PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
April 14, 2025
IN-PERSON AND TELECONFERENCE HYBRID MEETING

Board Members in attendance were Calvin Wilson, Grant Jackson, John Monahan, Curt Kelley, Kristi Kline, Jess Stenzel with Tom Pointer in attendance via Zoom. Also in attendance were Terry Wadsworth, Executive Director; Garnet Pirre and Ann Root, Board staff; and Aislinn Brown, Current Board Attorney and Terisa Oomens, Incoming Board Attorney.

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

Approval of February 3, 2025, Minutes

Mr. Jackson moved to approve February 3, 2025 minutes. Ms. Kline seconded. Motion passed unanimously by voice vote. Mr. Pointer recused himself.

Weekly Reimbursements

Mr. Wadsworth presented a summary of weekly claim reimbursements for the weeks of November 20, 2024 to December 25, 2024.

WEEKLY CLAIM REIMBURSEMENTS April 14, 2025, BOARD MEETING		
Week of	**Number of Claims**	**Funds Reimbursed**
1-22-25	19	$159,106.37
2-5-25	24	$254,111.23
2-12-25	18	$113,015.17
2-19-25	18	$264,535.85
3-5-25	17	$143,087.45
3-19-25	18	$78,040.85
Total	**114**	**$1,011,896.92**

Included with the weeklies were nine (9) denied claims, as shown (see table below). Mr. Wadsworth stated that the denial of Claim 20250204C was due to an incorrect payee identified on the claim. Claim 20241118B was withdrawn because the invoice needed correction. Claim 20240617F was denied with regards to a granular-activated carbon filtration (GAC) system that the Board staff had determined unnecessary. Claim 20250122A was a duplicate invoice that had been claimed previously. Claims 20250218C, 20250224D, and 20250224E had also been duplicate claims where the amounts had already been claimed previously. Claims 20250224G and 20250203E were withdrawn because they were claims for less than $500 that did not meet the requirements for being less than the minimum amount.

***Denied Claims* April 14, 2025 Board Meeting**	
Claim ID	**Reason Denied**
20250204C	Claim withdrawn in its entirety per consultant's request.
20241118B	Claim withdrawn in its entirety per consultant's request.
20240617F	Task 5- The maintenance of the GAC system on the South Well has been shown to no longer be necessary and costs for operation and maintenance of the system will not be reimbursed.
20250122A	Claim withdrawn in its entirety per consultant's request.
20250218C	Task 12: Duplicate costs have already been allocated to release 2619 from Claim 20250127M. $1,285.00 will be allocated to release 4948 via claim 20250218B. Lab invoice will be reimbursed in full.
20250224D	Duplicate Claim of prior Claim (20250224B). Claim denied in its entirety.
20250224E	Duplicate Claim of prior Claim (20250224C). Claim denied in its entirety.

Denied Claims **April 14, 2025 Board Meeting**	
Claim ID	**Reason Denied**
20250224G	Claim withdrawn in its entirety after discussion with consultant.
20250203E	Claim withdrawn in its entirety per consultant's request.

Mr. Monahan recused himself from any matters regarding Hi-Noon Petroleum, Jackson Energy, and any of their dealer locations or customers. Mr. Pointer recused himself from any matter concerning customers of Tank Management Services. Mr. Stenzel recused himself from any matter regarding Payne West Insurance or any Payne West clients or Payne West's parent company Marsh & McLennan. Mr. Wilson recused himself from any matter 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 weekly reimbursements and nine (9) denied claims as presented. Mr. Wilson 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 staff recommended ratifying the reimbursement of these claims over $25,000.

Facility Name Location	Facility-Release ID#	Claim#	Claimed Amount	Adjustments	Penalty	Co-pay	**Estimated Reimbursement
Farmers Union Oil Fairview	4203363 3606	20241031F	$53,353.54	$16,058.85	-0-	-0-	$37,294.69
Pit Stop 23 Forsyth	4405097 890	20250106N	$35,105.99	$60.00	-0-	-0-	$35,045.99
Former Flying J Inc Belgrade	1605753 6598	20250114A	$72,159.89	$2,463.80	-0-	$17,500.00	$52,196.09
Hardin Auto Co Hardin	0206455 253	20250203B	$26,344.23	-0-	-0-	-0-	$26,344.23
Total			**$186,963.65**	**$186,963.65**	**-0-**	**$17,500.00**	**$151,000.10**

*** In accordance with the 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.**

Ms. Kline noted that Board claim 20250114A had a copay and asked Mr. Wadsworth if it was a new project. Mr. Wadsworth answered that it was, and that he believed this was the first claim submitted for this project. He stated that between the time the Board meeting packet was produced and the present, there could have been another claim that was less than $25,000 submitted for the release. He stated that, because of this, there could be $17,500 in copay coming out of the claim, but that it could potentially be less should another claim for the release be processed.

Mr. Monahan asked Mr. Wadsworth about the list of obligated tasks submitted for Farmer's Union Oil related to claim 20241031F. He noted that the monitoring task expenditures associated with the claim had a budget of $3,660.00, but that the amount claimed for the task was $15,551.48. He added that, similarly, the ground water monitoring (GWM) report task had a budget of $3,000, but a total amount claimed for the task at $12,621.10. He asked what had caused these discrepancies between the budget and total amount claimed. Mr. Wadsworth stated that there appeared to have been at least one (1) change to the scope of work, Form 8, associated with the workplan (WP). The change had increased the budget over what had originally

been in the initial WP and that increased budget was not reflected in the submitted claim. There were charges in the wrong category and some categories were over the original budgeted amount.

Mr. Monahan recused himself from any matters regarding Hi-Noon Petroleum, Jackson Energy, and any of their dealer locations or customers. Mr. Pointer recused himself from any matter concerning customers of Tank Management Services. Mr. Stenzel recused himself from any matters regarding Payne West Insurance or any Payne West clients or their Payne West's parent company Marsh & McLennan. Mr. Wilson recused himself from any matter 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.

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

Discussion Items

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

Release 4729, WP 716834967, Guaranteed Muffler, Helena, 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 release. The previous owner for the release had been Mr. Levi Triplett, but the facility was in the process of being sold. The release was reported to the Department on February 20, 2009, when contamination was identified during a Phase II site assessment. Olympus Technical Services (Olympus) submitted a release closure plan on behalf of the previous owner and recommended excavation with oxygen release compound (ORC) application. The new owner intended to keep working with Olympus Technical Services. The current WP called for excavation with an estimated cost of $381,621.00.

Mr. Monahan asked if the current owner was present to speak on the release. He stated that his notes mentioned that Mr. Michael Stock was unavailable to speak, but that Mr. Brad Sinclair from Langlas & Associates was available to speak. Mr. Sinclair introduced himself to the Board. Mr. Monahan asked if he had any comments for the Board at this time. Mr. Sinclair stated that he did not, and that he wanted remediation to proceed as planned.

Ms. Diane Tackett from Olympus introduced herself to the Board. She stated that the new owner had demolished the Guaranteed Muffler building, and because of this, the former underground storage tank (UST) area was accessible. The construction of a new building was scheduled for June 2025. The upcoming construction was part of what had prompted recent investigation of the site.

Mr. Wadsworth presented the Board with the Board staff's comments on the site. He stated that this WP proposed soil excavation for an estimated 3,500 cubic yards of impacted soils. However, the estimates were for removal of soils based on a photoionization detector (PID) reading of 50 parts-per-million (ppm) of soil contamination. The Board staff could not recommend reimbursement of soils below 100 ppm. The 100-ppm reading was the Montana threshold for risk-based screening levels (RBSL) for soils that needed to be removed. He stated that there was no evidence to support a need to be more stringent than state standards. Therefore, the Fund would only reimburse costs for the excavation of the contaminated soils that were 100 ppm or higher. Based on this, the estimated yardage was expected to be about 2,000 cubic yards as opposed to the 3,500 cubic yards of soil that had been proposed in the WP. He stated that the reduction in yardage was expected to reduce the excavation costs by an estimated thirty percent. This reduction in excavation would also result in reductions to other proposed costs, such as soil disposal, lab analysis, dewatering, project management, fieldwork oversight, and more. The WP proposed vapor assessment, but there were no structures at the site where vapors could accumulate. The planned excavation was to remove the most contaminated soil, so any soils that remained would be below any vapor risk level. In the event that the owner decided to construct any new structures on the site, a vapor abatement system could be installed. Therefore, the Fund would not reimburse costs for any vapor assessment at the site. The WP proposed abandonment and potential reinstallation of one (1) of the wells at the site. It would be abandoned and reinstalled only if necessary. The necessity of the abandonment or reinstallation would need to be documented in order for the owner to be able to receive reimbursement for the well abandonment or replacement. The WP proposed two (2) rounds of GWM for six (6) wells at the site. The Board staff agreed that this activity would be necessary to assess the hydrologic response to the excavation.

Mr. Monahan asked if the Board had any questions. Ms. Kline noted that the new building that was planned for construction at the site appeared to be an office building, and asked Ms. Tackett if this was what was planned to be constructed in June. Ms. Tackett answered that this was true, and that Langlas & Associates had been finalizing the plans for the new building.

Ms. Kline asked Mr. Wadsworth if the change in minimum ppm impacted decision-making for remediation if there was a different building that was planned to be constructed on the site. Mr. Wadsworth answered that the minimum level did not change. He stated that, when estimating a particular area that needed to be excavated it was based on concentrations found in the soils at the site. The state standard threshold for leeching and dermal contact was 100 ppm. Unless it could be shown that leaching was occurring at concentrations less than this, the 100 ppm was held to as the standard minimum. The areas that have concentrations over 100 ppm were the soils that were proposed to be excavated. He stated that, regardless of what the site was to be used for, the Board staff had recommended that they still excavate only what exceeds 100 ppm in order to prevent it from leaching to groundwater. He stated that vapors would not be a problem to whatever building was being placed on the property. He stated that because the soil contamination was being targeted before the building was placed, it did not matter what kind of building was being constructed at the site. Additionally, because remediation was being performed before any buildings were placed at the site, the excavation would be able to reach the depth needed to dig out all of the contaminated soils that fell into the minimum threshold of 100 ppm.

Ms. Kline stated that her concern was about soils not being sufficiently remediated for the buildings that were planned on this site. Mr. Wadsworth stated that the science used when assessing a site accounted for three (3) major components: 1) The question of whether or not the contaminated soils would cause harmful vapors; 2) Whether there was concerns regarding dermal contact with any contaminated soil, which factored dermal contact risk from children & construction workers; and 3) Whether the contamination was leaching to groundwater at those particular concentrations. The threshold established by the state was 100 ppm for the possibility of leaching to groundwater. He stated that it was possible that 150 ppm in the soils at the site may not leach to groundwater, but that they did not have the site-specific information with regards to leaching, so it wouldn't be known whether the soil could prevent leaching at 150 ppm. Because of this, the state standard would be used for threshold.

Ms. Tackett stated that, for clarity, the previous soil sampling at the source area well did have benzene leaching above the groundwater RBSL. There was benzene present in the groundwater and also lead scavengers above the RBSL. These were the basis for the soil vapor assessment because the Department guidance did not provide information on vapor intrusion when there were lead scavengers present in ground water. There would need to be a vapor assessment unless the lead scavenger results in groundwater went below the standard.

Mr. Monahan asked what the best way would be to resolve the discrepancies with the WP, and if the WP would need to be modified. Mr. Wadsworth stated that the Board staff would suggest that Olympus modify the workplan so that the excavation was consistent with the 100-ppm threshold. The Board staff's concern was that the soils that were removed either met or exceeded that threshold. This would address all the related issues associated with soil vapors, dermal contact, or leaching to groundwater.

Mr. Monahan asked Ms. Pankratz if she had any further comments to offer. Ms. Pankratz stated that her only comment was that, in order for the owner and Olympus to modify the WP, a request would have to be made and approved by the Department after analyzing the WP from a technical and regulatory standpoint.

Mr. Monahan asked if this would significantly delay Olympus' construction timeline. Ms. Pankratz answered that it would most likely not, and that the Department would most likely be able to work with the owner and consultant to come to a resolution on their redevelopment plans.

Mr. Monahan asked Mr. Wadsworth if there were any other comments from the Board staff. Mr. Wadsworth stated that one last comment he had was that the owner was welcome to clean up contamination to zero ppm, but the Fund would not be able to reimburse all the costs for the cleanup in that scenario. The owner and consultant could elect to clean up the site to whatever level desired, but anything that did not meet state standards could not be reimbursed.

Mr. Monahan thanked Mr. Sinclair for his participation. Mr. Sinclair stated that he had one last question for the Board. He asked if a Form 8 would be added to the WP additional yardages if contaminated soil exceeding thresholds were discovered. Mr. Wadsworth answered that, yes, a Form 8 could be added in the event that additional soils exceeding concentrations were found beyond the original scope of work. Mr. Sinclair thanked Mr. Monahan.

Release 3473, WP 716834853, Town Pump Deer Lodge, Exceeding $100K in Costs

Ms. Pankratz presented the Board with a summary of the release. She stated that Town Pump was the responsible party for the release, with AJM, Inc. having been retained as the consultant. The WP was for an investigation with a cost estimate of $47,934.00. The release had been previously resolved and, based on the location of contamination found during tank removal and site upgrades in 2022, the release was re-opened instead of creating a new release.

Mr. Paul Townsend from Town Pump introduced himself to the Board. He stated that the additional contamination was discovered on tank removal. Part of the reason the additional contamination had not been discovered until recently was because they had previously not been able to place a well in the affected area. He stated that he hoped this additional contamination could be resolved quickly.

Mr. Monahan asked if Mr. Dennis Franks from AJM, Inc. was available to speak. Mr. Franks introduced himself to the Board. He stated that the release was investigated several years ago, but that there was a particular area that had been inaccessible due to the fuel system and piping still being in place at the time. Now that these things had been removed, the investigation can be re-opened and completed. Mr. Franks stated that, in this, the WP was straightforward.

Mr. Monahan asked Mr. Wadsworth if he had any comments from the Board staff. Mr. Wadsworth stated that he agreed with Mr. Franks that the WP was straightforward, as the residual contamination was found after tank removal and was something that had not been able to be investigated before the removal. Because of this, the focus was contained in a single area, and the Board staff had no issues with the proposed scope of work.

Mr. Monahan thanked Mr. Townsend, Mr. Trent Biggers from Town Pump, and Town Pump as a whole for being responsible corporate citizens in response to the release.

Release 3965, WP 716834983, Engle & Voelkers, Billings, Exceeding $100K in Costs

Ms. Latysha Pankratz presented the Board with a summary of the release. She stated that Mr. Gene Hauck was the responsible party for the release and had retained Granite Peak Environmental LLC (Granite Peak) as their consultant. Granite Peak had submitted the remedial investigation WP on behalf of Mr. Hauck. This workplan was estimated at a total cost of $83,586.00. The release had been reported to the Department in June 2000 when an unknown 550-gallon waste oil UST, piping, and petroleum contamination was discovered during construction activities at the property. The extent and magnitude of the release have not been determined.

Mr. Monahan asked if Mr. Hauck, Ms. Shawna Morales, or a representative of the owner was available to speak. Mr. David Sanborn from Granite Peak introduced himself to the Board. He stated that Mr. Hauck would be available to speak later, but that he was available to speak on behalf of the owner until then. Mr. Sanborn stated that he had nothing to discuss in terms of the release's WP, and that the consultant and owner wanted to proceed with the WP as detailed. He stated that he was available to answer questions.

Mr. Monahan asked Mr. Wadsworth if he had any comments from the Board staff. Mr. Wadsworth stated that the WP proposed the drilling of seven (7) soil borings, six (6) of which would become monitoring wells. He stated that two (2) of the wells appeared to be replacement wells for ones that could not be located. Costs to install new wells for wells that could not be located were not costs generally granted reimbursement. Because of this, the Board staff would need evidence as to why the wells were unavailable. It was unknown to the Board staff whether the wells had been destroyed by the owner or not.

Ms. Kline asked Mr. Wadsworth how deep the monitoring wells at the site were. Mr. Wadsworth stated that the consultant could better answer the questions. Mr. Sanborn answered that the wells were proposed to be as deep as 15 to 20 feet. He stated that he would need to check their records to be sure, but he believed that Granite Peak had been trying to advance their current wells to the same depth as those that were already installed. He stated that he believed the monitoring wells at the site were 15 feet deep.

Ms. Kline asked if soil movement was what had destroyed the missing monitoring wells. Mr. Wadsworth stated that, if a well hadn't been monitored for 15 years, it was possible for it to end up getting buried in gravel. He stated that in that case, an owner or consultant would have to use a metal detector to locate the well and remove the gravel at the top. There were times when a well's head could be damaged or torn off by a snowplow, as was has occurred for monitoring wells in gravel lots. This

would generally occur if the wellhead was improperly placed or not constructed to handle the heavy loads of vehicles on the lot. In cases where the well head was torn off, it could be filled with debris and would be difficult to find because the metal was no longer there. Because of this, it was difficult to locate a well if the head was destroyed.

Ms. Kline stated that she thought the intent of installing a monitoring well was to monitor its contents and wondered if a change in consultants had caused the wells to go unchecked for so long. She stated it seemed counter-intuitive to install a monitoring well and then leave it unmonitored. Mr. Wadsworth stated that Ms. Kline was correct that, in theory, if monitoring wells were installed, they were intended to be used for a purpose and to be used to determine what cleanup work needed to be conducted on the site. He stated that the Department of Natural Resources and Conservation was the state agency that established the rules and requirements for monitoring wells. Those rules required the owner of the monitoring well to pop the caps on them every three (3) years. This was the duty of the owner with regards to the well, which was an asset placed on their property. He stated that, despite this, there were a number of sites that did not see this continuous activity. Mr. Wadsworth stated that Board staff did not routinely reimburse for well replacement. There needed to be justification as to why the well was being replaced, as wells were an expensive asset requiring proper installation and maintenance.

Mr. Sanborn stated that he had insight to offer regarding the wells. He stated that he agreed the wells were an important asset, and that Granite Peak was the company that performed the Phase I site assessment on the site prior to a property transaction. He stated that Mr. Hauck had only recently acquired the property, and that the property had transferred owners at least a couple of times before Mr. Hauck's purchase of it. He stated that Granite Peak had performed the Phase I walkover in the winter when snow was on the ground, and they could not locate Monitoring Well One (MW-1) or Monitoring Well Three (MW-3) during that time. He stated, however, that when visiting the site a week ago, he had been able to locate MW-3. He stated that, because of this, MW-3 would not need replacement so long as it was in good condition. He noted that MW-3 did have a layer of gravel over the top of it at present, as Mr. Wadsworth had said could happen. The well head was likely to have been plowed over and damaged over the past ten (10) years. The well still appeared to be in good condition and would not likely be re-drilled. The WPs estimated costs would be adjusted accordingly to reflect this. He added that MW-1 still had yet to be located, but that he would try to locate it with a metal detector. If MW-1 could be successfully found, it would be used. No work had been performed at the site over the last ten (10) years, and because of this, Granite Peak had been unsure about the quality of the wells underneath the well heads.

Ms. Kline asked about the priority of the WP, as she noticed that it had been given the high priority level of 1.2. She asked why it was not given higher focus if it had been assigned such a high priority rank. It was noted that priority levels were assigned by the Department. Ms. Pankratz stated that she was correct about the priority ranking. She stated, however, that the actual priority ranking was 2.0, and that the information had likely not been correctly updated in time for the creation of the Board meeting packet. It was noted that the priority levels went 1.1, 1.2,1.3, 1.4 before reaching level 2.0.

Mr. Monahan thanked Mr. Sanborn and Ms. Kline for their additional comments, and asked Mr. Sanborn if Mr. Hauck was also present to speak. Mr. Hauck introduced himself to the Board and stated he was available to speak. Mr. Monahan asked Mr. Hauck if he had any additional comments he wished to present to the Board. Mr. Hauck stated that he did not, as Mr. Sanborn had covered all of the points he had considered making.

Release 5387, WP 716834929, Forsyth Watering Hole, Exceeding $100K in Costs

Ms. Pankratz presented the Board with a summary of the release. She stated that RRR Properties, LLC (RRR Properties) was the responsible party for the release, and that they had retained Pioneer Technical Services, Inc. (Pioneer Technical) as the consultant. Pioneer Technical had prepared the WP on behalf of RRR Properties. Pioneer Technical had included plans for in-situ chemical remediation in the WP. The WP had an estimated cost of $75,631.00. There were two (2) releases at the site. The other release was Release # 1035, which was a legacy release that was reported in 1991 after a failed tightness test and removal of a corroded system in 1992. Release #5387, which this WP was addressing, was reported in 2019 when the UST system failed a tightness test.

Mr. Monahan noted that the site had been sold to a new owner, and new forms were being acquired. He asked if the current facility managers, Ms. DeAnne Kinsey, or Mr. Brett Norlach were available to speak. Mr. Norlach introduced himself to the Board. He stated that he had no comments for the Board, but that Mr. Charlie Peterson from Pioneer Technical had a good WP to move forward with. He stated that he was in attendance at this meeting to further his understanding of the Board's process, how WPs were handled, and to be of assistance, if possible, in resolving the release.

Mr. Monahan asked if Mr. Peterson was available to speak. Mr. Chalie Peterson stated that release #5387 had occurred at the dispenser islands, and the facility was in the middle of town. He stated that the groundwater at the facility was fairly shallow, and that there had been multiple monitoring wells installed at the facility. Pioneer Technical had the extent and magnitude of the plume well-defined. They had considered performing a soil excavation; however, this was rejected due to excessive soil removal and disposal costs. Because of this, Pioneer Technical had elected to use in-situ chemical treatment for the release. This method of treatment also would cause less impact to the business' operations. He stated that, because of this, he was confident that they had a good plan to move forward with while also not disrupting the business.

Mr. Monahan asked Mr. Wadsworth if the Board staff had any comments. Mr. Wadsworth stated that, in this particular WP, Pioneer Technical was using an injectate at multiple areas of the site. One injection was planned at the source area, while another was planned down gradient from the source area. He stated that the Board staff did not have any conflict with the use of a carbon injectate as proposed by Pioneer Technical. Following the injection, Pioneer Technical was planning to perform groundwater monitoring (GWM). He noted that there were two (2) releases present at the site, and that while one (1) was close to closure, it would still require additional GWM.

Mr. Wadsworth noted that there was one (1) WP for the other release at the site, Release #1035. The GWM for Release #1035 would take place after the injectate for Release #5387 was administered. The contractor or owner would need to submit a matching WP for Release #5387 to parallel with the GWM performed for Release #1035. Because of this, the costs for the site were split between both releases. He stated that it was normal to include a round of GWM after administering injectate at a site. However, because only one (1) release at the site was receiving injectate while both releases were receiving GWM, the WPs for these had been constructed differently to account for this. As it stood, GWM was only listed in the WP for Release #1035, but a GWM WP to match Release 5387 would need to be created later so that both releases at the site could receive GWM at the same time.

Discussion item – Legislative Update and Rule Package Timing

Mr. Wadsworth presented the Board with a summary of the Legislative Update and Rule Package Timing. Mr. Wadsworth stated that there were two (2) legislative activities that affected the Board. The first was House Bill 189 (HB-189), which proposed a change to the eligibility date for releases. The second was Senate Bill 315 (SB-315), which was a preventative funding incentive that would be implemented into the Board's statutory language. Both HB-189 and SB-315 had been passed through the legislature and transmitted to the governor for signature. He stated that he believed both bills would receive a signature, and that the Board staff was proceeding with this assumption. He noted that HB-189 was a simple statutory change that would change the eligibility date. With this bill, there would be no need to change any of the Board's rules, as it was a simple change in the statute.

Mr. Wadsworth noted that SB-315 was different, as it would create a new program of reimbursement by the Fund that would pay for preventative activity. There would need to be a rule package assembled in order to flesh out the new program and that package would come before the Board for review at the June 16, 2025 Board meeting. Because of this, the Board attorney would be working with the Board staff on creating the proposed rule packet for the Board to discuss. He stated that any stakeholders interested in the rule changes should recognize that the first efforts regarding the rules would come in June and would later go into the rule-writing and public notice process. The Board staff would be adding additional language to the rule and clarifying language to support the changes made by SB-315.

Mr. Wadsworth stated that there was additional rule cleanup that would be made in the proposed rule packet, such as references pertaining to the changes that were made by the Secretary of State's Office (SOS) and their changes to model rules. He stated that, additionally, the Board would be repealing the definition of "automobile" from the Board rules, as there was no longer a corresponding statutory need, along with other possible updates. He stated that he wanted the Board to be aware of the upcoming rule package, and to inform any stakeholders were aware that this process was beginning. He stated that anyone who wanted to participate in this could reach out to the Board staff before the June 16, 2025 Board meeting to obtain the materials as they became available. He stated that, although the governor would sign SB-315 within roughly the next month, the bill did not go into effect until January 1, 2026. Because of this, he stated that the Board hoped to get the rule package done before November 2025. This way, all of the rules guiding the new program would be ready when it went into effect in January 2026.

Mr. Monahan asked Ms. Pankratz if she had any comments from the Department on the legislation. She stated that she did not.

Board Attorney Report

Ms. Brown introduced herself to the Board. She stated that the only item of discussion she had was the appeal for the *Cascade Cnty v. Mont. Petroleum Tank Release Comp. Bd.* case. The appeal request had been denied and had been briefed before the Montana Supreme Court. The appeal had been classified as *en banc*, which meant that all seven (7) justices would decide on it, as opposed to a panel of five (5). She stated that this could mean there was a dissent coming to the case in the future, as a case going *en banc* generally meant there was a disagreement among the panel as to what should happen to it. She stated that she could not predict how the justices would rule, but that she found it interesting that the case had gone to this.

Ms. Brown introduced Ms. Terisa Oomens, who would be taking over as the new Board Attorney. Ms. Brown stated that she would be leaving the Department of Justice at the end of April 2025, and that she had confidence in Ms. Oomens' work as the next Board Attorney.

Mr. Monahan asked Ms. Oomens if she could provide the Board with her history. Ms. Oomens stated that she had grown up and taken her undergraduate studies in Wisconsin and had completed law school in Wyoming before moving to Montana. She stated that she had an environmental background, she also worked with the Board of Environmental Review and the Board of Oil and Gas. She stated that she was excited to work with the Board. Mr. Monahan welcomed her.

Fiscal Report through Feb FY2025

Mr. Wadsworth presented the Board with a summary of the Fiscal Report. He stated that he had not seen any information worthy of bringing to the Board's attention, but that he was available for questions. There were no questions at this time.

Board Staff Report

Mr. Wadsworth presented the Board with a summary of the Board staff report. He stated that the staff graphs were published with data that was current up through February 2025. He noted the pending eligibilities on the staff graph and stated that there were six (6) that were pending. The status of those sites were:

- The pending eligibility from June 2023 was Green Meadow Market. This site's eligibility had been delayed due to a noncompliance issue.
- The August 2023 eligibility was pending due to an adjustment to reimbursement issue, as the staff was recommending the site was eligible with 0% reimbursement that was currently being processed.
- Two (2) set of eligibilities that had been submitted in February 2024.
    - He stated that the Former Mahagin's Texaco facility had been discussed at the November 18, 2024 Board meeting,. He stated that this eligibility was supposed to be withdrawn, but the Board staff had not heard from the owner or their consultant with regards to this.
    - The other application for eligibility was returned to the owner for inconsistencies, so it was only a matter of waiting for the owner to respond back about the returned application.
- The pending eligibility from September 2024 was an ineligibility recommendation that had been on hold. He stated that, anytime the Board staff recommended ineligibility to the Fund, the Board staff tried to allow the owner time to look at and respond to the ineligibility recommendation, as well as to give the owner and the Board staff time to gauge the extent and magnitude of the release. This also gave the owner the time to decide whether or not to contest the ineligibility recommendation.
- Finally, the pending eligibility in November 2024 had its application returned to the owner because of inconsistencies.

He stated that the Board staff would not have any pending eligibilities had it not been for the complications associated with these pending eligibilities as listed. He stated that he was also available for questions with regard to the Board Staff Report. There were no questions at this time.

DEQ Petroleum Tank Cleanup Section Report (PTCS)

Summary of Confirmed and Resolved Petroleum Releases

Ms. Pankratz presented the Board with the Summary of Confirmed and Resolved Releases. She stated that, since January 22, 2025, through April 1, 2025, seven (7) suspected releases had been reported to the Department, three (3) releases were confirmed, and the Department had resolved six (6) releases. At present, there were 4,872 total confirmed releases. Of that total, 3,965 releases had been resolved, and 907 releases were still open. Out of the open releases, 852 were managed by PTCS.

There were 583 releases that were eligible for the Fund, and 269 releases that fell into the "other" category such as ineligible, pending, withdrawn, suspended, or having not applied.

Mr. Monahan asked if the six (6) releases that had been resolved since the February 3, 2025 Board meeting had been Fund-eligible sites. Ms. Pankratz answered that she did not have this information immediately available, but that she could get obtain the information shortly. Mr. Monahan stated that she could email the information later, as he did not need it immediately.

Front Street Cenex, Facility #37-10231, TID 26503, Rel #813, WP #716834708, Butte, Priority 1.3

Ms. Pankratz presented the Board with a summary of WP 716834708. She stated that this was a cleanup WP that included the injection of in-situ chemical oxidation, aerobic biodegradation, a pilot scale test, continued operation, and maintenance of the air sparge and soil vapor extraction systems, groundwater monitoring, free product recovery, the abandonment of five (5) wells, repair of any damaged wells, and reporting. The estimated cost was $175,203.65. The release was reported to the Department in July 1991. Groundwater had continued to exceed RBSLs, and slight amounts of nonaqueous phase liquid persisted in two (2) of the wells.

Mr. Monahan asked if there were any comments from the Board. Mr. Wadsworth stated that half of the costs for the WP were for the injection of the reagent. This injection task was subcontracted work and legally required three (3) competitive bids. He stated that if the other bids came in lower than the current scoped costs the expected reimbursement would be reduced to reflect the lower bid. There were other tasks that would also be reduced such as the lab analysis, lodging, and project management. This would all depend on the price of the competitive bid. He stated that the injection was expected to reduce the need for the continued operation of the current soil vapor extraction and air sparging system.

Mr. Monahan asked Mr. Wadsworth why the site required three (3) competitive bids. Mr. Wadsworth stated that it was because the site had subcontracted work, and any subcontracted work that was over $2,500.00 required three (3) competitive bids by rule. He stated that the Board staff's review of this work plan indicates that only one (1) bid had been obtained for the subcontracted work. There were two (2) more competitive bids required to be solicited by the consultant. Mr. Wadsworth stated that he was interested to see how the other two (2) bids would affect the cost of this WP. He noted that PetroFix® was only one (1) of several types of reagent products available. The injection product that was intended to be used with this site was provided by only one (1) of the companies that provided this type of product. Because of this, the Board staff was looking to see what other companies' products' cost estimates would be. He stated that the problem in the interim was that the Board staff could not provide a solid cost estimate for the workplan until the three (3) competitive bids were obtained.

Moore Oil Inc Kardguard, Facility #27-10130, TID 24291, Rel #1664, WP #716834980, Libby, Priority 3.0

Ms. Pankratz presented the Board with a summary of WP 716834980. Moore Oil was the responsible party for the release, and had retained West Central Environmental Consultants, Inc. (WCEC) as their consultants. WCEC had submitted the WP on behalf of Moore Oil. The WP included tasks for excavating petroleum-contaminated soil located in the former loading rack area, disposal of the soil, backfill, soil sampling, and follow-up groundwater monitoring. The estimated cost for cleanup for the WP was $109,657.50. The release was reported to the Department on May 17, 1993 when an Above Ground Storage Tank (AST) was overfilled, which resulted in a spill onto the ground surface.

Mr. Monahan asked if the Board had any questions for Ms. Pankratz. Mr. Wadsworth stated that, with regards to the scope of work, the Board staff believed there was a lack of evidence to support the amount of excavation that was detailed in the WP. He stated that the Board staff was told that there was data for fifteen soil borings drilled in 2013; however, the Board staff was unable to find the data for those and was therefore unable to complete a thorough review that supports the excavation volume. The soils in the zero to two (2) foot range had samples that indicated the concentrations exceeded dermal contact levels. However, the Board staff could not find evidence that the soils below two (2) feet exceeded dermal contact levels in the area of the proposed excavation. The Board staff also did not have evidence that the groundwater was currently contaminated above RBSLs. Because of this, the Board staff did not have the evidence to support the proposed volume of soil excavation. He stated that there was a Form 8 (change order) for the prior WP to conduct one (1) additional groundwater monitoring event. However, this groundwater monitoring event had not occurred. The assessment could benefit from this groundwater monitoring event being conducted, as it would help determine whether or not the excavation needed to occur. The Board staff would need answers to these concerns before an obligation letter could be sent out or provided to the owner.

Mr. Monahan asked Mr. Wadsworth if this meant that Board staff was recommending that only the top two (2) feet of soil was to be excavated. Mr. Wadsworth confirmed this was the case, that the staff could only recommend they be reimbursed to

excavate up to 2 feet. He stated that the Board staff would need evidence in order to prove if there needed to be a deeper excavation than the 2 feet. He stated that the Board staff would be looking for this data before they could obligate the full proposed scope of work.

Public Forum

Mr. Nate Olson, Project Manager, WCEC, presented comments during the Public Forum. NO is Nate Olsen, JM is John Monahan, GP is Garnet Pirre

NO: Yeah, I just wanted to-

GP: Um- just a second- identify yourself.

NO: Uh, Nate Olson with West Central Environmental- um- and to some degree- um- on behalf of Peggy Taylor as well. Um- so currently, I just wanted to kind of run through a typical work plan cycle. Which would include, basically, getting a work plan- um- and this is not in order- getting a work plan request- um- from the Department of Environmental Quality, (DEQ) would be the start of it.

And typically- uh- a consultant or- on behalf of the owner or operator will submit a work plan, following that, and then after that it goes to DEQ who puts it out for a governmental-level review. So, a local government, tribal government, and the Petroleum Tank Release Compensation Board (PTRCB).

And then following that, it goes to PTRCB staff to do a review of the actual work plan costs. You know- to kind of apply the reasonable, actual, and necessary cost standard to that work plan for approval of funds. Um- and basically- at that point- we're sitting- at that point- then, as you've seen on all these that you've approved - you didn't approve it- however it flows- but then it goes to actually doing the work for remediation and cleanup.

And over the last several years- um- the PTRCB has begun to expand that- um- cost review to the point of actually looking at different cleanup methodologies which really was a point that started before the work plan, and everything down range of that is being done on the assumption that DEQ is the deciding agency in that process- that they're the regulatory agency. This was generally how the regulated community views DEQ. And so- I guess that some of the critical issues I see coming up from this is, in that process, we're getting all the way to the end of that process and then the reasonable, actual, and necessary determination by the PTRCB of approved corrective action plans.

At that point, we're sitting there with a due date from DEQ under a regulatory statute that we have to get done as a regulated community, and we're hearing "no" on the funding. And that is basically sticking us in a pretty bad spot as the regulated community trying to answer, essentially, to a funding mechanism that's doing one thing and to the DEQ saying "you must do another." And so that's putting- um- quite a bit of potential financial hardship on the regulated community and how they're supposed to behave and react to that is a pretty darn difficult situation and puts people in real financial jeopardy.

And a secondary problem is the Board currently doesn't have a mechanism, it's our understanding of this, to bring that to a Board claim resolution- at least to be able to appeal to you- to say "hey, we really need"- I mean- and maybe this final decision is against us – but we really need a final decision from the Board at that point. And, currently, there is not a method to bring it to you in the system other than go out and do maybe $100,000, maybe $200,000 of work and be sittin' way out over your skis. That's where we're getting stuck in the system, and I think the Board needs to address that. People should at least be able to bring it to the Board prior to having to put themselves in substantial financial jeopardy. So, I think that's something the Board should address and work on.

Um, the other thing is, there's not a lot of guidance from this Board and institution on how they're applying the methodologies of reasonable, actual, and necessary. These are obviously vague and interpretable terms. Um- and that gives you a look as to a lot of broad discretion in your authority, but it also leaves a lot of vagueness in what is and will not be funded. And so, if I'm sitting as a consultant at the front end, and get a work plan request from DEQ, you start down that process, do all that work, and then get to the end- and we might hear "no," we might hear "yes." I really don't know. I really don't know what's going to come back from the process of approval. Even then, these are all eligible sites. These have already cleared that bar. And so, I think that we need some clarity on that. You know- the regulated community really needs to have the state- or say- you and DEQ speak on this. That's pretty darn incredible. 'Cause when you're speaking, you're telling us to go in two different directions at the same time and people are struggling. And so that's an issue.

Um, and then, I guess reviewing it, it appears the last time that was really determined and reviewed in earnest was probably 1992. And that review was done by the Attorney General of Montana, and he did issue an opinion on that finding. And that opinion essentially states that the PTRCB does not have statutory authority to modify technical methodologies or requirements of corrective action approach by the Department (DEQ) after it's approved and does not have the discretion to deny claims for reimbursement from the Fund for expenses actually, necessary, and reasonably incurred in the preparation, implementation of Department-approved Corrective Action Plans. And so, that would indicate to me that at that time at least, the Attorney General of Montana, who issued a formal opinion, which essentially carries the same weight as the rest of the statute and rules in this process, unless it's overturned by the court or the Legislature. I don't see where that is- maybe the Board Attorney could illuminate where that is, and if it was ever overturned by the Legislature or if there's a court case that I'm totally unaware of. It'd be interesting to hear that opinion and at least explain it to the regulated community.

And so, anyway, those are issues that the Board really needs to take up and take up in earnest. Because they are leading to notable time delays and notable cost risks to the regulated community, and essentially confusion in how these laws are being applied to those people that are in this system.

And so, with that, I appreciate the time to speak.

JM: Do you have any recommendations for us?

NO: I would recommend the Board get a review from their legal, obviously this was just brought up in the moment and I am sure they would want to read the entire opinion. But it would be helpful to know how the Board views that legal opinion at the current time. We also really need to have an idea of the actual applications of this standard, where it breaks down and how that process is being done. Because it is not totally clear where and how the cost review is done on different methodologies, and who the burden is on to complete all of these, and the cost associated with completing those. There are real costs in going through a bunch of different methodologies and coming up with an accurate cost is actually a very time-consuming thing. As Terry mentioned, we are talking about getting bids for, I'm not sure if it's different injectates, or just getting different bids for different drillers, but any time you start to compound these items, you end up with a lot of work to get a lot of bids and do that work. So, there can be a lot of costs in these cost assessment reviews on the regulated community side as well as time for the staff, because the staff does spend a lot of time doing that. And, if we are not on the same page, we are both doing it, which is a lot of cost for both of us to do. It is essentially those areas of clarification on that and um, and exactly where it stands on statute and rationale and basis for the level of - where does one authority stop and the other start. That is really is the questions, where does the DEQ end this mandate and where does the PTRCB pick up and in where there is notable overlap the regulated community is going to get asked to walk two different directions at the same time, and that's a problem. So, those are the primary issues we need addressed by the Board.

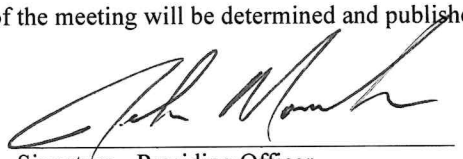
JM: We are going to take that under advisement, and Aislinn and our new Board Attorney will get a response back to you.

NO: Ok, thank you very much.

There was no further discussion.

The next meeting is scheduled for June 16, 2025. The place of the meeting will be determined and published.

The meeting was adjourned at 11:17 a.m.



Signature - Presiding Officer