Reimbursed
1-31-24	25	\$94,319.26
2-14-24	25	\$124,851.97
2-28-24	27	\$155,636.22
3-13-24	22	\$134,144.36
3-27-24	12	\$140,985.17
Total	111	\$649,936.98

Included with the weeklies was one (1) denied claim, as shown (See, table below.)

<i>Denied Claims</i> April 22, 2024 Board Meeting	
Claim ID	Reason Denied
20240129D	Entire claimed amount adjusted as the claim is duplicate with 20240126A.

Mr. Jackson moved to approve the weekly claims as presented with the four withheld for Swan Valley Center. Ms. Kline seconded. The motion passed unanimously by roll call vote.

Ms. Kline noted the cumulative numbers on the weekly claims, and asked if she was correct in her thoughts that the cumulative reimbursement stopped at \$1,000,000. Mr. Wadsworth answered that it was \$1,000,000 minus the copay, with the maximum set at \$982,500. Ms. Kline asked if, after that threshold was reached, the owner was responsible to pay for the rest if the project was still ongoing after that point. Mr. Wadsworth answered that this was correct. The Montana Petroleum Tank Release Cleanup Fund (Fund) could only reimburse the owner up to \$982,500. Anything above that amount would likely be incurred by the owner. It was possible for the exceeded amounts to be covered by insurance.

Ms. Kline stated that part of what she had seen during her time with the Board was a need for outreach. In this, she asked if this threshold was communicated to the owner as they approached this number. Mr. Wadsworth answered that, a while back, the Board had the Board staff notify the owners when they hit a threshold of \$600,000. He stated that the Board staff notified owners when they hit a variety of thresholds approaching \$982,500. He stated that they were notified of the \$982,500 when they exceed the maximum, as well. He added that the threshold was at \$982,500 for a certain class of petroleum tanks. There were two (2) classes of tanks. One was tanks at \$1,000,000 of coverage, and the other was tanks at \$500,000 of coverage. Additionally, in the event that an owner had a percentage penalty on reimbursement, they would not reach the \$982,500

threshold, but rather the threshold that was allowed under the penalty. Staff try to notify all owners as they approach the maximum reimbursement.

Board Claims

Mr. Wadsworth presented the Board with the claims for amounts greater than \$25,000. He noted that any claim over \$25,000 was considered a Board claim if it was associated with a workplan (WP) that the Board had not yet had an opportunity to review.

Facility Name Location	Facility-Release ID#	Claim#	Claimed Amount	Adjustments	Penalty	Co-pay	**Estimated Reimbursement
Coulter Automotive Charlo	24046156505	20240131A	\$25,259.80	\$2,219.02	-0-	\$11,520.39	\$11,520.39
Circle K Store 2746059 Great Falls	07137296497	20240125A	\$27,051.92	\$0.00	-0-	\$13,525.96	\$13,525.96
Friendly Corner Hysham	52063162589	20240229C	\$44,506.63	\$0.00	-0-	\$16,713.50	\$27,793.13
MDT 43 Ingomar Ingomar	4409687934	20240205B	\$51,642.01	\$2,869.50	-0-	\$10,589.57	\$38,182.94
Former Cardinal Hardware Kalispell	15127871275	20240112J	\$26,398.20	\$260.00	-0-	\$0.00	\$26,138.20
H and R #3 Shelby	51001043333	20240112D	\$25,762.71	\$143.00	-0-	\$0.00	\$25,619.71
Total			\$200,621.27	\$5,491.52	-0-	\$52,349.42	\$142,780.33

* 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 stated the reimbursement of Board claims were in need of a motion.

Mr. Jackson moved to approve the six (6) Board claims. Ms. Kline seconded. Motion passed unanimously by roll call vote.

Ms. Kline asked Mr. Wadsworth if the copays had already been paid or had yet to be paid. Mr. Wadsworth answered that, with these particular claims, they would be paid once the Board approved them. Mr. Wadsworth stated that with regards to the copay, if there was a claim over \$25,000 waiting on the Board meeting, it was still possible that a smaller claim for around \$5,000 could come through that the copay would be taken out of. What was on the table was an estimate of what the total was at the time of packet preparation.

Mr. Monahan asked Mr. Wadsworth about the adjustments for claim 20240131A with Coulter Automotive Charlo. He noted that, in one, mobilization charges had been reduced, as well as the expenditures for labor. He asked if the consultant charged for mobilization and labor. Mr. Wadsworth answered that mobilization encompassed both the mobilization of equipment as well as the driver transporting the equipment. Because of this, both the mobilization of the equipment and the work to drive the equipment to and from the site were factored into the adjustment.

As mandated by the passage of SB334 in the 68th legislative session, discussions took place for releases that were expected to exceed \$100,000 in costs.

Release 5093, WP 716834817, Bennett Motors, Great Falls, Exceeding \$100K in Costs

Ms. Latysa Pankratz, Section Supervisor from the Department's Petroleum Tank Cleanup Section (PTCS) presented the Board with a summary of the WP causing the release response to exceed \$100,000 in costs for release 5093. She stated that the release was reported to the Department in 2015 after a Phase II site assessment. Additional investigations had occurred since the Phase II, which had culminated in the current WP for excavation.

Mr. Paxton Ellis, P.E., Project, and Environmental Engineer, Big Sky Civil and Environmental (BSCE), introduced himself to the Board to speak on behalf of the owner, who was not present at the meeting. He stated that he was available for questions.

Mr. Ellis provided the Board with an overview of the WP.

- He stated that there was an ultra-violet optical screening tool (UVOST) investigation completed in 2017.
- Eleven bore holes had been installed on-site by subcontractor West Central Environmental Consultants (WCEC), along with three (3) direct push bore holes.
- The source area that was defined had elevated concentrations of petroleum contaminants and had exceedances of various analytes.
- The release was put on hold, and the Department's case manager focused on other releases in the Great Falls area instead. Mr. Ellis stated that he believed this was caused due to a priority level at the time.
- In August 2023, activity at the site resumed and six (6) direct push bore holes were added to define the limits of the contamination. These were completed not in the source area, but in the area surrounding the source to better assess the overall site and what potential remedial options could be evaluated and selected.
- After the borings and following discussions with the Department case manager, it was determined that a soil excavation would be appropriate, based on the release closure plan.

Ms. Kline asked Mr. Ellis if the business was in operation during the investigation in 2017. Mr. Ellis answered that it had been, and that there was a property transaction in 2015 at which time Lithia Motors operated the site. Mr. Ellis stated that 2017 predated his involvement with the site, but that this was his recollection. He stated that he began work on the site in 2018, but that not much had been done at that point. He stated that he believed Lithia Motors had been the owners during the time the investigation began. Ms. Kline thanked Mr. Ellis.

Ms. Kline asked if she understood correctly that there had been something that was put on hold, as the site was an active business at the time of investigation, and that the Department case manager that had handled the site initially was no longer at the Department.

Ms. Kline asked Ms. Pankratz if she had any additional details as to the site's history. Ms. Pankratz answered that she had no additional details as to the delay. She stated that she knew that Mr. Herman was the project officer for this WP, and that he may be able to retrieve the site's history.

Mr. Wadsworth presented the Board with the Board staff summary of the WP. He stated that the Board had already touched on an item he wished to discuss, which was the delay of five (5) years for activity and work on the site from 2017 to December 2023. The other item of note was that there were conclusions from the laser-induced fluorescence (LIF) investigation in 2017 that indicated that the LIF was not as useful as the traditional field screening and sampling techniques that had been performed more recently.

Mr. Monahan noted that soil analysis indicated that petroleum contamination was still present and had been leaching into the groundwater. He asked if this contamination had been leaching into the groundwater all of this time, and if the new soil borings had exposed this. Mr. Ellis answered that the release had been present for several decades, and that it could likely be assumed that the soil contamination had been leaching into the groundwater the entire time. The groundwater data, along with the samples collected, corroborated that the contamination was above risk-based screening levels (RBSLs).

Mr. Monahan asked why cleanup had not occurred on the site until now, despite it being known that contamination had been leaching into the groundwater for decades. Mr. Ellis answered that BSCE's involvement with the case had begun in 2017, and it possibly could have been cleaned up earlier. However, he stated that it appeared that the priority had been marked at medium

to low, and that there had been other cleanups at the time that had been given focus instead. He noted that the previous case manager had left the Department, but that she would have been the one to ask.

Mr. Monahan asked Ms. Pankratz if she had anything to add in addressing this. Ms. Pankratz answered that it did appear that the previous project officer left after 2017, and that another new project officer was hired. The releases were transferred to the new project officer, but the new project officer left the Department as well partway through training. She noted that, as Mr. Ellis had pointed out earlier, the Department used a priority ranking system, and a lot of the ranks assigned took into account the risk to the immediate receptors. She stated that she believed that in this case, the receptors may not have been identified as being high-risk, and therefore work had not moved quickly on the release. She stated that groundwater had been impacted, but it was not groundwater that was being consumed nor was the leaching causing a vapor issue inside of a building. She stated that these were the kind of things considered from a risk perspective.

Mr. Monahan asked what had caused the site to move up the priority list. Ms. Pankratz answered that part of it was that there was now a viable owner who was moving the release forward. Mr. Ellis answered that Ms. Pankratz had brought up good points, and that there wasn't immediate potential impact to receptors. He noted that, as Ms. Pankratz had stated, the new owner arrived with the motivation to get the release cleaned up the rest of the way. The release had been identified in 2015, which meant that it had sat for almost a decade. The RBSLs were still elevated, and soil excavation appeared to be the most expedient solution to resolving the release.

Mr. Monahan asked Mr. Ellis what the timeline for the site to reach closure would look like. Mr. Ellis answered that it would be difficult to estimate, as the drinking water standards that the sites were required to meet could be prohibitive for many years. There were times when these levels would hover just above limits for some time. Mr. Ellis stated that, however, this was a large footprint of known contamination, as had been indicated by the levels shown in the UVOST investigation and the subsequent remedial investigation. He believed most of the soil contamination would be addressed with the excavation. He added that the groundwater contamination usually improved after the source area was removed and additional leaching was prevented from occurring. He noted that a contributing factor would be the state of the groundwater in Great Falls, as it was in tight clays that did not have high hydraulic conductivity. Another factor that would affect the rate of remediation was if there were microbial nutrients present at the groundwater table that could help biodegrade contaminants. He stated that, taking all of this into consideration, the site could proceed to closure in anywhere from five (5) to ten years. They could receive closure, so long as there was not a small pocket of contamination found later.

Ms. Kline asked if the contamination plume ran the risk of flowing into a neighboring property or the main street. Mr. Ellis stated that there was an alley to the north of the property, but that he did not believe that the contamination would extend off of the subject property.

Ms. Kline asked Mr. Ellis if there were going to be any other monitoring wells installed on the site beyond what was currently listed. Mr. Ellis answered that there were currently three (3) monitoring wells proposed for after the excavation was completed. There were currently three (3) wells present at the site. One (1) of the wells was located in the center of the excavation at the source area and would be removed during excavation. This well was planned to later be replaced. Two (2) of the post-excavation wells would be placed based on the findings of the confirmation soil samples. If there were still pockets of contamination that appeared to extend outside of the anticipated excavation footprint, wells would be installed in those areas to determine if additional leaching to groundwater had occurred.

Ms. Kline noted that, with many other projects, it was found during excavation that contamination had usually spread beyond the initially anticipated scope. Mr. Ellis agreed that this did often happen, however, he stated that the LIF and remedial investigations had painted an accurate picture of where the contamination was. He noted that the area of excavation was estimated using available data, and sometimes the data was not perfect, however, decisions were made based on available data.

Mr. Jackson asked if the groundwater in the area was drinkable. Mr. Ellis answered that, to be a drinkable aquifer, there would need to be high-producing wells to supply someone with enough water to drink. This was not the case for the shallow groundwater in Great Falls. He added that, from his understanding, no drinking water was allowed from wells within the city limits. There were cases where some wells were grandfathered in, but there were no drinking water wells present on the release's site.

Mr. Jackson asked again if the water present was drinkable. Mr. Ellis answered that he would not recommend drinking it. Mr. Jackson asked if he was correct that it did not matter whether the water at the site was contaminated or not because of this. Mr. Ellis answered that state laws required that petroleum release sites were still cleaned up to drinking water standards. Mr.

Jackson asked if he was right in stating that the water before contamination still did not meet drinking water standards. Mr. Ellis stated that this was correct, but that the release could not be closed until the standards were met. Ms. Pankratz added that all water in the state was considered state water and needed to be cleaned up to drinking water standards. She stated that this was where the petroleum-mixing zone (PMZ) came into play, but with a PMZ closure, active remediation was still required prior to reaching a PMZ closure.

Mr. Monahan asked Ms. Pankratz if these standards were achievable in Great Falls. Ms. Pankratz answered that it was achievable. Mr. Monahan stated that this sounded difficult, as the water was not drinkable, but was being held accountable to an unrealistic standard. Ms. Pankratz answered that she believed it was possible to achieve this, even if complications arose from costs, because she believed the goal should always be to clean up the site. She stated that this was why they looked at the PMZ closure or other available options. In this, the drinking water standards could not be changed.

Mr. Wadsworth stated, to clarify, that the groundwater was not being cleaned up to drinking water standards, rather it was being cleaned up to the standards of background concentrations. He stated that water quality not likely the problem at the Great Falls site. Rather, he noted that the largest issue with the Great Falls groundwater was likely capacity. The clays ensured that the water was not going to move anywhere, and it would not be possible to produce enough water from the water table to allow for a drinking water well.

Mr. Pointer noted that the 2017 WP stated that the soil borings showed there was no threat posed to human health or the environment. He noted that the 2017 data indicated that no soil removal appeared to be warranted, but that the 2023 soil data indicated higher concentrations of contaminants. Mr. Ellis answered that to the best of his knowledge, the soil samples that were collected in 2023 were collected along the assumed periphery of the plume. The soil levels were not higher in 2023 than in 2017. It took an additional remedial investigation to draw a clearer outline of the required excavation or assess remedial options. The groundwater constituents that were sampled did show elevated contamination, however. Overall, the snapshot indicated that some concentrations had decreased while others had increased. Mr. Ellis stated that this was a normal pattern to see with sampling, especially with a six (6) year gap between sampling dates.

Mr. Pointer asked if the water and contamination levels would rise again after soil removal on the new backfill. Mr. Ellis answered that typically, after contamination was removed from the source area, there was no additional leaching that would occur. He stated that, what generally happened, was when a tank leaked, it would drip down from the soil, hit the groundwater table, spread out through the water table, the water table would rise and depress, and a smear zone would be created from this. The levels in the groundwater generally were not elevated from this or were not as elevated as in the source area. He stated that this was the case for the site being discussed.

Mr. Wadsworth provided a comment that Ms. Smith had sent via Zoom. Ms. Smith stated that even though humans were not drinking the water, it did not mean it wasn't still a risk to the environment, plants, and animals in the area. Mr. Monahan thanked Ms. Smith.

Release 2603, WP 716834805, Former Bair's Truck Stop, Hardin, Exceeding \$100K in Costs

Ms. Pankratz presented the Board with a summary of the WP causing the release response to exceed \$100,000 in costs for release 2603. The release was reported to the Department in 1998. The site was currently going to be demolished and redeveloped, which would provide an opportunity for the excavation and cleanup of the release.

Mr. Monahan asked if the redeveloped site would be another truck stop, or if it was to be developed into another type of business. Ms. Pankratz stated that she would let the owner answer that question.

Mr. Damon Borden, owner of the Former Bair's Truck Stop facility, introduced himself to the Board and stated that the environmental consultant, Mr. Charlie Peterson, Project Manager at Pioneer Technical services, was better equipped to answer the question.

Mr. Peterson introduced himself to the Board and provided a brief history of the release.

- He stated that the facility had been a truck stop for over 50 years and had been built around the 1970s.
- The release had been discovered in 1996, had three (3) tanks, and had occurred from within the tank basin.
- The release had come from one (1) of the tanks, after which the tank was re-lined. There had never been a tank removal performed to access the contamination in the tank basin.

- Because of this, the consultants had drilled wells and had put the facility on a long-term groundwater monitoring program.
- No corrective action at the tank basin could be performed due to the facility having still been active.
- The property had since been sold to Town Pump, and Town Pump was the owner of the facility at present.
- Town Pump had taken the tanks out of service, and it was their plan to remove the tank system.
- The previous owners, the Broadway Group, had maintained responsibility for the release after the change in ownership, and sought to continue to address the release.
- All of the parties involved had come together and created a plan, which included Mr. Johnathan Love, DEQ Environmental Science Specialist, who was the Case Manager/Project Officer for the release.
- A WP was prepared to address the release in a practical and efficient manner.
- Town Pump would pay for the removal of the tank system, after which Pioneer Technical Services would excavate the contaminated soil and transport it to the local landfill.
- Mr. Peterson stated that Pioneer Technical Services already had the permit ready for this task. While the excavation was open, PetroFix would be applied, as it was expected that there would be shallow groundwater present.
- Once the site was restored and the excavation backfilled, additional monitoring wells would be installed while some of the old monitoring wells by the tank basin would be taken out.
- The WP also included an additional year of semi-annual groundwater monitoring.

Mr. Peterson stated that he was uncertain as to what the facility would be repurposed into and stated that he also did not know if Town Pump knew. Mr. Monahan stated that he had asked due to the possibility of Petroleum Brownfields funding being used to redevelop the site.

Mr. Monahan asked if the excavation would be backfilled once the tanks and the piping were removed, and if this spot would not be reused should Town Pump decide to reinstall tanks at the facility. Mr. Peterson answered that, no, the excavation would not be backfilled immediately so as to not have to pay for the removal of clean backfill later. He stated that, after tank removal, the plan was to remove impacted soil. He stated that it was the opinion of Pioneer Technical Services that doing so would be a cost-saving mechanism.

Mr. Monahan asked Mr. Wadsworth if there were any comments the Board staff had in regard to the release. Mr. Wadsworth thanked Mr. Monahan and presented the Board with the Board staff comments on the WP. The initial WP was approved in April 2007. In July 2007, however, it received multiple extensions from the Department, and work was not completed until seven (7) years later. He stated that it was also of note that groundwater monitoring was conducted in 2014, but the Department did not require work at the site for over nine (9) years. A Phase II Environmental Site Assessment was conducted in 2023 by the buyer, which had brought the WP to the surface for discussion again. He noted that the work plan task cost sheet provided to the Board by the Board staff, shows all of the tasks listed with zero dollars in the budget. The Board staff recognized that redevelopment of the site would result in the removal of the existing USTs as well as fuel-dispensing equipment. However, there was no analytical data available at present that confirmed that those areas would be contaminated. Therefore, Board staff could not recommend reimbursement of any of the proposed tasks until contamination could be confirmed to be present on-site. Contamination was expected to be found by the consultant and owners, but money could not be obligated until contamination was found at concentrations requiring removal.

Mr. Monahan asked Mr. Wadsworth if, once excavation started, the expenses could be brought back to the Board. Mr. Wadsworth stated that this was the question, as it was unknown if they had an estimate for the amount of soil for excavation. He noted that, at Bennett Motors, there had been an LIF and soil boring to gauge the nature and extent of contamination. In this release, however, there had not been any analyses done to provide an estimate of the amount of excavation necessary.

Mr. Monahan asked if this meant that the extent of the WP was tank and piping removal followed by soil excavation and disposal. This would then bring the site to as close to decontaminated as possible, after which Town Pump would redevelop it. Mr. Wadsworth answered that there were a number of things that were occurring. He stated, as an example, that the early data of the release from 1998 showed that, upon tank removal and replacement, there had been no samples taken to check for surrounding contamination. He noted that, for this tank removal, they would be required to take samples to confirm or deny whether there was chemistry beneath the tanks. Once it was confirmed whether there was or was not any contaminated soil beneath the tanks, the excavation would be based on the sample results. Sampling events would occur along the piping as well as the fuel dispensers. Mr. Monahan thanked Mr. Wadsworth.

Mr. Monahan asked Ms. Pankratz if she had any further questions or comments. Ms. Pankratz thanked Mr. Monahan and stated that Mr. Peterson would potentially need to comment with further data, but that there was a well near the UST basin that had

over 12,000 parts-per-billion (ppb) of benzene that had been identified in the Phase II assessment. There were also soil samples and samples from the diesel dispensers. She stated that she believed that the samples taken from the gasoline dispensers did not show contamination above RBSLs in that area. She stated that there was another, similar Former Bair's Truck Stop in Belgrade, where there had recently been a similar occurrence. The facility worked with the Department and the Board to set yardage allowance in place. In this way, if contamination was encountered, it could be handled while the excavation was open in order to expedite the process and reduce costs. She stated that if additional data was needed on the soil and groundwater for the site Mr. Peterson could have data on this.

Mr. Monahan asked if they were expecting to remove up to 800 cubic yards. Mr. Peterson answered that, yes, this was what had been estimated. There would be 400 yards of soil taken from the tank basin, where the presence of free product was known. There were two (2) diesel dispensers where trucks were fueled to high capacity. The soil samples taken from this area as well as groundwater samples showed impact. The automobile fueling islands also showed groundwater contamination. There was no drilling conducted underneath the dispensers because they were active at the time. He stated that this was why there was suspected contamination in these three (3) areas. In this, he stated that it was their intent as consultants to be proactive, and that they intended to save costs this way. He stated that they would only dig out what needed to be excavated. He stated that he believed they were not being frivolous as consultants but were being proactive in the strategy that had been proposed.

Mr. Monahan thanked Mr. Peterson and stated that he agreed, and that he appreciated the initiative they all had taken to get the soil removed.

Ms. Kline asked, to clarify, if the tank system had been in compliance ever since it was relined in 1996. She stated that she assumed that it likely was, but that she had seen no notes in the report indicating whether it had fallen out of compliance or had remained in it. Mr. Wadsworth answered that he did not have any information for the facility's compliance status with him at present. He stated that the Board staff could look into the system and give her the information later.

Ms. Kline noticed that, in August 1998, there had been three (3) resolved releases at the site. She asked if these prior releases had been close to the current one, or if they had been further away. Ms. Pankratz stated that she could take time to look up the locations of the prior and current releases. She stated that, typically, releases were found at the dispensers or the tank basin. She noted that while she did not have the exact details available to her at present, she could obtain them to answer Ms. Kline's question.

Ms. Kline stated that her main question was if the previous releases had been resolved, why had new ones been discovered afterward and not during the same time. Ms. Pankratz stated that she understood.

Release 3837, WP 716834806, Pro Co-op, Richland, Exceeding \$100K in Costs

Ms. Pankratz presented the Board with a summary of the WP causing the response for release 3837 to exceed \$100,000 in costs. This release was reported to the Department in 1999 when contamination was found at the excavation of two (2) underground storage tanks. The WP was for pilot testing of a soil-vapor extraction (SVE) system and (AS) air sparging.

Mr. Monahan asked if Mr. Tanner Trower, owner of the release, was present.

Mr. Trower introduced himself to the Board and stated that his consultant Mr. Bob Waller, Principal Geologist from Environmental Resource Management was also present.

Mr. Waller introduced himself to the Board. He stated that the site had the tanks removed in 1999, upon which minor contamination was discovered under the tanks. He stated that most of the contamination appeared to have been under the dispenser island. After some investigation, it was confirmed that this was the area where the leak occurred. It was a small source area. The aquifer was a sandy gravel, so it was fairly permeable. Because of this, a pilot test would be needed to confirm the radius of influence, but he stated that he believed it would work well.

Mr. Monahan thanked Mr. Waller and asked if Mr. Wadsworth had any comments. Mr. Wadsworth thanked Mr. Monahan and presented the Board with a summary of the release. The release was discovered in 1999 however, the Department did not require activity at the site for over 12 years. The current WP had proposed an air sparging and SVE pilot test which had been proposed six (6) years earlier in 2017. It was only at present that the WP had begun to move forward with the pilot test.

Ms. Kline noted that there had been multiple WPs for the facility drafted over the years, and asked Ms. Pankratz if there had been changes made to them over time. She noted that there was a WP in 2012, followed by ones in 2014, 2015, 2017, 2019, and onward. Ms. Pankratz thanked Ms. Kline and stated that she believed Mr. Waller would have a better answer to the question. She stated that, on more recent WPs, she believed they had been drafted to gather additional data on the site prior to remediation.

Ms. Kline stated that Ms. Pankratz explanation was satisfactory, and that she was unsure if Mr. Waller wanted to contribute any more information. Ms. Kline thanked Ms. Pankratz.

Mr. Wadsworth stated that he had additional information to provide that could supplement Ms. Kline's question. He noted that there was a WP from December 2011 that included well installation and groundwater monitoring. As well, the WP from June 2014 featured tasks for an additional well installation as well as groundwater monitoring. In February of 2015, there was additional groundwater monitoring conducted from the existing wells. In January 2017, there was an SVE/AS system along with the installation of an additional well. The workplan was later approved. The April 2019 WP saw another well installed, further groundwater monitoring, and chemical oxidation. In August 2021, there was a WP for soil borings and groundwater monitoring, which Mr. Wadsworth stated that he believed was done to delineate more of the contamination plume. The WP that was up for discussion with the Board at present was the March 2024 WP, which included plans for SVE/AS, a pilot test, well installation, and groundwater monitoring. Ms. Kline thanked Mr. Wadsworth.

Mr. Monahan noted that the 2024 WP had expenditures of \$65,706.98. He asked if it was anticipated for the WP to exceed \$100,000, despite the WP having stated the expenses to be less. Mr. Wadsworth stated that it was worth noting that this was a threshold discussion item, so the expenses of the WP would put the release's total amount spent over \$100,000. He stated that, as required by SB 334 enacted by the 2024 Legislative Session, releases with costs expected to exceed \$100,000 were now threshold discussion items as well, which was slightly different than WPs briefed to the board because the WP itself was over \$100,000.

Mr. Monahan asked if the release was over the threshold already due to the costs incurred over the release's multiple WPs. The 2014 and 2015 WPs had no claims. Mr. Wadsworth stated that looking at the January 2017 WP, the \$117,732.17 proposed by that WP represented work that was ultimately never conducted (*sic, was partially implemented*). He stated that, when the WPs that were enacted were added together, they reached a total getting close to \$100,000.

Mr. Monahan asked if this meant that, even though they had a WP proposed, it did not necessarily mean that it had been initiated. Mr. Wadsworth stated that this was correct, as they may have performed the work, but there had been no claims submitted for that particular WP, so there were no funds reimbursed on it.

Mr. Monahan asked if he was correct in thinking that the total amount actually spent was what would send the release over the threshold. Mr. Wadsworth stated that he was correct.

Board Attorney Report

- **Other**

- Board Counsel has been litigating the Board's position in a Writ of Mandate filed in the First Judicial District Court by Cascade County, Oral Argument was held on March 28, 2024.
- The Administrative Rule Package MAR 17-440, adopted by the Board at the February 5, 2024 meeting, was filed, and published through the Secretary of State's office on February 23, 2024.

Ms. Brown presented the Board with the Board Attorney Report. Cascade County had filed a Writ of Mandate to get the matter of their reimbursement onto the Board's agenda. The issue with this was that Cascade County now had four recognized (4) releases, but they had not submitted any receipts that identified which of their costs went to which release, as would be found in a submitted claim. Because of this, they had not met the threshold for the Board staff to parse their submissions (filed claims) and provide a recommendation to the Board. The County requested that the court ordered the case to be on the Board's agenda, but the court denied the request after oral argument. She stated that, because of this, Agency Legal Services had been working with Cascade County to sort which costs went to what release, so that the costs could then be discussed before the Board to see if they were actual, reasonable, and necessary.

Additionally, she stated that the rules found in MAR 17-440, that had been ratified at the last meeting, had since been published and were present in the new Board reference guides.

Mr. Monahan stated that Ms. Brown had done excellent work at the Cascade County hearing and thanked her.

Fiscal Report MarchFY24

Mr. Wadsworth provided the Board with a summary of the fiscal report for March, fiscal year 2024. Mr. Wadsworth stated that the fiscal report contained details up through April 2024. He stated that he had not seen anything worthy of being brought to the Board's attention.

Board Staff Report

Mr. Wadsworth presented the Board with a summary of the Board staff report. He stated that there had been an increase in the number of eligibility applications. From January 2024 and onward, there had been five (5) eligibility applications in three (3) months, which averaged one (1) and two-thirds applications per month which was up from our usual one every other month.

DEQ Petroleum Tank Cleanup Section Report

Summary of Confirmed and Resolved Petroleum Releases

Ms. Pankratz presented the Board with a summary of the confirmed and resolved petroleum releases. Since January 1, 2024, there had been eight (8) new suspect releases, four (4) confirmed releases, and one (1) resolved release. There were additional releases in the closure process awaiting well abandonment. She stated that there was a typo on the report for total confirmed releases, and that the actual total was 4,854. She stated that the total resolved were 3,948, and that there were 906 open releases.

Ms. Kline asked Ms. Pankratz about the concern of reaching the maximum reimbursable amount of coverage without reaching site closure. She noted how some releases had been open for over 20 years, and asked if some of these long-open releases were closer to resolution, or if there would be some cases that would exceed the cost threshold, maximum reimbursement, and then be moved to being solely owner responsibility. She stated that her concern was if these releases would be able to be resolved before hitting the maximum reimbursement allowed. Ms. Pankratz stated that this was a good question, especially with economic inflation over the past few years. She stated that the Department had noted how expensive the cleanups were becoming. She stated that she believed there was potential for more releases to be near or exceed the threshold amount of \$1,000,000. With concerns to legacy releases, the Department was seeking to engage more with owners to help proceed the releases further toward closure. Because of this, the Department was working on improving internal business processes to increase their outreach to the owners in order to encourage work on releases, especially legacy releases. Ms. Kline stated that she was happy to hear outreach stated as a goal of the Department, as this was something she had wanted to see improved on as part of the business process. Ms. Kline thanked Ms. Pankratz.

Mr. Monahan asked whose responsibility it would be to request continued activity and require an active WP if a release had been lingering for years on end so that a site could continue to make progress towards closure. He asked if this responsibility fell to the Department, owner, consultant, or the Board. Ms. Pankratz stated that, if one looked at the language in the rules, they all started with addressing the owner and operator. She additionally noted, however, that the Department recognized that there were legacy releases that could have remained unknown to new property owner. She stated that the Department had been working to increase the outreach regarding this. She stated that the responsibility to move the release through the process fell on the owner.

Mr. Monahan asked how many of the 906 open releases were Fund eligible. Ms. Pankratz answered that she believed it was somewhere over 500. Ms. Pirre stated that there were 546 *sic* (576) open eligible releases for the Fund.

Mr. Monahan asked how many of the 546 *sic* (576) open eligible releases had active WPs. Ms. Pankratz answered that she would need to gather data from the database to fully answer that question. Mr. Monahan stated that the ideal outcome would be that all 546 releases have active WPs. He noted that this could be potentially beneficial for Mr. Wadsworth and the Board staff to gather data on, and that it would be good for the Board staff to reach out to the owners and operators to ask if they were aware of the responsibility for continued cleanup and eventual closure. He noted that this would potentially need to be a project for Ms. Brown to be involved in.

Mr. Monahan asked Mr. Wadsworth if he had any comments on the summary of confirmed and resolved petroleum releases. Mr. Wadsworth stated that he had no comments at this time, as everything he had wanted to address had been discussed.

Former S. 27th Express Center, Facility #56-04955, TID 29952, Rel #2853, WP #716834796, Billings, Priority 3.0

Ms. Pankratz presented the Board with a summary of the WP 716834505. This WP was for the excavation and disposal of petroleum-contaminated soil. The release had been reported to the Department in 1996. There had been investigations, which included LIF. It had since moved into cleanup based on the previous investigations.

Mr. Wadsworth presented the Board with the Board staff comments. He noted that the release had a 20% reimbursement penalty. The WP total was \$128,107.85. When the 20% penalty was applied, this reduced the total amount for reimbursement by \$8,231.83. The Board staff would be obligating less than what was listed as the WP total due to reductions in allowances in the WP budget, with the difference in obligation totaling to around \$5,800. The plan proposed excavation. He noted that the area had already been excavated once and was now being re-excavated. He referenced maps in the WP and stated that the area that the Board staff would be looking to examine the difference in area in the previously excavated and re-excavated soils.

Community Oil Company, Facility #99-95156, TID 17361, Rel #5029, WP #716834598, Reserve, Priority 3.0

Ms. Pankratz presented the Board with a summary of WP 716834598. Release 5029 was reported to the Department in 2014 based on the results of a subsurface investigation. The WP was for an injectate of compounds of microbes in the subsurface.

Mr. Wadsworth presented the Board with the Board staff comments. He noted that the WP total was around \$178,000, but what would be obligated would be around \$166,000. Most of the cost difference was due to a report activity for which the consultant would be adjusted by \$2,500. In this, there was a difference in total funding between what the WP proposed and what the Board staff would be able to obligate for the WP.

Public Forum

Mr. Brad Longcake of Montana Petroleum Marketers and Convenience Store Association presented his comments during Public Forum. List of speakers: BL - Brad Longcake, JM - John Monahan, GP - Garnet Pirre, DF - Dennis Franks, and LP is Latysha Pankratz.

BL: This is Brad Longcake, Montana Petroleum Marketers and Convenience Store Association. Thank you for everybody jumping on today. One quick question - I think Latysha mentioned it - it sounds like moving forward, the Department would like the owners to reach out and find out where their sites are in the process. If that's the case, we're happy to do that. I think that, um, probably Latysha, myself, and some others need to come up with a strategy to do that, so we don't overwhelm the Department. Maybe Latysha can provide some context on that. We're happy to participate, just want to make sure I understood what she commented on before.

JM: Can we call a time-out? Somebody has their microphone on. Can everyone else please mute themselves so we can hear Mr. Longcake? Go ahead, Brad. Let's make sure that it's not feedback from you. Go ahead.

BL: Okay. Can you hear me okay?

GP: Hey Brad, this is Garnet. Um, is it possible that you're signed in two places - that you're on the phone, and then you're also signed in on a computer and both of them have your mic on? Because one of them needs the mic off so that it doesn't feedback when you talk.

BL: Yeah - I'm only logged in on one spot.

GP: Yep, we're hearing you better now.

JM: Go ahead, Brad.

BL: Okay. Sorry about that. Um- and then- oh, maybe- is it okay, or is it coming in garbled?

JM: That's clear. Now, go ahead.

Mark Johnson: Looks like it's coming from Dennis Frank's, uh, connection.

Unidentified Speaker: Sorry about that.

JM: Let's just get this cleared up so we can hear you, Brad.

BL: No worries.

JM: Alright. Go ahead, Brad.

BL: I'll try again. Is it coming in better, now?

JM: Yes

BL: Okay. Sorry about that. Again, just for clarify, Brad Longcake with the Montana Petroleum Marketers and Convenience Store Association. Thanks to everyone for jumping on today and providing context. I just want to follow up on a comment that Latysha had. It sounds like the Department would like the owner, operators, and responsible parties to inquire to the Department to find out where those sites are for cleanup. We're happy to do that and think that's a good process. Uh- my concern would be is that maybe we need to get together with the Department and make sure that we're not inundating the Department with large numbers of inquiries. Is there a process that the Department would like us to follow, and maybe Latysha could shed a little more insight on that? I just want to make sure that we're, you know, doing it to maximize the effort of all parties.

JM: Thank you, Brad. Ms. Pankratz?

LP: Thank you, Brad. That's a great question. Mr. Chairman, thank you. Um, so, DEQ will continue the process it has now with its releases that are actively moving forward, um, with the workplan request and workplan approval process. As I mentioned, we are finding ways to increase our outreach, especially on these legacy releases, because we would like to see them to continue to - or- to start moving forward. Um- but yes- since the releases do belong to the owner- um- we would love for them to also engage in the process and communicate and work with DEQ to move their releases forward. And, so, Brad, I would be happy to chat with you- um- on getting that word out, and maybe coming up with a process for marketers and owners that want to get their releases closed.

JM: Awesome. Thank you, Ms. Pankratz. Thank you, Mr. Longcake. I agree. You know- I think that- um- currently we're working on a couple of different items that I think are going to benefit everyone. One of them is certainly working with the DEQ, even on some- um- some of our own outreach programs as far as training and us following up on our releases to make sure that anything that we're responsible for- we can get our owners into the mix of making sure that they have active workplans, and that their sites, again, um, are moving continually towards closure. Um- and then there's things that we'll need to clear up with Aislinn that we'll probably have at our next meeting- uh- in June. With that said, any other public comment?

DF: This is Dennis Franks. F-R-A-N-K-S with AJM. Sorry about my mic earlier.

JM: That's okay. Go ahead, Mr. Franks.

DF: I like where you're going with these- uh- releases. One thing that could happen is- as a consultant I know that I've got several that haven't been worked on in quite some time, and I can work with DEQ and the owner to move those forward.

JM: That would- that would be awesome.

DF: Getting hold of the consultant who had been working on it might be a good start.

JM: Just to be clear, Mr. Franks. Are you recommending that, when we contact the owner, if we have a consultant on-record working on a specific release that we simultaneously contact both the owner and the consultant?

DF: I think that would be a fair assessment, yes.

JM: Okay, great. Thank you for the input. Great idea. Any other comments for the Public Forum? Okay. Hearing none.

There were no further comments from the Public Forum.

The next proposed Board meeting is on June 17, 2024.

The meeting was adjourned at 11:45 a.m.



Signature - Presiding Officer