

PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
November 18, 2024
IN-PERSON AND TELECONFERENCE HYBRID MEETING

Board Members in attendance were Calvin Wilson, Grant Jackson, John Monahan, Curt Kelley, and Tom Pointer, with Kristi Kline 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 10:01 a.m.

Election of Presiding Officer and Vice Presiding Officer

Mr. Jackson moved to nominate Mr. Monahan as Presiding Officer. Mr. Monahan accepted. Mr. Wilson seconded. Motion passed unanimously by roll call vote.

Mr. Monahan moved to nominate Ms. Kline as Vice Presiding Officer. Ms. Kline accepted. Mr. Wilson seconded. Motion passed unanimously by roll call vote.

Approval of Proposed Meeting Dates for 2025

Mr. Monahan presented the Board with the Proposed Meeting Dates for 2025. The proposed dates were February 3, April 14, June 16, September 15, and November 10 of 2025. He asked if there were any conflicts with the proposed meeting dates. There were no conflicts stated at this time.

Ms. Kline moved to approve the Proposed Meeting Dates for 2025. Mr. Jackson seconded. Motion passed unanimously by voice vote.

Approval of September 9, 2024, Minutes

Mr. Jackson moved to approve the September 9, 2024 minutes. Mr. Pointer seconded. Motion passed unanimously by voice vote with Ms. Kline abstaining.

Eligibility Dispute, Former Mahagin's Texaco, Butte, Fac #2602182, Rel #6550

Mr. Wadsworth provided the Board with a summary. He stated that there were four (4) fifty-gallon vessels listed on the application for eligibility (Form 1-R). The issue with this was that Board promulgated rule (ARM 17.58.311(30)) required a vessel to be greater than or equal to sixty gallons to be considered an eligible tank. This information was derived from the International Fire Code, which in turn was derived from the Underwriter Laboratories Codes, which stated that vessels under sixty gallons were considered portable containers and not tanks. The statutes governing the program does not cover portable tanks. The Fund does not cover tanks that are used or could be used to transport petroleum. This was the intent of the reference to containers that were less than sixty gallons. All codes were structured around these size designations, which was why the Board promulgated rule requiring the tanks to be at least sixty gallons. The four (4) vessels listed as tanks on the eligibility application were not recognized as tanks by Board rule, and because of this, the Board staff recommended that releases from these vessels be deemed ineligible for the Fund.

Mr. Kingsbury introduced himself to the Board. He stated that the four (4) vessels found and detailed were but a few of many tanks that considered to be present at the site during a Phase II site assessment. Approximately 14 runs of piping were found, which implied that there were many more tanks present than just the small tanks that had been found. He stated that he had provided the Board staff with a Phase II Environmental Site Assessment and a legacy photo of the site. He stated that the facility had once been a premiere Texaco station in downtown Butte, and that at one time there had been seven (7) dispensers at the site. During the 1950s, petroleum dispensers were suction dispensers, which meant that, for each dispenser, there was generally a corresponding tank. During that era, tanks were usually 400 to 600 gallons each. This meant that the total volume of petroleum held at the site at one point would have been over 3,000 gallons. In looking at the tank and talking with the Underground Storage Tank (UST) section, the tanks seen were likely hydraulic tanks. These tanks had been listed on the Form 1-R in error. As the site was a former gas station and a legacy release, it could not be determined how many tanks were there. However, it was likely that the collective volume of petroleum stored was in the thousands of gallons. The contamination found was not just associated with the four (4) tanks recorded in the application. The tanks were overprinted with other piping

that had once definitely stored fuel, as there had been volatile petroleum hydrocarbon compounds found that were indicative of gasoline. This included lead scavengers (ethylene dibromide and 1,2 Dichloroethane), and extractable petroleum hydrocarbon compounds that were associated with diesel fuel. Given the chemistry in the soil, he stated that he believed that there had been a petroleum release at one point rather than a hydraulic fluid release. He stated that, because of this, he recommended that the Board consider allowing the owner and consultant to revise the Form 1-R to include legacy tanks, rather than the hydraulic tanks that were listed in error.

Mr. Wadsworth stated that the Board staff had communicated with the owner that the tanks listed on the Form 1-R were not of a size eligible for the Fund. Because of this, the Board staff had requested the application be withdrawn. He stated that, if they were able to provide the details on the full list of tanks that had existed at the site, they would be able to re-apply for the fund. He stated that the only tanks presently listed on the application for assistance (Form 1-R) were the four (4) vessels that Mr. Kingsbury had indicated were on the form in error.

Mr. Monahan asked Mr. Kingsbury if it was his intent to withdraw the current Form 1-R. Mr. Kingsbury confirmed this was so.

Mr. Monahan asked if there was any action that the Board needed to make based on the current discussion and the fact that the form would be withdrawn and resubmitted. Mr. Monahan noted that the discussion item would be tabled and asked if there needed to be a motion to table the discussion. Ms. Brown stated that there would not need to be a motion, since Mr. Kingsbury would be re-submitting a new application (Form 1-R) at a later date. Mr. Wadsworth added that the current Form 1-R could be withdrawn, however, the Board staff would need a letter of withdrawal from the owner in writing.

Mr. Monahan asked Mr. Kingsbury if he understood that the withdrawal letter would need to come from the owner. Mr. Kingsbury confirmed he understood.

Eligibility Ratification

Mr. Wadsworth presented the Board with a summary of the eligibility recommendations for ratification. He noted that Former Mahagin's Texaco would not be considered or acted upon at this meeting, as it had been previously discussed and there was an understanding that the owner would withdraw the eligibility application.

There was a discussion about the release being recommended eligible in the table was allowing the owner access to reimbursement from the Petroleum Tank Release Cleanup Fund (Fund) for that release. Eligibility to the Fund meant that the owners could submit their Work Plans (WPs) and claims to the Board to be considered for reimbursement. WPs and claims submitted to the staff for eligible releases enter into the Board staff's business process to determine that the expenses are actual, reasonable, and necessary and fall within the statutes, rules, and financial guidelines. Mr. Wadsworth stated that often the request by the Department for a WP was what initiated the eligibility application process, although not always.

Mr. Monahan asked if ratification of the eligibilities listed in the table meant that the release would be eligible for 100% reimbursement. Mr. Wadsworth answered that the release was eligible for 100% of the reimbursement that was allowed under law, as outlined in the Board's statutory framework. Mr. Monahan expressed the desire to have the explanation be on-record in the event that legislators participating in the upcoming legislative session were reviewing the minutes.

Ms. Kline asked about the Superior Town Pump release, and why it had been given the staff recommendation of "Vehicle/Installer Insurance." Mr. Wadsworth thanked Ms. Kline for her question and stated that it was possible for an owner to be covered both under insurance as well by the Fund. The Board had an insurance-first initiative. The Fund was not considered by statute to be an insurance mechanism. It was, however, a State Special Revenue fund and an assurance mechanism. Under the Fund's requirements, if there was any insurance available, the owner was required to seek assistance from that insurance before receiving assistance from the Fund. Additionally, the Board had the ability to allocate costs covered by an insurance company towards the owner's Fund-required copay, which was generally \$17,500. As an example, if the insurance had a \$5,000 deductible, the owner could work with their insurance company and the Board to avoid any out-of-pocket costs. They could have the insurance company cover approximately \$17,000 to \$18,000 worth of costs, which would be applied to the Fund as an allocation to copay. Expenses paid towards the \$5,000 deductible could be claimed against the Fund. Because of this, the owner could utilize both mechanisms to try to avoid any out-of-pocket costs. The Board had implemented this allowance in their statutory framework and rule framework in order to encourage owners and operators to have insurance coverage.

Mr. Wadsworth stated that, in the case of the facility in Superior, it appeared that there may be vehicle or installer insurance coverage. The dispenser at the site had been impacted by a vehicle that was towing a 5th-wheel. The release occurred as a result of the impact. By way of the note in the table the Board staff was indicating that the eligibility to the Fund was being granted to the owner, however, insurance was expected to be involved in reimbursing for cleanup costs and that seeking cost recovery from the insurance was going to be expected. Ms. Kline thanked Mr. Wadsworth.

Location	Site Name	Facility ID #	DEQ Rel # Release Year	Eligibility Determination – Staff Recommendation Date
Belgrade	Yellowstone Jet Center	1604440 TID 21287	6502 Sept 2022	Reviewed 10/15/24. Recommended Eligible.
Butte	Former Mahagin's Texaco	0032521 TID32521	6550 May 2023	Reviewed 4/23/2024. Recommended Ineligible. Owner will withdraw application.
Hamilton	Town Pump Inc Hamilton 1	4109670 26952	6660 Mar 2024	Reviewed 10/23/24. Recommended Eligible.
Helena	Town Pump Helena 8	5613846 TID30528	6658 Mar 2024	Reviewed 10/23/24. Recommended Eligible.
Superior	Town Pump Inc Superior	3108719 TID 25093	6498 Aug 2022	Reviewed 10/23/24. All Petroleum Tanks Recommended Eligible. (Vehicle/Installer Insurance.)
Troy	Town Pump Inc Troy	2708722 24241	6641 Nov 2023	Reviewed 10/30/24. 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 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. Mr. Kelley recused himself from any matters pertaining to Little Horn State Bank and Little Horn State Bank's customers. Mr. Jackson and Ms. Kline expressed no known conflict of interest.

Ms. Kline moved to ratify the eligible releases. Mr. Kelley seconded. The motion passed unanimously by voice vote.

Weekly Reimbursements

Mr. Wadsworth presented a summary of weekly claim reimbursements for the weeks of September 4, 2024 to October 23, 2024.

WEEKLY CLAIM REIMBURSEMENTS November 18, 2024 BOARD MEETING		
Week of	Number of Claims	Funds Reimbursed
9-4-24	18	\$96,683.61
9-11-24	12	\$167,965.43
9-18-24	10	\$101,288.36
10-2-24	12	\$74,925.38
10-9-24	16	\$157,668.98
10-16-24	23	\$105,595.33
10-23-24	20	\$219,430.60
Total	111	\$923,557.69

Included with the weeklies were three (3) denied claims, as shown (See, table below.).

<i>Denied Claims</i> November 18, 2024 Board Meeting	
Claim ID	Reason Denied
20240603B	Entire claim amount adjusted as the claim is duplicate with 20240401B.
20240819C	Claim withdrawn in its entirety on consultant's request. To be modified and resubmitted at a future date.
20240614A	Claim was withdrawn by consultant and will be submitted at a later date.

Mr. Monahan asked about adjustments made to project management tasks on claims, as he noticed that adjusted amounts on this task could range anywhere from \$70 to \$7,000 when he looked at the weekly claim reports. Mr. Wadsworth explained that the task adjustment shown in the weekly claim reports did not relate to the column entitled "Task Description". The Task Description column only reflected which task had the largest expense on the claim's invoice. The adjustment column was the total amount adjusted within the claim. The adjustment on the claim could have been an adjustment on one or more tasks associated with the claim. Costs are managed by allocating claimed costs against a WP task. Each task was cost controlled slightly different, and the costs were compared against the tasks as the project progressed. He noted that, in the case of claim 20240513J, the largest activity conducted and invoiced on the claim was project management. There could have been other tasks present on the claim such as mobilization, groundwater monitoring, or reporting, but the largest cost for that particular claim was still project management as indicated by the Task Description column. The task in the Task Description column provides some idea about what work was being invoiced on the facility during a given invoice period. The consultants don't usually perform all the work for an entire WP and then send in a claim for everything. Generally, a consultant would perform a month's worth of work on a WP and then send in a claim with the monthly invoice, assuming the amount was greater than \$500.

Mr. Wadsworth noted that if there was a WP the included three (3) groundwater monitoring events, these events could happen in intervals of six (6) months to a year. Thus, it could be up to a year before more groundwater monitoring costs were incurred on a release, and there could be multiple claims submitted that would cover a single groundwater monitoring activity. The first claim for the groundwater monitoring activities generally encompassed the field activities that the consultant performed at the site and usually arrive fairly quickly. The next claim associated with a groundwater monitoring activity could be claiming reimbursement for laboratory costs. It could take time for the labs to analyze the samples and then have the invoices made available, as invoices were generally produced monthly. Because of this, it would be a minimum of 20 days before a consultant might receive the lab invoice which could be included in their invoice and submitted with a claim.

Mr. Wadsworth also explained that adjustments to claims could also include co-pays or penalties at a site. This was to note that not all adjustments are due to cost control measures.

Mr. Jackson moved to ratify the weekly reimbursements and three (3) denied claims as presented. Mr. Pointer seconded. The motion passed unanimously by voice vote.

Board Claims

Mr. Wadsworth presented the Board with the four (4) claims for amounts greater than \$25,000. He stated that the Board had granted Board staff the authority to make payments on claims that were less than \$25,000 and then bring them to the Board for ratification, which was what had been ratified as the Weekly Claim Reimbursement. The Board had not given the Board staff the authorization or approval to process any claims over \$25,000 that were associated with WPs the Board had not seen. The Board claims presented at the meeting were claims that were over \$25,000 that are associated with WPs the Board had not reviewed, usually because the WPs were less than \$100,000. The Board outstanding request is to have WPs over \$100,000, reviewed by the Board and if the WP was reviewed any claim for the WP that was over \$25,000, it would not be held up for Board review and approval.

Facility Name Location	Facility-Release ID#	Claim#	Claimed Amount	Adjustments	Penalty	Co-pay	**Estimated Reimbursement
Small Dog Investments Billings	5614111 4310	20240829E	\$39,883.35	\$476.00	-0-	-0-	\$39,407.35
Coulter Automotive Charlo	2404615 6505	20240131A	\$25,259.80	\$2,219.02	-0-	\$11,520.39	\$11,520.39
Markle's Inc Glasgow	5303161 1026	20240805B	\$25,822.22	\$98.79	-0-	-0-	\$25,723.43
Paws Up Ranch LLC Greenough	3201458 6643	20240701B	\$121,963.09	\$21,540.13	-0-	\$17,500.00	\$82,922.96
Total			\$212,928.46	\$24,333.94	-0-	\$29,020.39	\$159,574.13

* 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. Jackson moved to ratify the Board claims as presented. Mr. Stenzel seconded. The motion passed unanimously by voice vote.

Threshold discussions for release responses, were held in accordance with §75-11-309(1)(d), MCA during the discussion portion of this meeting.

Release 6643, WP 71683482, Paw's Up Ranch LLC, Greenough, Exceeding \$100K in Costs

Ms. Latysha Pankratz, Section Supervisor, Petroleum Tank Cleanup Section (PTCS), Department of Environmental Quality (Department), presented the Board with a summary of the site. She stated that the responsible party, Paw Up Ranch, retained West Central Environmental Consultants (WCEC). The release occurred about a year prior to the meeting, when about 700-750 gallons of diesel fuel was released when an above-ground storage tank (AST) had been overfilled. During the initial response and abatement, approximately 660 tons of diesel-contaminated soil was excavated and disposed of. WP 71683482 was an investigation WP to install borings and wells to determine if there was groundwater contamination as well as gauge the success of the excavation. Mr. Monahan thanked Ms. Pankratz.

Ms. Kline asked Ms. Pankratz if ASTs were supposed to have a berm around them, and if the AST at the site had one around it when the release occurred. Ms. Pankratz stated that she did not know the answer, but that the owner or consultant might. Mr. Monahan noted that the Board would be hearing from the owner or consultant next, so this question could be answered during that discussion.

Mr. Joshua Simonds, representing the owner of the site, introduced himself to the Board, and stated that the site consultant Mr. Nate Olson, WCEC, was also present. Mr. Olson provided the following information:

- He answered Ms. Kline's question by stating that the ASTs were double-walled and had the ability to contain a release. The outer wall in the double-walled structure was considered secondary containment.
- The release's cause was that fuel had been forced out of the pipe during a delivery. Had it not been for the piping issues, the leak would normally be stopped by the secondary containment that was compliant with tank regulations and fire code. An additional aspect to the extent of the release was that there was no regulation for double-walled tanks to have a berm, which would have acted as a third measure of containment.
- He noted that, as Ms. Pankratz had said, the proposed WP included an assessment of groundwater.
- Excavation had been conducted to a depth to which WCEC had encountered groundwater at the bottom of the excavation.

- Because of this, samples were taken of the groundwater to assess if the petroleum release had impacted it.
- The groundwater samples had returned showing contaminants above the Department's leaching standards.
- There were additional soil samples taken alongside one (1) side of the tank that had also exceeded the Department's direct-contact standards for contaminant leaching at depths greater than two (2) feet.
- These had not been dug at the time because only one of the tanks had been moved. Meanwhile, one of the tanks next to the overfilled tank was not moved, as it still contained product. There was no digging done next to the tank with product in it to avoid another release. Additionally, there was electrical wiring in the area that also prevented this, as the wiring would have to have been dismantled and reconstructed if soil sampling was done in this area.
- The excavation occurred roughly the week following the release.
- He stated that there was a certain amount of planning that could occur 3-4 days after a release, but that the work that remained was to quantify the remaining petroleum impacts to the site. The direct contacts could be addressed through Tier II to Tier III Risk-based Screening Levels (RBSL) for soil impacts.
- After this, it would be determined if the groundwater was clean enough to pass regulatory standards.
- He noted a discrepancy in the Board packet, as it stated that there were underground storage tanks (UST) in the location of the release. The USTs had been at the facility before Paws Up Ranch LLC had purchased the property, but they had been located about 100 yards across gradient and to the south of the current release. Because of this, there was not any overlap between the current release and the legacy release from the USTs. He stated that some of the legacy monitoring wells were still there, and that the site had a groundwater flow map if needed, although he did not know how necessary the data from either would be in this process. The release involving the USTs had been closed prior to Paws Up Ranch LLC's purchase of the property.
- There had also been a pentachlorophenol dip tank for fence posts, which was noted in the site response section. Because of this, the monitoring wells associated with the USTs still existed on-site, although he was unsure whether they were still of any value.

Ms. Kline asked Mr. Olson about the old USTs that had been present at the site and asked if the cleanup from all of the legacy tanks was confirmed prior to Paws Up Ranch LLC's purchase of the land. He confirmed that the release occurred prior to Paws Up Ranch LLC's ownership of the property, and that the release had already been closed. He stated that while the release had occurred at the same facility, it was 100 yards across from the location of the current release. He stated that even the zone of the anticipated groundwater monitoring would be somewhat separate from the zone in which the historical release would have occurred. Because of this, he stated that he believed that there was no overlap in the excavation or activities between the past release and the current one.

Ms. Kline stated that she had an additional question regarding the map and legend for the site. She noted that the map legend indicated a public water supply well, but that the well itself was not indicated on the map. Mr. Olson answered that this was because the public water supply was far to the south, and because of this, it was too far out from the area of the release to be captured on the map. It was roughly 400-500 yards cross-gradient from the release and across the creek. Ms. Kline thanked Mr. Olson.

Mr. Pointer asked about the tank overfill that had occurred, as he noted that a substantial amount of fuel had spilled, and that the tanks were required to have an overfill protection device to either go into alarm or shut off a valve when the tank had reached 90-95% capacity. He asked if the tank had been unattended during the refill to have lost so much fuel. Mr. Olson stated it was his understanding that the truck driver was on the other side of the truck during the refill, but he did not know if that was the exact reason for the overfill occurring. He stated that the refill had likely occurred at or near dark, as well. There was likely an overhead, barn-style floodlight by the AST, but that he did not know if it affected visibility. He stated it was his understanding that the alarm did not trigger, but that the tank did not have an emergency shutoff for the fuel transfer. He stated that there was not an attachment from the tank to the truck that would have activated this.

Mr. Wadsworth stated that when the Board staff had reviewed the application for assistance, this had also been a Board staff concern. He stated that Paws Up Ranch LLC did have an audible alarm for overfills, but the alarm failed on the tank because of temperatures, as well as the fact that the alarm was powered by a 12-volt battery rather than 110-volt circuit. The 12-volt battery at the low temperature did not have sufficient capacity to trigger the alarm, which is why the refueling resulted in the spill. Thus, the alarm was installed, but it failed to operate in the manner that the owners had expected.

Mr. Monahan asked Mr. Olson if he had any other comments to add. Mr. Olson stated that the only thing he had to add was that, while the meeting was required by law, these discussions did put a delay on remedial action. He noted that, since WP approval, they were still going to have to wait roughly three (3) months before they could act on the WP. He stated that, with the current legislation, he did not know if there was an easy workaround to it. He stated that he wondered if a non-obligation

letter, which did not actually obligate the funds, could be sent out. That way, the consultants could have feedback from the Board staff if there would be a significant change to costs. He stated that responsible parties could be willing to move ahead with an action knowing that funding would later come. He stated that after the meeting, doing as he proposed could be helpful for keeping release work in-progress. He noted that the power of the purse allowed consultants to show up for a meeting, but that it made moving forward on work difficult. He stated that he could speak with the Board attorney after the meeting, but he wanted to know how these discussions impacted progress on a WP relative to the work being done. Consultants and owners were more likely to put off the work when they didn't have obligation or assurance that the future costs that they would be sending to the Fund would be reimbursed. He noted that because Board meetings were roughly every two (2) months, this further contributed to the delay.

Mr. Monahan asked Mr. Olson, for the sake of clarification, if they had work to be done at the site which was then delayed because they could not make it to the August Board meeting and had to wait until November. He asked if they were unable to perform work on-site because WCEC was waiting on authorization from the Board. Mr. Olson stated this was so, as he noted that he had originally planned well installation for early November, which was essentially the beginning work of the WP. He stated that, due to a lack of assurance and letter from the Fund, plans for this were cancelled and WCEC had still been waiting for approval to begin work. He noted, however, that the weather was changing, which also affected progress. The consultants would still be able to drill in colder weather, but there were other tasks such as injections that they would be locked out of until the weather was warm again. Mr. Monahan thanked Mr. Olson.

Mr. Monahan asked Mr. Wadsworth if he had any additional comments. Mr. Wadsworth stated that the WP that had triggered the threshold was the second WP for this site, not the first. The first WP was an emergency response. The consultant followed statutory procedure during their emergency response, something which Mr. Wadsworth stated was commendable on the consultant's part and from the Board staff's perspective. When the release occurred, the site was assessed, and an emergency response WP was put in place, submitted, reviewed, and approved. The proposed emergency response was then conducted consistent with the WP. He stated that the way this emergency response had been conducted was an excellent example of how an emergency response could be performed in a way that followed Board statute and thus was able to be reimbursed. The current WP was a follow-up remedial investigation WP. Once the proposed work and resulting report were completed, he felt that the nature and extent of the contamination would likely be fully identified. He stated that this would be helpful information to have. Additionally, Mr. Wadsworth stated that although there was the requirement to have the threshold meeting, which had caused a delay in work on the release, there had still been progress on the cleanup of the release, but that it might be beneficial to speak with the Board attorney talk about the legal requirements in the law and the intent of the legislature at the time threshold meetings were implemented in the law. He added that his recommendation was that any individual who had seen inefficiencies due to the threshold discussions should reach out to their legislator prior to and during the upcoming legislative session to let them know that the threshold meetings were more of a problem than a benefit to the program.

Regarding Ms. Kline's earlier question about the berm surrounding the tank, Mr. Wadsworth stated that the berm was not a requirement for the double wall tanks but would be helpful to have. Even though the tanks were double walled, if a release occurred, the berm could help control the movement of the petroleum. He stated that even if a tank was meeting the standards of the law, if a release entered navigable waters, the Federal Government would likely seek a fine which could be avoided by having a berm.

Mr. Wadsworth stated that the Board staff would take Mr. Olson's comments into account and could ask the Board Attorney about the use of a non-obligation letter as a means of keeping the work flowing at sites. He stated that research and discussions could be conducted to see if the idea was legally-sound and therefore something the Board could pursue. He noted that the Board was entering the 2025 legislative session and stated that there was a possibility that the threshold discussions could be removed from the statutory requirements.

Mr. Monahan stated that he appreciated Mr. Olson's input, and that he, too, would like to see correspondence from him and other consultants that could assist the Board in asking the legislature to modify the law about threshold discussions. He stated that, while the intent of threshold discussions was good, the execution did not appear to be beneficial. He stated that he agreed there was a limited window of time to do field work in Montana, as there were only about eight (8) months in the year where the weather made it viable. Mr. Monahan noted Mr. Olson's comment about work being delayed since August. He stated that he was open to more input from the Board staff and consultants with regards to this issue.

Release 4416, WP 716834895, Lockwood Interstate (Exxon), Billings, Exceeding \$100K in Costs

Ms. Pankratz presented the Board with a summary of the site. She stated that the responsible party was Mr. Dan Stockton, owner of Stockton Oil Company, with Resource Technologies Inc. as the consulting company. The release was discovered in the early 2000s from a leaky, faulty pipe joint. The WP was for remedial investigation and groundwater monitoring.

Mr. Monahan asked if Mr. Stockton was present to discuss the WP. Mr. Stockton introduced himself to the Board. He stated that he did not know much about the information present in the WP, but that he was dubious that the release would exceed \$100,000 to remediate. He stated he was experiencing difficulty following procedure, as the case had been closed in 2014, only for new orders to arrive. He stated that he entered the picture for addressing these releases in around 2015 and addressed issues at around seven (7) to eight (8) different releases on sites he owned. The store and pumping equipment present at this facility had been leased out and was under lease until around 2020. He stated that the people the site was being leased to have the opportunity to purchase the site and had been looking to do so. In 2020, they had gone to purchase the facility, and both lessor and lessee had assumed everything on the site was already compliant and remediated per the documentation they had with the Department. The pumps had been removed, and the facility was awaiting tank removal. It had taken time before the final remediation tasks could be performed on-site.

Mr. Monahan asked Mr. Stockton if he had a consultant present. Mr. Stockton stated that Mr. Mark Johnson, Geological Engineer at Resource Technologies, was present to speak.

Mr. Johnson introduced himself to the Board. He stated that he believed the WP involved the installation of two (2) monitoring wells, soil borings, and groundwater sampling. He stated that the facility had not had sampling conducted for around 11 years. He noted that the summary and comments for the site's report were well put-together, and that he did not encounter any information that Resource Technologies would object to. He stated that the sampling from 11 years ago had indicated low contamination levels, and that it was likely that this WP would be the final one needed to bring the site to closure. The tanks were removed in 2020, but they had also been inactive for an indefinite amount of time. There were minor indications of fuel below the tanks and in a dispenser island, but much of it had already been tied to the current release and therefore already had the main contamination plume cleaned up. He stated that the remaining objectives were to conduct soil boring to assess any impact in the dispenser area, and to additionally look at the previously investigated area where there were minimal groundwater monitoring impacts. He stated that there was likely to be much improvement in the area, as it had last been analyzed 11 years ago. He stated that the actions taken in this WP would likely be the last actions taken to bring the site to closure. Mr. Monahan thanked Mr. Johnson.

Mr. Monahan asked Mr. Wadsworth if he had any comments. Mr. Wadsworth stated that Mr. Johnson had covered many of the points he had prepared in his notes. He stated that it was worth noting that there were two (2) active releases at the site. Both were eligible with a 50% penalty for each. Additionally, he stated that the Board staff had recommended that the proposed costs be split evenly between the two (2) releases at the site. The releases had been assigned the numbers 4416 and 5058. No endorsement of the cost allocation had been received yet. He indicated that no funds would be obligated until the Board staff received the cost split recommendations from the owner and the recommendations were reviewed and agreed to. He stated that the Board staff was waiting on these recommendations in order to move forward in the obligation process.

Mr. Johnson stated, in relation to the two (2) releases that Mr. Wadsworth had mentioned, release 5058 had been misunderstood in terms of what the contamination was associated with. Mr. Johnson stated that the consulting company had thought the release was related to the tank removal, but the release had actually been related to a state inspector who had reported a release without any sampling based on a visual system repair on a tank turbine. During the removal, this tank did not have any contamination detected under it from the closure samples. In this, it was Resource Technologies' hope that the release was a minimal contributor to contamination at the site. He stated that he was unsure how much of a difference this information would make, but that Resource Technologies had anticipated the impacts from this release to be minor. Mr. Monahan thanked Mr. Johnson.

Release 6268, WP 716834893, Rindal's Fort Lewis, Lewistown, Exceeding \$100K in Costs

Ms. Pankratz presented the Board with a summary of the site. She stated that the responsible party was Rindal's Fort Lewis Trading Post, and that they had retained Big Sky Civil & Environmental, Inc. (BSCE) as their consultant. The release was relatively new, as it was first reported during upgrades to the fueling system. The WP was for a remedial investigation.

Mr. Monahan asked if Mr. Chris Rindal, owner of the Rindal's Fort Lewis facility, was present to discuss the release. Mr. Paxton Ellis, Project, and Environmental Engineer at BSCE introduced himself to the Board and stated that he did not believe Mr. Rindal was available to speak. He stated that he was the consultant available to speak on behalf of the owner and could discuss the release.

Mr. Ellis stated that the release was first discovered when contaminated soil was found beneath the tanks during UST removal in October and November 2020. A remedial investigation was completed in 2022 when the first monitoring well was installed near the former UST basin. Two (2) groundwater monitoring events had been completed at the site. During monitoring, groundwater was encountered at 25-27 feet beneath the ground's surface. Groundwater samples contained exceedances of RBSLs for multiple constituents, mainly benzene at 1,260 micrograms per liter ($\mu\text{g/l}$) or parts per billion (ppb). The maximum contaminant limit (MCL) was five (5) ppb. There were five (5) additional wells and bore holes planned as part of the WP in order to define the impacts of the release. He stated that he was available for questions.

Mr. Monahan asked if Mr. Wadsworth had any comments to add. Mr. Wadsworth stated that Mr. Ellis had covered most of the comments he had. However, he noted that the first WP for the site only installed the one (1) monitoring well beneath the tank basin. It was only with the current WP that five (5) additional wells would be installed, which could determine the nature and extent of the contamination. He stated that the remedial investigation would hopefully be completed with this WP, after which a cleanup strategy could be assessed. Mr. Monahan thanked Mr. Wadsworth.

Release 5263, WP 716834829, Former Roy Davis Station, Valier, Exceeding \$100K in Costs

Ms. Pankratz presented the Board with a summary of the site. She stated that Ms. Janice Kruger, owner of the Former Roy Davis Station facility, was the responsible party for the site, and that she had retained New Fields as the site's environmental consultant. The release was reported in 2018 during a Phase II investigation on the property. This WP was for remedial excavation cleanup.

Mr. Monahan asked if Ms. Kruger was available to speak. Ms. Kruger introduced herself to the Board. She stated she was seeking closure for the release. She stated that the financial results of what had occurred at the facility were due to an exploitation of her mother, as her power of attorney (*sic*, attorney-in-fact) had spent hundreds of thousands of dollars. The power of attorney (*sic*, attorney-in-fact) had been the sole heir of the facility. She stated that her mother's estate could not be closed until the property could be released to the Pondera County commissioners. She stated that her concern with the facility reaching a threshold discussion meant that closure on the site would be delayed by another year, and that she did not want this to potentially be a problem she would have to leave to her family to solve down the line. Mr. Monahan thanked Ms. Kruger.

Mr. Monahan asked if there was a representative of the owner present. There was no representative present at this time.

Mr. Monahan asked if Mr. Wadsworth had any comments to add. Mr. Wadsworth stated that the WP was proposing a cleanup strategy in the form of an excavation, with well installation to test the effects of that excavation. The excavation would remove petroleum-contaminated soils within the vicinity of former USTs and dispensers to a maximum depth of 20 feet. The plan included excavation of an estimated soil volume of 1,170 cubic yards (cy) of contaminated soil and 240 cy of overburden with an expected variance of 20%. The excavation appeared to be larger than what the Board staff believed was needed. Given the observed soil and groundwater concentration, the Board staff would limit the excavation to the east of bore hole 11, a few feet south of bore hole 12, and did not recommend excavating into the Teton Avenue right-of-way. He stated that excavation did not seem to be warranted beyond these areas, and that placement of a reagent such as Oxygen Release Compound® or Petrofix® into the excavation against some of the side walls, such as the right-of-way of Teton Avenue, was considered to be a more-cost effective alternative for remediation. The Board staff was also waiting on the required three (3) competitive bids for the soil removal, as well as the well installation and survey tasks. The Board staff could not send an obligation letter until this information was received. He stated that, additionally, eligible contamination was limited to the former tank basins and former pump islands. Any contamination in other areas of the site, such as the contamination from the six (6) composite surface soil samples, had not been shown to be from an eligible tank system. Therefore, these were not eligible for assistance from the Fund. He stated that there had been many vehicles parked on the property, as well as other activities conducted on the property that may have resulted in contamination that was not eligible for the Fund. Because of this, any contamination that came from the gasoline tanks of the vehicles, 55-gallon drums, or any of the other on-site activity that was unrelated to the UST systems were not eligible for assistance from the Fund. The Board staff would be focused to this as the costs came in for the WP and associated claims. Mr. Monahan thanked Mr. Wadsworth.

Mr. Monahan asked if the consultant was required to attend Board meetings. Mr. Wadsworth stated the consultant was not required under law to attend, as the was phrased to include either the owner or the representative. However, the law also did not specify who the representative was. The representative could be anyone, from a family member of the owner to an attorney, or the consultant. The law did not clarify who the representative needed to be.

Mr. Monahan asked if this meant that the consultant was not required to attend the Board meeting. Ms. Brown stated that the consultant was not specifically required. She stated that the statute indicated an owner or operator, a representative of the owner or operator, the Department, the Board, and the Board staff was required to attend. Mr. Monahan thanked Ms. Brown.

Mr. Monahan stated that he was frustrated that site cleanup was being discussed, but that the consultant was not there to participate in the discussion. He asked if the Board could notify the consultant of what was discussed at the meeting before any WP was authorized. Mr. Wadsworth answered that the Board staff would be communicating all of the information that was in the executive summary and the information presented would be provided to the consultant.

Mr. Pirre added, for clarification, that she was the one who followed up with notifications to consultants. She stated that, since the law stated the owner and the representative, it was up to the owner to identify the representative. She stated that, many times, she would receive a request from the representative, who was usually a consultant, and that she would provide them with a link to the meeting, but that in this case she did not know who the representative was when it came to sending out notifications.

Mr. Monahan asked, since Ms. Kruger was in the process of trying to release the property to Pondera County, if the Board had any communications with Pondera County to ask what their requirements were for the transfer to take place. He asked if it was possible to assist Ms. Kruger to the point where the site could get transferred to Pondera County. Mr. Wadsworth stated that the release was eligible for the Fund, and because of this, there should be no difficulty transferring the release responsibility and the associated Fund eligibility to Pondera County. He stated that it would likely be beneficial for Pondera County and their attorney to have a conversation with the Board staff or Board attorney to understand all the components at play with regards to the site. He stated that the site was not unusual with regards to having contamination beneath the property that is eligible for the Fund. There had been a number of sites that had transferred under these circumstances. The owner could have a new owner file a transfer of eligibility for assistance from the Fund. There's a form available from the Board staff that could accomplish the transfer, and many sites have completed this process. It was not necessary for the owner to wait on cleanup or release closure to transfer the release eligibility. There were advantages to transferring the release to Pondera County at this point. He stated that Petroleum Brownfields funding was more readily available to Pondera County than it was the owner at this time. Because of this, Pondera County had a greater advantage of having ownership of the property than the owner at this point, and ownership could be transferred to the county without issue.

Mr. Monahan noted that the facility was next to the Pondera County Road shop building and asked if this was also a benefit to the county. Mr. Wadsworth agreed, and that because of this, it would be good for the owner and Pondera County to have a conversation about transferring ownership. He stated that, if the owner wanted to call him during the week after the meeting, he would be happy to discuss what the county could be able to do, and that they could then reach out to the county together.

Mr. Wadsworth stated that one last comment he had was that the WP for the gas station was roughly \$259,800.00 in cost. However, all that the Board could obligate for funds at this time was \$35,870.00. He stated that there had been no funds obligated for tasks related to soil removal such as well installation and survey. These had not been obligated yet because the Board staff had yet to receive the costs. The Board staff would need to receive the estimated costs and be able to review them before they could progress on the obligation of funds for the site.

Ms. Kruger asked if she could receive an email about who to contact for the transfer of ownership. She stated that the reason she had retained ownership of the site was because she was informed that a public entity was not eligible for the grants from the Fund, and that there was a substantial tax liability for water and sewer. She stated that she had been informed she was unable to transfer the property to the county until she had taken care of these things. Because of this, she asked if she could receive clarification in writing as to who the commissioners needed to contact and what the next step was. Mr. Monahan answered that Ms. Pirre would send Ms. Kruger an email with contact information for Mr. Wadsworth and for himself. He stated that she was welcome to communicate with the Board staff, and that she could also pass the contact information on to Pondera County. He stated that it would be easier if Pondera County could also directly communicate with the Board staff, as both parties would be familiar with the same terms. He stated that he believed the county would be able to assist Ms. Kruger in this process if all parties could come together to discuss the release. Ms. Kruger thanked Mr. Monahan.

Ms. Pankratz stated that it would be helpful to include herself in the email communications as well, as she could assist with the technical information. She added that, regarding consultants being present at Board meetings, the Department staff did reach out to consultants to let them know their WP was being discussed at an upcoming Board meeting, but that they also did not have a way to require them to attend.

On November 20, 2024, an email was sent to Ms. Kruger providing her with email contact information for Mr. Wadsworth, Mr. Monahan, and Ms. Pankratz.

Release 6505, WP 716834907, Coulter Automotive, Charlo, Exceeding \$100K in Costs

Ms. Pankratz presented the Board with a summary of the site. She stated that Coulter Automotive, Inc. was the responsible party for the release, and that the owners had retained WCEC as the consultant for this release. This release was reported in September 2022 during an environmental site assessment. The WP was for a remedial investigation to include an ultra-violet optical screening (UVOST) investigation, installation of soil borings and monitoring wells and a soil vapor probe, surveying, and reporting.

Mr. Monahan asked if Ms. Sandra Coulter, owner of Coulter Automotive, Inc. was present to discuss the release. Ms. Coulter was not present.

Mr. Monahan asked if there was a representative of the owner present to speak. Mr. Steve Wright from WCEC introduced himself to the Board. He stated that Ms. Coulter had contacted him prior, stating that she would be at the meeting, but that she could have been having technical difficulties calling into the meeting. Mr. Monahan confirmed that he was receiving feedback from the Board staff that Ms. Coulter was present as well, but that her microphone was muted. He noted to Mr. Wright, however, that he was certainly welcome to continue.

Mr. Wright stated that the facility was located in Charlo, Montana and that it was a convenience and retail fuel store with a history of featuring an automotive repair facility. The contamination in the soil and groundwater was discovered during a Phase II investigation conducted in August 2022. The source was a legacy UST located north of the facility's building. Mr. Wright noted that the two (2) gasoline tanks were removed in 1995. The Coulters received closure on the removal from the Department in November 1995. WCEC had conducted a remedial investigation in September 2023. This consisted of eight (8) soil borings, the installation of four (4) groundwater monitoring wells, and two (2) semi-annual groundwater events. The groundwater results returned TPH (Total Petroleum Hydrocarbons) as the primary constituent of concern. Benzene was detected as high as 14 ug/l. The concentration suggested that light non-aqueous phase liquid (LNAPL) was present at the site, although the LNAPL had yet to be observed. The focus of the current WP was to conduct a UVOST investigation on a grid pattern, primarily around the known areas of groundwater impact, the former UST basin, and up to the facility's building on-site; as well as install a groundwater monitoring well in a location that, based on the UVOST data, LNAPL was most likely to be present. The UVOST would determine if the LNAPL was mobile and would accumulate in the well. Additionally, the extent of impacts would be investigated downgradient in groundwater along the property's western boundary. Following temporary wells and extra screening, all of this information would be used to determine where to install additional groundwater monitoring wells in the downgradient direction. Another aspect of the proposed investigation was to evaluate vapor intrusion into the building as well as conduct a survey of the building, look for pathways of vapor entry, and then look for information on building occupancy. Afterwards, a vapor monitoring point could be installed in-between the old UST basin and the building.

Mr. Monahan asked Mr. Wadsworth if he had any comments. Mr. Wadsworth thanked Mr. Monahan and stated that the WP did not discuss the reasoning for the installation of temporary wells along the west property boundary, and that the Board staff believed the WP needed more information as to why these were needed. He stated that there also appeared to be inconsistency between the narrative of the WP and the figure presented concerning the number of wells installed at the site. The WP narrative indicated that eight (8) wells were installed in 2023, while the figure showed the location of only four (4) wells. The 2024 report indicated that eight (8) borings were put in, but only four (4) wells were installed. Because of this, the Board staff believed there was an inaccuracy in the WP. None of the work performed to-date had evaluated whether there were off-site impacts. He noted that Mr. Wright had indicated that WCEC would look at the UVOST data to determine whether or not additional wells needed to be installed. He stated that it was his hope that WCEC was determining whether to go off-site to identify whether there were any off-site impacts. Additionally, he noted that it was important to recognize that the current WP was to conduct a remedial investigation intended to define the extent and magnitude of petroleum contamination related to a release that was from USTs that were removed in 1995.

Mr. Wadsworth noted that he had previously had a discussion with Mr. Monahan about the audit recommendation that had recommended to sunset the Fund. He stated that, if it had not been for the Fund, Coulter Automotive would not have been able to clean up contamination that had been left behind in 1995. He stated that it was important for the record to reflect this, so the record could show, for the sake of the legislature, that the Fund was a valuable component to cleaning up Montana properties to the point that the properties could be used or redeveloped with a clean bill of health.

Mr. Monahan asked if there were any other comments or questions. Mr. Wright stated that he apologized that the purpose of the groundwater screening locations had not been clearly indicated. He stated that the purpose was to find the best locations to install monitoring wells to evaluate offsite impacts. This was why they were located along the western property boundary. He stated that he acknowledged that there was a typo that listed eight (8) monitoring wells when there were actually four (4) in the WP. This had since been corrected accordingly. Mr. Monahan thanked Mr. Wright.

Release 3189, WP 716834924, Superpumper 74, Billings, Exceeding \$100K in Costs

Ms. Pankratz presented the Board with a summary of the site. She stated that C-Store Properties, LLC was the responsible party for the release, and that they had retained Pioneer Technical Services, Inc. as the environmental consultant for this site. The release had been reported to the Department in June 1997 when the petroleum-contaminated soil was found in the former UST basin. The WP was for a cleanup via in-situ chemical injection and treatment. Mr. Monahan thanked Ms. Pankratz.

Mr. Monahan asked if Mr. Dennis Whitmore, owner of the site, was present to discuss the WP. Mr. Monahan noted that Mr. Whitmore was present on the meeting's call, but that his mic was muted. He asked if Mr. Whitmore wanted to provide any input. Mr. Whitmore was not available to provide input.

Mr. Monahan asked if there was a representative of the owner available to discuss the release. Mr. Charlie Peterson, Program Manager and Senior Geologist at Pioneer Technical Services, Inc., introduced himself to the Board. He noted that the owner was present on the meeting's call, but that he was struggling to unmute his microphone. Mr. Monahan stated the Mr. Peterson could proceed. Mr. Peterson stated that the facility was a service station in Billings, Montana, on South 27th Street, near the interstate interchange. This meant that there was heavy traffic in the area, with it being a busy service station location. Work began on the site in the 1990s when GM Petroleum was operating the facility. They had a service station at the facility's location since the 1970s. The building had been upgraded in the 1990s when the old building, tank system and a 400-cy excavation was performed. The station was rebuilt to its current configuration, after which several monitoring wells were drilled at the downgradient portion of the property. The wells were relatively clean, but there had been exceedances encountered in the area of the former tank basin. Because of this, the consultants went through a series of investigations, and there were currently eight (8) groundwater monitoring wells at the site. There had been a few wells that still had high levels of benzene contamination. Because the contamination exceeded maximum contaminant levels even in present day, this had ruled out monitored natural attenuation as a release closure strategy. Pioneer Technical Services, Inc. had proposed to administer an injection of PetroFix® because it was the least disruptive to the business. He stated that previous uses of PetroFix® on releases had been successful with cleaning up a saturated zone. There were petroleum hydrocarbons below the groundwater, and there was shallow groundwater at the site. Because of this, digging the material out was not very feasible for several reasons and PetroFix® was selected as the best remedy. He stated that he was optimistic that the injection would speed up the cleanup process. Mr. Monahan thanked Mr. Peterson.

Mr. Monahan asked Mr. Wadsworth if he had any comments. Mr. Wadsworth thanked Mr. Monahan and stated that originally, the release had been recommended for closure, as the concentrations present at the site were below RBSLs. However, after four (4) additional wells were installed, it was found that there were additional concentrations that were not cleaning up. The remedial alternatives analysis indicated that in-situ treatment was the least expensive cleanup alternative. He stated that the Board did not disagree with the remedial alternative that had been chosen. The remedial alternatives analysis estimated that the in-situ treatment alternative costs were estimated at \$50,000 to \$75,000. The WP proposed that in-situ treatment was estimated at \$50,642.90. Once the in-situ treatment was completed, there would be two (2) semi-annual groundwater monitoring events at the five (5) wells to assess the effectiveness of the cleanup strategy. The Board staff's review of the WP did not bring up any concerns. The cost reductions presented in the cost task sheet were mostly due to established standard costs. He stated that it was important to note that this was a release discovered in 1997, and that it was granted Fund eligibility in 1999. However, there were 13 years between 1999 and 2012 where no investigation or activity occurred.

The owner, Mr. Dennis Whitmore, introduced himself to the Board. Mr. Peterson stated he had already presented the Board with information on the site on his behalf. Mr. Whitmore confirmed he heard Mr. Peterson's presentation.

Mr. Monahan asked Mr. Whitmore if he had any comments for the Board. He stated that the site was proceeding to a point where Pioneer Technical was now able to address the remaining contamination. He stated that, previously, the site had issues in terms of accessibility and cleanup being feasible. He stated that he was glad that the site was now nearing closure. Mr. Monahan thanked Mr. Whitmore.

Board Attorney Report

Ms. Brown presented the Board with the Board attorney report. She stated that there was not much to update the Board on at this point in time; however, she noted that the Board's response to the Cascade County case was due November 29, 2024. She stated that this was the Friday after Thanksgiving. Because of this, the Board had a week to finish the draft, after which she would turn it in on Wednesday, November 27, 2024. Mr. Monahan thanked Ms. Brown.

Fiscal Report OctFY25

Mr. Wadsworth presented the Board with a summary of the fiscal report. He stated that he had not found any information in this report that was worth highlighting and bringing to the Board's attention, but that he would answer any questions.

Mr. Monahan noted that, in July, the Montana Department of Revenue (*sic*, Montana Department of Transportation) stated that the revenue was \$697,559.00, but that the revenue spiked up to \$2,039,153.00 in August. He asked if this meant that there had been three (3) times the amount of fuel reimbursed in August as there had been in July. Mr. Wadsworth stated that he believed it had to do with the time of collection by the Montana Department of Transportation in terms of whether they had a complete months' worth of data. He stated that it was worth noting that July was the beginning of a fiscal year for state government. He stated that financial departments in July were usually very busy in trying to close up the previous fiscal year while also trying to get the numbers in for the current fiscal year. Mr. Wadsworth suspected this was the issue, as the extra funds accumulated in August were likely part of July's, which would have made July's total higher. Mr. Monahan thanked Mr. Wadsworth and stated that he had noticed that August was an outlier in this regard.

Board Staff Report

Mr. Wadsworth presented the Board with a summary of the Board staff report. He stated that the report's graphs were published with data current up to October 2024. He noted that there was a continued influx of eligibility applications, and that while a number of them were pending, some of the pending eligibilities had just been ratified as of the current Board meeting.

DEQ Petroleum Tank Cleanup Section Report

Summary of Confirmed and Resolved Petroleum Releases

Ms. Pankratz presented the Board with the Summary of Confirmed and Resolved Releases. Since the previous Board meeting, the Department had seven (7) suspect releases reported, four (4) confirmed releases, and five (5) releases resolved. Of the five (5) resolved releases, there were two (2) legacy releases. She stated that, presently, there were 907 total open releases, 854 of which were being managed by PTCS. She stated that she was available for questions.

Ms. Kline noted that there had been WPs discussed at this meeting for releases that had been closed and then re-opened. She asked Ms. Pankratz if releases that were opened again in this manner counted towards and added to the total open releases presented in the Summary of Confirmed and Resolved Releases. Ms. Pankratz confirmed this was so. She stated that if the Department re-opened a closed release, it did add to the count of total open releases. Ms. Kline asked if this meant that the re-opened release was not detailed individually in any of the reports, was amongst the number of current, total open releases. Ms. Pankratz answered that the re-opened releases were not individually detailed, as they were an infrequent occurrence. She stated that if it was something Ms. Kline wanted, it could be detailed in future reports. Ms. Kline stated that she was glad that there were not many re-opened releases, and that it was interesting that there had been multiple re-opened releases heard at this meeting. She stated that she agreed with Ms. Pankratz that it was an infrequent occurrence, and thanked Ms. Pankratz.

Mr. Wadsworth stated that, in the case of a re-opened release, the number of total open releases would change, but the number of total confirmed releases would not. Ms. Kline thanked Mr. Wadsworth.

Sinclair Retail 25009 (1889 Coffee House), Facility #25-02093, TID 23461, Rel #441, WP #71634884, Helena, Priority 3.0

Ms. Pankratz presented the Board with a summary of the WP over \$100,000. She stated that Capital Brew, LLC was the responsible party, and they had retained Water and Environmental Technologies (WET) as the consultant. The release was reported to the Department in April 1990 when a failure occurred during a line tightness test. The WP was for a cleanup, which proposed to inject PetroFix® and an electron acceptor blend into the subsurface.

Mr. Monahan noted that the facility was a former gas station that had been repurposed and asked if the facility was eligible for Petroleum Brownfields funding. Mr. Wadsworth answered that it would be likely eligible for loans from Brownfields but not grants. He stated that most of the opportunities for Brownfields grants had come and gone, as Brownfields grants were generally focused on investigation activities. He noted, however, that there were opportunities for this site to receive a loan from Brownfields, as there were redevelopment activities that could be ongoing at the facility.

Mr. Wadsworth presented the Board with the Board staff comments. He stated that the WP proposed an in-situ treatment. He noted that the subcontracting and product expenses should be competitively bid. He stated that the Board staff was working with the owner's consultant to ensure that it was bid. The Board staff did not believe that placing the PetroFix® product near monitoring well PM-4R was necessary given the concentrations at the location. He stated that there were other areas beneath the site where concentrations were higher, and the application of the product could be more effective. Board staff believed it would be more appropriate to arrange the injection points in the center of the site along the axis of the plume, instead of perpendicular to it. It was also recognized by Board staff that, perhaps, the injection points had been placed perpendicular to the site to be used as a reactive wall or reactive fence, but that the points had been placed at the upgradient side of the highly contaminated area rather than downgradient. He stated that placing a reactive wall upgradient of the contamination would not prevent movement of any chemistry, and that the Board staff believed it would be better to inject into the areas with the highest concentrations. This way, highest concentrations could be trapped while the remaining contamination would attenuate. Other remediation technologies had been applied at the site, including pump-and-treat and excavation. What was being proposed was another remediation technology. This was part of the reason that the plume that remained in the soils was on the northeast corner of the property, as excavation had occurred along the property's southern border and in the southern area of the site. The pump-and-treat had occurred in the north-central area of the site. Mr. Wadsworth stated that it was disappointing that the proposed injection did not occur prior to the redevelopment of the site. The WP proposed to alter the redeveloped site, and that the proposed strategy would put holes in the site's new asphalt. Because of this, the Board staff suggested that it could be possible to introduce nutrients and or reagents into the existing wells to accomplish the same reduction of groundwater chemistry. This proposal was less invasive on the newly developed business. He stated that, in addition, the Board staff would want to know if the introduction of nutrients or amendments into wells at the site would be a reasonable and effective cost alternative. The alternative that was being proposed was to drill through the owner's asphalt and inject a carbon product. He stated that the Board staff believed there was an alternative method to this option that could be just as effective, perhaps cost less, and would not be as invasive. The Board staff had sent out a number of questions to the consultant and had just received some answers. The Board staff was assessing the results of the information obtained so that they could then get back to the consultants about the strategy at this site.

Former Roy Stanley Chevrolet, Facility #15-00065, Rel #473, WP #716834474, Kalispell, Priority 1.3

Ms. Pankratz presented the Board with a summary of the WP over \$100,000. She stated that SS & TT, LLC was the responsible party for the property, with WET being retained as the consultant. The release was reported in 1990 during the removal of the USTs when petroleum-contaminated soil was found. Additionally, a line was found to be leaking at the flexible connection. The WP was for a cleanup featuring additional excavation. There were excavations conducted in 2019 and in 2023.

Mr. Wadsworth presented the Board with the Board staff comments. He stated that the proposed work was the second change order, or Corrective Action Plan Modification - Form 8, submitted for the existing soil excavation WP. The change order was greater than \$100,000. He stated that it was disappointing that the program was seeing a second change order on a soil excavation WP. It appeared that the estimated volume of contaminated soil had previously been greatly underestimated. It appears that the remedial alternatives analysis did not expect that the excavation alternative would exceed \$700,000. There was also the question of whether the change order was the least expensive option, or if there was a more affordable alternative that could be used to clean up the soil. He stated that the remedial alternatives analysis had likely projected \$200,000-\$500,000 in cleanup costs, unaware that the plan would end up costing \$700,000 because of the change orders. The Board had presently reimbursed \$729,669.83 for the WP. With the additional work, the total would come to a maximum of around

\$850,000. This would put the total reimbursement close to the maximum reimbursable threshold. Because of this, the release was close to running out of available reimbursement from the Fund.

Ms. Kline stated that she was concerned about what happened once the maximum reimbursement threshold was reached. She asked if cleanup continued for the site even after the reimbursement threshold was reached. Ms. Pankratz stated that when funds were exhausted, if the release was not resolved, the Department would still require work to be performed on the site to move the release to closure, but the owner would have to likely fund the rest of the work out-of-pocket unless another funding mechanism was found.

Ms. Kline thanked Ms. Pankratz, stating that she understood this, but wondered how releases in this situation were resolved and if there was a time window imposed for resolving the release under these circumstances. Ms. Pankratz stated that this was a good question, and that releases that did not have funding, either because of reaching the maximum threshold or ineligibility, became difficult to move forward.

Ms. Kline asked if this meant there was no time limit for releases in this situation. She asked if the Department had any authority to enforce a time window for something like this. Ms. Pankratz stated that the Department did have the authority to be aggressive with owners, but that this typically was counter-productive to the process. She stated that, in many cases where this tactic had been employed, owners would often walk away from the release or ignore it. The Department could escalate the release to the enforcement division, but because it did not produce results, it was not often a path chosen by the Department for such cases. She stated that as certain releases were moved forward, it could be something the Department would need to begin doing. Ms. Kline thanked Ms. Pankratz.

Mr. Monahan asked Ms. Pankratz if the trigger for taking a release to enforcement was the priority number the release was assigned. Ms. Pankratz stated that if there were factors that strongly impacted human health and the release was still not cleaned after reaching the threshold, this was a tipping point to take the release to enforcement. She stated that, in this scenario, the Department would need to be more aggressive to get the release to move forward. She stated that, in some cases, the Department had to aggressively step in to mitigate funds and recover costs on the cleanup against the owner.

There was no further discussion.

Public Forum

Mr. Kingsbury presented comments during the Public Forum. BK is Brandon Kingsbury, and JM is John Monahan.

BK: Good afternoon, Mr. Chairman, members of the Board. Um, I'm Brandon Kingsbury. I work for Tetra Tech, but I also represent a lot of the consultants of the state. And- um- I just- I would like to just ask the Board if they know what an aquiclude is. So, an aquiclude is a preferential pathway from the surface to groundwater, or some overlying layer, to groundwater. Um- one thing with all of these petroleum release sites is, or- most of them- is that there are groundwater monitoring well networks put in place. When the DEQ goes to close a release, they require that all of those aquicludes or those wells get abandoned properly. Um- as part of that well abandonment process, DNRC has regulations that require that a licensed well installer remover go in and actually abandon those wells properly. In my company, we have some of those licensed individuals. However, it's -um- apparent that the Board staff does not feel it's important enough to have those folks on site to ensure that that proper abandonment is happening. Having an aquiclude in place often will cause a large liability for additional contaminations, especially if it's an active gas station. Um- the cost control measures are prohibiting us from having those licensed individuals on-site, and it's becoming kind of a compounding problem -um- for getting sites closed. And- the amount of money that I am talking about isn't really that significant, but, regardless of the funding source- whether it's private, Petro Fund, or not- we have to pass those costs on to that individual. Um- we're talking about -you know- maybe thirty sites a year that are moving towards closure. They're a big milestone for owners. EPA looks at that. It's a big milestone for them. And so, to have -you know- the effort, being kind of squashed by cost control measures is really kind of a big blow to the process of getting over that- that final finishing line. So, I would -um- ask the- the Board to look at those cost control measures and maybe provide some oversight so that we can -you know- meet the DNRC recs, DEQ's requirements, and also prevent any future liability -um- that could possibly happen if we leave these wells not properly abandoned. Thank you.

JM: Thank you, Brandon. Um- I might request one thing. Can you- can you follow up on an email to Terry and to myself regarding your comments? And-*coughs*- excuse me- and maybe go into a little more depth so you- so you can talk about dollar amounts of- of what have- having an-uh- approved person on-site to abandon that well versus not having the approved person?

That would be- I think that would be- beneficial to the Board for us to be able to look at how many dollars we talking about here and how much- how much is the consultant needing- how much is the consultant having to pass on to an owner so that we can evaluate- often- I'll defend the staff- often, they're required to follow the letter of the law, regardless of what the law says. I am of firm belief that the letter of the law is the lowest standard that we have to meet- that is the lowest threshold that we have to meet. We also need to look at the spirit of the law, and understand how, just like the hundred-thousand-dollar threshold meetings- the letter of the law says we need to do these meetings, but unfortunately, they're not very productive most of the time. And- um- I think we could –um- better use our energy, our staff, and our dollars to move to- move sites towards closure- if we could eliminate some of the things that are- um- hindering moving the site towards closure. So, if you could follow up on that, I'd appreciate it. Any questions for Brandon? Anyone?

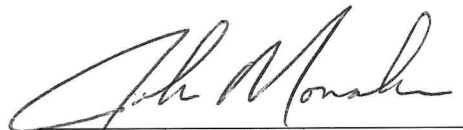
BK: Yeah, I can follow up on an email to you guys about this. And I mean- the amount of money I'm talking about- you know- a lot of these scopes of work are less than ten thousand dollars apiece. So- you know- if it was the max of ten thousand dollars per plan and we had thirty of them- that's three hundred thousand dollars. That's a small amount of the incoming and outgoing revenue of this fund a year, but it makes a big difference in meeting that yearly quota –um- for getting releases closed, and it also reduces a lot of future liability.

JM: Perfect. Thank you. I appreciate your input. Any other public comment?

There was no further discussion.

The next meeting is scheduled for February 3, 2025.

The meeting was adjourned at 12:10 a.m.



Signature - Presiding Officer