

PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
June 16, 2025
IN-PERSON AND TELECONFERENCE HYBRID MEETING

Board Members in attendance were Grant Jackson, John Monahan, Curt Kelley, Jess Stenzel with Tom Pointer, Calvin Wilson, and Kristi Kline in attendance via Zoom. Also in attendance were Terry Wadsworth, Executive Director; Garnet Pirre and Ann Root, Board staff; and Terisa Oomens, 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 April 14, 2025 minutes. Mr. Stenzel seconded. Motion passed unanimously by voice vote.

Approval of Proposed Rule Making Package

Mr. Monahan asked the Board if there were any changes to the language in the Proposed Rule Making Package.

Mr. Stenzel asked if there had been a claim that sparked the creation of the Proposed Rule Making Package. Mr. Wadsworth answered that the rulemaking originated from Senate Bill (SB) 315 during the 2025 Montana Legislative Session. He stated that while House Bill (HB) 189 also passed during the 2025 legislative session, it did not have much of an impact on the Board or its rule making, but that SB-315 did due to its proposal to establish a secondary reimbursement program. The Board would also manage this secondary program, which is a reimbursement program for \$2,000 to be reimbursed every three (3) years for a set list of approved preventative work. He stated that, because of this, the Proposed Rule Making Package was created to support this statutory change. He also noted that anytime rulemaking was undertaken by the Board, all rules are reviewed to see if any of them were outdated, based on statute that had changed, or otherwise needed to be revised or amended. He stated that some of the changes contained in the rule package were related to the Secretary of State's office, which had made changes to its rules that were used as a point of reference by the Board. These were the factors that precipitated the creation of the Proposed Rule Making Package.

Ms. Kline asked Mr. Wadsworth if the language was clear as to what tasks were reimbursable as preventative work. Mr. Wadsworth stated that, inside the Proposed Rule Making Package, there was language that defined this. Ms. Pirre stated rulemaking language mirrored the statute. Mr. Wadsworth added that proposed rules also tried to provide clarification to the statute. He stated that, while the Board staff had not found what was stated in the statute to be especially difficult to understand, there were a few clarifying points made in the Proposed Rule Making Package. He stated that the Board staff was confident that the language within it was helpful in further understanding how reimbursement was to be made. Ms. Kline expressed appreciation for the information.

Mr. Jackson moved to approve the Proposed Rule Making Package. Mr. Kelley seconded. Motion passed unanimously by roll call vote.

Eligibility Ratification

Mr. Wadsworth presented the Board with a summary of the eligibility recommendations for ratification. There were three (3) releases recommended to be eligible. He noted that the lower half of the table was informational only and was provided to show the Board data on recent eligibility withdrawals.

<i>Location</i>	<i>Site Name</i>	<i>Facility ID #</i>	<i>DEQ Rel # Release Year</i>	<i>Eligibility Determination – Staff Recommendation Date</i>
Bozeman	Town Pump Inc Bozeman	1608675 TID 21506	6689 Feb 2025	Reviewed 5/19/25. Recommended Eligible.
East Helena	Town Pump Inc East Helena	2508697 TID 23791	6683 Dec 2024	Reviewed 5/15/25. Recommended Eligible.

<i>Location</i>	<i>Site Name</i>	<i>Facility ID #</i>	<i>DEQ Rel # Release Year</i>	<i>Eligibility Determination – Staff Recommendation Date</i>
Whitehall	Town Pump Inc Whitehall	2203645 TID 22528	6678 Aug 2024	Reviewed 5/19/25. Recommended Eligible.
Informational Only- Not for Ratification				
Butte	Former Mahagin's Texaco	0032521 TID 32521	6550 May 2023	Reviewed 5/22/2024. Withdrawal signed by the Owner On 4/23/25.
Hamilton	Thompson Distributing	4106301 TID 26913	6612 Aug 2023	Reviewed 3/12/25. Withdrawal signed by the Owner 5/15/25.

Mr. Jackson moved to ratify the eligibilities as recommended by the Board Staff. Mr. Pointer seconded. Motion passed unanimously by voice vote.

Weekly Reimbursements

Mr. Wadsworth presented a summary of weekly claim reimbursements for the weeks of April 2, 2025 to May 21, 2025.

WEEKLY CLAIM REIMBURSEMENTS June 16, 2025, BOARD MEETING		
Week of	Number of Claims	Funds Reimbursed
4-2-25	23	\$99,712.21
4-9-25	20	\$123,576.77
4-16-25	16	\$291,562.66
4-30-25	24	\$95,972.99
5-7-25	15	\$67,777.61
5-14-25	16	\$182,127.83
5-21-25	10	\$52,813.68
Total	124	\$913,543.75

Mr. Wadsworth presented the Board with a summary of the denied claims. There was one (1) denied claim:

<i>Denied Claims</i> June 16, 2025 Board Meeting	
Claim ID	Reason Denied
20250306B	Claim withdrawn per consultant's request.

Mr. Monahan asked Mr. Wadsworth if a claim was considered denied if a consultant submitted a withdrawal request. Mr. Wadsworth responded that, when there was something wrong with the claim and the claimant wanted to withdraw it, what the Board staff would do was deny it. He stated that the database system reflected the fact that the claim was received. Because of this, the system needed to indicate that the claim was handled before it could be labeled as denied and withdrawn. Mr. Wadsworth added that, just because a claim was withdrawn, it did not mean that a client couldn't submit the claimed costs at a later date.

Mr. Monahan asked about a claim that was being reimbursed for zero (0) dollars contained in the list of weekly claim reimbursements. Mr. Wadsworth stated that this was because it was an "allocation to copay" claim, labeled as a "CA" claim, which meant that the funding had come from another source and that the claim was just being allocated towards the copay.

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 Payne West's parent company Marsh & McLennan. Mr. Kelley recused himself from any matters pertaining to Little Horn State Bank and Little Horn State Bank's customers. Mr. Jackson, Mr. Wilson, and Ms. Kline expressed no known conflict of interest.

Mr. Jackson moved to ratify the weekly reimbursements and one (1) denied claim as presented. Mr. Wilson seconded. The motion passed unanimously by voice vote.

Board Claims

Mr. Wadsworth presented the Board with the two (2) 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
Circle K Store 2746272 Havre	2108068 5212	20250414I	\$58,555.82	\$7,280.80	\$5,127.50	-0-	\$46,147.52
Circle K Store 2746271 Glendive	1108061 3375	20250414E	\$26,430.90	\$279.93	-0-	-0-	\$26,150.97
Total			\$84,986.72	\$7,560.73	\$5,127.50	-0-	\$72,298.49
<p>* 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.</p> <p>**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.</p>							

Mr. Monahan asked about the cause for the penalty fee on the Circle K Store, Havre claim. Mr. Wadsworth explained that the release had a ten (10) percent penalty for facility noncompliance. Mr. Monahan asked if the Board staff or the Board had ratified this penalty. Mr. Wadsworth stated that the Board passed a motion at a previous (9/10/2018) meeting to ratify the penalty. Mr. Monahan thanked Mr. Wadsworth for the clarification.

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. Stenzel 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 4744, WP 716835021, Lynch Flying Services, Billings, Exceeding \$100K in Costs

Ms. Latysa Pankratz, Section Supervisor, Petroleum Tank Cleanup Section (PTCS), Department of Environmental Quality (Department), presented the Board with a summary of the release. Lynch Flying Services was the responsible party for the release, with Olympus Technical Services, Inc. (Olympus) being retained as a consultant. The workplan (WP) was created by Olympus to gauge the extent of contamination in the site's bedrock aquifer by installation of monitoring wells, groundwater

monitoring, and identifying any additional work needed to resolve the release. The estimated cost of the WP was \$35,059.39. The facility had five (5) reported releases. Four (4) of these releases were resolved. Release 4744 occurred in July 2009 when a surface spill of approximately 1,000 gallons of jet fuel was released during delivery from a tanker truck to the Underground Storage Tank (UST).

Mr. Monahan asked if the owner was present to speak about the release. Mr. Rob Bergeson, General Manager, Edward's Jet Center, owner of the release, introduced himself to the Board. He stated that Mr. Ethan Perro from Olympus was also present to speak. Mr. Monahan asked if Mr. Bergeson had any comments. Mr. Bergeson said that he did not have any, but that he would answer any questions the Board had for him. He stated that he believed that the Department-approved WP that Olympus had prepared would hopefully provide an opportunity to close the release within the course of the next year.

Mr. Monahan asked if Mr. Perro was available to speak. Mr. Perro stated that the tasks in the WP were straightforward work. The work included air rotary soil borings to better establish groundwater flow to ensure that no contamination was being missed. He stated that he anticipated this WP to be some of the last work performed to bring the release to closure, but that it would depend on the data obtained from the WP.

Mr. Monahan asked if Mr. Wadsworth had any comments. Mr. Wadsworth stated that there were 200 yards of contaminated soil removed at the site, but that not all of the contaminated soil had been removed. Three (3) of the twenty (20) samples taken still exceeded Risk-Based Screening Levels (RBSL). Because of this, it was still being determined what would need to be done to address the remaining contamination. He stated that this particular WP, as Mr. Perro had mentioned, featured the installation of a few more wells to better locate the remaining contamination. He stated that, because well installation, they would be re-surveying the wells and conducting a few more rounds of groundwater monitoring. He stated that he hoped that there would be enough data provided by this WP to bring the site to closure.

Release 934, WP 716834930, MDOT 43 4402, Ingomar, Exceeding \$100K in Costs

Ms. Pankratz provided the Board with a summary of the release. She stated that the Montana Department of Transportation (MDT) was the responsible party, and that they had retained Tetra Tech as the environmental consultant. Tetra Tech had submitted a WP on behalf of the owners, which was anticipated to cleanup petroleum contamination associated with the release to the extent practical by soil excavation and the application of amendments. The total cost of the WP was estimated to be around \$149,070.55. The release was reported when the system's dispensers and two (2) USTs were decommissioned and removed. There was also one (1) resolved release at the facility.

Mr. Monahan asked if the representatives of the owner, Mr. Kendall Gustafson or Mr. Joe Radonich from the MDT, were available to speak. Mr. Gustafson introduced himself to the Board and stated he was available to speak. He stated that the WP was designed to excavate the remaining contaminated soils that had been missed during the original excavation at the site. He stated that the lithology was unusual around the area, and because of this, excavation would be the most effective method. Oxygen release compound (ORC®) would be added to the backfill, the backfill would be placed into the excavated area, and then roughly two (2) monitoring wells would need to be replaced. From there, two (2) or three (3) new monitoring wells would be installed downgradient from the contamination to obtain full delineation of the plume. After this, one (1) sampling event would occur.

Mr. Monahan asked if Mr. Steven Marie from Tetra Tech had any comments for the Board. Mr. Marie stated that he believed the WP was straightforward, as the source area would undergo a limited excavation to remove the contamination, and then the ORC® amendment would be applied. Monitoring wells would be installed to delineate the downgradient edge of the groundwater plume.

Mr. Monahan asked if Mr. Wadsworth had any comments. Mr. Wadsworth noted, as listed in the release's chronology, that work was performed on the site in 1991 through 1994. After this, there was a 14-year break in activity until work resumed in 2008. In 2008, wells were installed, and groundwater was monitored until 2011. From there on no remedial activity appeared to have been undertaken for another 12 years until a laser-induced fluorescence (LIF) study was performed in 2023. This indicates there were a number of delays for a significant period of time. The WP being discussed was proposing excavation and backfill with the addition of ORC®, and installation of soil borings and monitoring wells, as well as groundwater monitoring and reporting. He stated that the Board staff had looked at the information contained in the WP and recommended, based on the concentrations in the soil borings, to limit the excavation to a depth of about 17 feet below the ground surface instead of the proposed 20 feet. He added that it would be known if there would be a need to go to an extra depth of 20 feet once work started on-site. The Board staff had seen a significant difference in the cost of ORC® available, depending on the vendor from whom

the product was purchased. This translated into significant costs for the project, which was why the PTRCB used competitive bidding to find comparable products at a more reasonable cost. He stated that, in this particular case, MDT had the entire project competitively bid rather than just its components. Because of this, the Board staff would be looking closely at the costs for what was actual, reasonable, and necessary once claims for the WP started arriving.

Mr. Monahan asked Mr. Wadsworth if he was correct in his understanding that it was the Board staff who had proposed the excavation only go to 17 feet deep. Mr. Wadsworth said this was so, and that the data from the soil borings that had been done did not indicate actionable contamination beneath 17 feet. He stated that it sounded like there would be some ORC® applied to the base of the excavation as well, which would assist with cleanup of any unknown contamination below 17 feet. He noted that the soil borings would be made at specific locations on-site, and that it was possible there was a different reason the WP had proposed excavation down to 20 feet. He stated, however, that he believed there was not enough evidence in the documentation to indicate a need to excavate to that depth.

Mr. Monahan asked if Mr. Wadsworth meant that the consultants would know the magnitude of the contamination for sure once they started work. Mr. Wadsworth answered this was correct, and that 20 feet could be a maximum estimate rather than an exact one.

Mr. Monahan asked if this meant 20 feet was a proactive estimate. Mr. Wadsworth stated he agreed this was believed to be the case, as the 20-foot depth was likely an approximation. There would need to be evidence of contamination below 17 feet in order for the Board staff to reimburse excavation to that depth.

Mr. Dennis Franks, consultant from AJM, Inc., not a party to work at the site, introduced himself to the Board. He asked the depth to groundwater for the site. He noted that if the groundwater was at 20 feet, and the excavation went to that depth instead of 17 feet, the ORC® would be going into the groundwater and not the soil.

Mr. Monahan asked if there was any information available to show the depths of groundwater at the site. Mr. Wadsworth said that while the Board likely had this information, it could be best provided by the consultants present.

Mr. Monahan asked Mr. Marie what his thoughts on Mr. Frank's comments were. Mr. Marie stated that the water table would be about 15 feet below the ground surface, which would be a concern for the excavation. He noted that, in the WP, Tetra Tech had provided a range of depths, where the excavation would vary between 14 and 20 feet depending on what was found and where the consultants would be digging.

Ms. Kline asked if the gaps in remedial activity at the site had occurred with the intent that the release would resolve on its own. She noted that these breaks were large portions of time, during which costs went up. She asked if there was any explanation for this cumulative 26-year lapse in activity. Mr. Radonich introduced himself to the Board and answered that he was unsure why so much time had passed. He stated that he could only speculate that they had to balance resources in the form of staffing and whether remediation could be done entirely with Fund money or not. He noted that the MDT had other petroleum release sites they were in charge of that had possibly taken a higher priority in remediation, but that this was still only speculation. Ms. Kline thanked Mr. Radonich for his answer and noted that the release was likely a low priority, and because of this, she had been curious if the low priority was because it was a release that would resolve itself over time, which would in turn cut down on expenses.

Ms. Kline asked if its groundwater depth levels stayed consistent at all times of the year or varied with the seasons. Mr. Marie answered that it did change seasonally. Ms. Kline asked if the highest it got was 13 feet and if it was lower at other times of the year. Mr. Marie stated that it was usually lower than 13 feet at different times of the year.

Ms. Kline asked if Ingomar had any public water systems in the area, as the town was fairly remote in its location, or if MDT had its own wells. Mr. Marie stated that there was no water well at the facility or in the vicinity. He stated that this had been a low-priority site, and that they had hoped the contamination would have gone away on its own, but it seemed to be staying in the soil. Because of this, excavation and monitoring appeared to be the best course going forward.

Release 4385 (& 1469), WP 716834964, Mountain View Co-Op, Fairfield, Exceeding \$100K in Costs

Ms. Pankratz presented the Board with a summary of the releases at the site. She stated that Mountain View Co-Op was the responsible party for the releases, and that they had retained Air Water Soil, LLC (AWS) as the consultant. The WP proposed well assessment, additional soil-vapor extraction (SVE) wells and system operation, as well as an evaluation of the building's

mechanical systems to determine if they were affecting past and future vapor intrusion assessments. The WP was estimated to cost around \$99,505.80. Release 1469 was reported to the Department in 1992 when contaminated soil from past spills was discovered while excavating to install three (3) new tanks. Release 4385 was reported in 2005 and was caused by failed piping in the fuel systems south of the building.

Mr. Monahan asked if the owners of the release, Ms. Mallory Antovel and Mr. Taylor Wagner, were present to comment. Mr. Dave Douglas, representing Mountain View Co-Op, stated that Mr. Alan Frohberg from AWS would be able to give a more detailed discussion of the WP, but from the owner's perspective, the only comment was that the goal was to have the releases cleaned up and moved to closure as soon as possible.

Mr. Frohberg introduced himself to the Board. He stated that the WP had been created to address two (2) different releases at the facility while continuing to assess cleanup options. He stated that the older release, release 1469, resulted from above-ground storage tanks (AST) and piping on the north and west side of the building, and that later a new building was constructed over the area. As a result, the impacted soils are difficult to access. AWS had already performed vapor intrusion sampling inside of the building, as well as sub-slab sampling, and had found relatively significant levels of vapors present. He stated that they did not have historic data showing that the soil mass in the area for release 1469 had been defined. Many drillings had been performed, but not a lot of confirmation samplings had been completed. Because of this, AWS would need to test to define the extent and magnitude of the soil mass and source area. The SVE system had been implemented by a prior consultant, and it had worked well on the east side of the property. He stated that AWS was planning to perform SVE on the west side in the source area to not only address the materials that were below the building, but also residual soils that were around the tank system outside of the building with the newer tank system. He stated that some of the circumstantial data that AWS reviewed indicated that there was impacted soil in the area. Because of this, the overall soil mass would need to be defined. The SVE would be addressing soil vapors both for vapor mitigation as well as remediation of the soil in that area. The plan would also address the groundwater itself for release 4385, which was at the southeast side of the building. He stated that there would need to be continued groundwater sampling to identify what kind of biological activity was present, and that this would likely be their best solution in the area. He stated that it was important to note that the aquifer below the site was the drinking water aquifer for the town of Fairfield. There were wells around the area that were not impacted by the release, but it was still a major source water aquifer for the entire Fairfield area. Because of this, remediating this release was essential. He stated that he was available for questions.

Mr. Monahan asked Mr. Frohberg if the building was constructed over soil that the owner knew was contaminated, and if so, why it was never excavated. Mr. Frohberg responded that the building had likely been there for 25 to 30 years, if not longer. He stated that it was likely constructed over the tank systems when the owners had not known about the contamination. Mr. Monahan asked Mr. Frohberg if this meant that it was built before the release was discovered. Mr. Frohberg answered that Mr. Monahan was correct.

Mr. Monahan asked Mr. Wadsworth if he had any comments for the Board. Mr. Wadsworth stated that release 4385 was discovered in 2004; however, the first WP was not created until eight (8) years later in November 2012. He stated that there was other work occurring for the site, such as application for assistance from the Fund during that time, but that none of it was cleanup activity. He stated that there had been many wells installed at the site, and that the WP had proposed to expend funding to locate the site wells and assess them. However, the Board staff had evidence that the well locations were known, and that the assessment of the wells had previously occurred in an earlier work plan. The WP also proposed monitoring all existing site wells, but evidence indicated that there were only four (4) wells on the site that continued to have exceedances of RBSLs and those exceedances were found not to be significant. Because of this, the Board staff would agree to monitoring the four (4) wells with RBSL exceedances and a few other wells that would assist in understanding the chemistry left in the area. The WP also proposed drilling 18 soil borings on the west side of the building. The Board staff was uncertain that 18 borings would be necessary. He stated that the borings would need to be drilled in a strategic manner to avoid any unnecessary drilling. This would include focusing on the areas with the highest expected concentrations and working away from that area of high concentration. He stated that it was possible they would end up with 18 borings, but it was also possible that the investigation could be accomplished with fewer borings. The WP also proposed the installation of the SVE system wells; however, the current evidence did not indicate that the concentrations were high enough to warrant an SVE system. An SVE system was not effective at low concentrations of petroleum chemicals of concern. He noted that it was possible that an SVE system may be trying to address the vapors in the building rather than addressing the vapors in the soil, and he believed there were other methods of addressing the vapors in the building that did not require the operations and maintenance costs of an SVE system. He stated that the Board staff was aware that there was indoor vapor sampling that had indicated that there were vapors of petroleum hydrocarbons in the store, office, and basement of the site building at concentrations above RBSLs. He stated that he believed it was important to recognize that the building contained a number of products for sale that would emit chemical

vapors with a petroleum fingerprint. It was not feasible to remove all of the products of this type from within the building, but the heating and ventilation air conditioning (HVAC) system could be affecting the results for vapor concentration testing. He noted that the HVAC system could have been moving vapors around the building from the products for sale. Saying it another way, the indoor vapor sampling results could have been skewed from the products in the building and not from the sub-slab air samples. The collection of air samples needed to be conducted in such a way as to eliminate the effects of the product inventory as well as the effects of the HVAC system intermingling the air from those products.

Mr. Monahan asked about the 18 soil borings and if this was the maximum estimate for the soil boring costs or a set number that the consultant believed needed to be performed. Mr. Wadsworth stated that this could be an estimated number, as there were some projected unknowns with regards to some of the chemistry present at the west side of the building. He stated that, because of this, the suggestion that the Board staff had was to start boring not from where contamination was unknown, but rather from where the chemistry was expected to occur and then work outwards to where progressively cleaner areas were expected to be. He stated that this was likely to be a more cost-effective method of obtaining the necessary soil chemistry data.

Mr. Monahan asked how the contributions from the HVAC system and product chemical vapors could be ruled out. Mr. Wadsworth stated that the program had faced similar challenges in the past. The consultant must recognize those items that emit petroleum vapors and create false positives. Things like leather, bottled oils (lamp oil), paints, glues, cleaning products and other chemicals on the store shelves. These vapors could be being emitted and then moved around from one part of the store to the other through the HVAC system. Because of this, it would need to be confirmed that the petroleum vapors were coming from the vapors beneath the floor (sub-slab) and not the products in the store. Because of interferences, a method would need to be proposed that measure the vapors coming from the petroleum release only.

Mr. Monahan asked if the vapors from the products could raise the levels in the air samples to be above RBSL. Mr. Wadsworth indicated that it could, and the program has seen it occur in the past.

Mr. Frohberg stated that it was worth noting the history of the two (2) releases at the site, as the chronology of the first release (Release 1469) went back to the early 1990s. He stated that there were numerous wells that had been installed at the site, and he understood that the Board staff had stated well assessment had been completed and that some wells had been abandoned. He noted that, in his review of the documentation, it stated that the wells could not be found, and not that they had been abandoned. What AWS was trying to do with the well assessment in the WP was utilize infrastructure that could potentially be there so that it wouldn't have to be re-created in the future. Additionally, he didn't want to risk accidentally drilling into a lost monitoring well during soil boring. Because of this, he stated that he believed the well assessment task was important to the overall scope of work. He also noted that, with regards to the soil-vapor potential in the building, an isolated sub-slab vapor assessment had been performed alongside assessing the vapors in the building. It was found that the concentrations in the sub-slab were significantly higher than what was in the building. He stated that, when the vapor assessment work was being done earlier at the site, there was a suspicion that the duct work was sub-slab in the area of the release. If this was the case, then the sub-slab ducting was a potential vapor conduit contributing to the vapor intrusion in the building, hence why a mechanical system assessment was needed. .

Mr. Wadsworth thanked Mr. Frohberg for the clarification and stated that he believed the information about the mechanical system in the sub-slab was not available in the resources the Board staff had assessed. He stated that this information would be valuable to the Board staff in their future considerations.

Mr. Monahan asked Mr. Frohberg if the released had or ran the risk of entering the underground aquifer, noting that it was a main water supply for the town of Fairfield. Mr. Frohberg stated that this was not a risk, as he had been working with Fairfield releases for a number of years, and the town's water system was designed so that the intake wells were far from the community. Because of this, there was no risk of contamination seeping into the public water supply. He noted, however, that the water supply was vital for the entire area and was not water just used for agriculture.

Mr. Frohberg stated that he had a question in return. He noted that AWS was not likely to spend all \$99,505.80 projected in the WP, as they wouldn't likely be boring a total of 18 holes. In this, however, he noted that only about \$29,000 was being funded in this WP, all of which was exclusively delegated to groundwater sampling. The tasks that had been proposed for the WP were to perform and assess remediation at the site, which he stated he believed was the purpose of the Fund. In this, he wanted to understand why there was no funding for tasks that were required for cleanup. Mr. Wadsworth stated that some of this was due to the Board staff not approving costs for the assessment of the mechanical system, as they had previously not had the evidence that would have warranted approving these costs. The evidence that the mechanical system's conveyance tubing was beneath the slab and could be compromised by the soil contamination was not information that was available at the time the Board

conducted their review. He stated that this additional information provided during today's threshold discussion would change the approved amount of costs that were going to be reimbursed.

Mr. Frohberg asked if it was just the mechanical system assessment that was going to be approved after this meeting, or if more tasks in the WP would be as well, such as the SVE system to address the vapors beneath the building. Mr. Wadsworth stated that, with the SVE system, he believed there were other ways to address the vapors beneath the building that would remove the operation and maintenance costs of the SVE. Because of this, Mr. Wadsworth stated that the Board staff would recommend a different method that would remove the vapors from the sub-slab, as it did not appear that the soils had a concentration that was a problem other than being a conduit that could be leaking vapors into the building. He noted that more would be known after the soil borings. Mr. Frohberg concurred that there was no soil data up in the western area, which was why the soil borings were needed. Mr. Frohberg added that because there was no soil data for this area, the need for an SVE could not be ruled out yet. He stated that AWS was not installing a new SVE currently but was only performing a pilot test.

Mr. Monahan asked about the two (2) releases for this WP and what the split in costs would be. He asked if release 1469 was receiving 80% of the reimbursement while release 4385 was receiving 20%. Mr. Wadsworth and Mr. Frohberg stated that the releases were sharing reimbursement.

Mr. Monahan noted that the task costs on the WP were preliminary budgets. He asked if, as more information was obtained in the investigation, the amount of money the Fund could reimburse would go up. Mr. Wadsworth confirmed this was resulting in changes to the plan.

Ms. Kline asked about the water supply and noted that one of the main water lines to one of Fairfield's main wells was located pretty close to one of the monitoring wells at the site. Because of this, she asked how deep the soil borings would go. Mr. Frohberg answered that the waterline was underneath the highway in the area and to the west. He noted that in previous investigations indicated no contamination had been encountered in that area. He added that while there was limited data for these previous tests, there was not a concern about the waterline being affected, as there was no evidence of a substantiated impact. He stated that the upcoming soil borings would address contamination on the property near the west and north sides of the building. Ms. Kline stated that, when the line was put in, there must have been testing performed to check for contamination and that it would have shown up during that time.

Ms. Kline noted that there was a sanitary sewer in this area, too. Because of this, she asked if the consultant was also working with the Town of Fairfield Public Works on the project, since it appeared that the WP's tasks overlapped with local infrastructure that would need to be protected. Mr. Frohberg stated that he believed this would be the case, as the SVE system was near the sewer lines, but was believed to not have a potential impact on the sanitary sewer. As for groundwater, Mr. Frohberg explained that, while the monitoring wells would go down to groundwater levels at 10 to 12 feet, the water lines would likely not be impacted. If there was contamination, it would likely be below the waterline, as waterlines were usually at a depth of 6 feet. He stated that this part of the infrastructure would be assessed more as more data was obtained. Ms. Kline noted that groundwater levels could vary based on irrigation, which would affect this, too. She stated that, because of this, she wanted to make sure AWS was communicating with the town about the infrastructure, as there was still a potential risk of the release seeping into local utility piping if there was a crack in one. Mr. Frohberg stated Ms. Kline had a good point and thanked her.

Release 1054, WP 716834891, Pacific Coast Supply, Great Falls, Exceeding \$100K in Costs

Ms. Pankratz presented the Board with a summary of the release. She stated that Pacific coast supply was the responsible party for the release, and that they had retained WGM group as the environmental consultant. The WP originally started as a remedial investigation, but due to pending site redevelopment or expansion, it was upgraded to include a cleanup component as well. Tasks for the WP included in-situ chemical oxidization combined with carbon injection. The estimated cost for the WP was \$260,795.18. The release was originally reported in 1992 when petroleum-contaminated soil was encountered during removal of the USTs. At that time 110 yards of petroleum-contaminated soil were removed, and the release was resolved. However, a later investigation, in 2021, found contamination that appeared to be related to the previous release, which caused it to be re-opened.

Mr. Monahan asked if the owner or a representative of the owner was available for comment. There was nobody available from the owner, owner representative, or consultant available to speak at this time.

Mr. Monahan asked if Mr. Wadsworth had any comments. Mr. Wadsworth stated that the evidence indicates that the owner and the consultant were attempting to rush the environmental cleanup at the site, as demonstrated by the WP's expansion from remedial investigation to a combination of investigation and cleanup. He stated that the compressed cleanup timeline that was being pursued by the owner and consultant did not allow for an economically justifiable strategy to address the contamination. He stated that compressed schedules often led to mistakes, inaccurate documentation, economic inefficiencies, and unnecessary costs. Optimal use of public funds required a process that ensures a defensible WP, adequate public comment period, time for WP modification resulting from the comments, and regulatory agency approval of the work before the work was conducted. Underlying the cleanup process was the fundamental principle that costs needed to reasonably be incurred. A review of the WP had indicated multiple inconsistencies, disagreement in scope between the narratives and the tabulated costs, ambiguous tasks, costs assigned to non-standard tasks, incorrect staffing levels, incomplete mobilization costs, and incomplete worksheets. He noted that while the WP proposed a cleanup strategy, the extent and magnitude of the contamination remained undetermined. Because of the compressed cleanup timeline the proposed cleanup strategy, based on the current remedial alternatives analysis, was neither the cheapest nor fastest alternative to bring the release to closure. He stated that this WP proposed the installation of three (3) borings that would be converted to wells. The wells would be surveyed at the site, carbon injectate would be administered, four (4) rounds of groundwater monitoring would be conducted at the wells at the site, and those findings would be reported. He stated that the low concentrations present at the site argued against the use of a carbon injectate, and available soil concentrations could not support the proposed amount of carbon injectate and other similar products. The manufacturer's literature indicated that RegenOx®, the chemical oxidation compound proposed for use, was a viable solution where contaminants were significantly higher than was found in the existing borings and monitoring wells at the site. Similarly, consideration of the volume of contaminated soils suggested a much smaller injection area, one that was approximately one tenth of the size proposed in the WP. Consequently, the Board staff had allowed costs of up to a tenth of the proposed ORC® to be injected. RegenOx® injections were not considered to be necessary unless the additional planned wells showed higher levels of contamination. He stated that another concern with the site was that it potentially had petroleum contamination related to railroad operation, and therefore it was important for the consultant to assess that aspect of the site as the investigation continued.

Mr. Monahan asked why there appeared to be no activity performed at the site until 2020 if the release was discovered in 1991. Mr. Wadsworth noted that this release was initially discovered in 1991 but was closed in 1992. It was re-opened in May of 2021 after activity occurred near the tank basin during a Phase II site investigation performed in preparation for the sale of the property. He stated that, in this case, this was justification for why there was a significant span of time between work at the site.

Ms. Kline asked if the expression "local government review" was not fully defined, and if it referred to the period of time where public comments were submitted. Mr. Wadsworth stated any work plan for which public funds will be used to reimburse costs had to go through a government review process. He noted that the law (§75.11.309, MCA) included the review by local government; the county government (sanitarian), and the city government, as well as the tribal government. He believed, because it was public funding, it also provided the opportunity for anybody who was in the area or had an interest in the site to review the proposed scope of work in the WP. He indicated that neighbors could be an impacted third-party and therefore had a stake in the review of the scope of work for a site that was adjacent to them. Although the law does not specifically include the public, the spirit of the law seems to indicate that there should be time allowed for comment. Mr. Wadsworth stated that, because of the compressed schedule in this case, there was not much time for the government review. Ms. Kline stated that she wasn't sure if it just involved the sanitarian and appreciated the elaboration. Mr. Wadsworth added that it could seem that way because the Department often received comments from the county sanitarian on WPs and seldom received comments from others.

Board Attorney Report

Ms. Oomens presented the Board with the Board Attorney Report. She stated that, for the *Cascade Cnty v. Mont. Petroleum Tank Release Comp. Bd.* case, they had received an order from the Montana Supreme Court. The Montana Supreme Court had stated that the Board had previously not denied or approved the costs, as the Board had stated that the costs could not be approved or denied until they were sorted into the releases. The Montana Supreme Court wanted the Board to either deny or approve the costs.

Mr. Wadsworth stated, to expand on Ms. Oomen's briefing, that Cascade County had a release DEQ had assigned number 3051, and Cascade County had submitted claims for this release. However, the claims exceeded the Petroleum Tank Release Cleanup Fund's (Fund) maximum amount reimbursable for a release. Because of this, the Board staff prepared the denial of a number of claims related to this release, totaling nearly \$900,000 worth of costs that had exceeded the maximum amount

reimbursable. During the process of bringing these staff-denied claims before the Board to be ratified for denial, Cascade County had entered into a legal case with the Department, challenging the assignment of only one release under the Department's method of operation. He stated that Cascade County finalized the case with the Department, with the Department refusing to assign additional releases to the site and then began the case with the Board. The case with the Board had now been going on for a number of years. The claims related to this release had been sitting dormant, awaiting a resolution to the case, before the Board was to act. He stated that the Board staff had sent many communications to Cascade County and their attorney notifying them that the court had granted four (4) releases at the site. The Board staff had processed four (4) additional applications for eligibility for the site. These four (4) applications had been sent in by Cascade County as Releases 3051-C1, 3051-C2, 3051-C3, and 3051-C4. He explained that, in the Board staff's database, they had identified these releases as release numbers 51, 52, 53, and 54. As a historical matter, Cascade County had submitted all of their costs on release 3051. Because of this, the Board staff had asked Cascade County to take all the submitted costs and break them into the four (4) releases that had been granted eligibility to the Fund with the appropriate costs and work attributed to each release. However, Cascade County had refused to do this. Because of this, the Montana Supreme Court had stated that the Board had to continue with the processing of the claims as submitted. He stated that he anticipated, at the next Board meeting on September 15, 2025, all of the pending Cascade County claims that the Board staff were going to deny could be brought before the Board for ratification of denial. This would allow the Montana Supreme Court and Cascade County to move forward with the current case. He stated that he was available for questions.

An extensive discussion ensued concerning the history of the prior cases related to the Cascade County property, the legal issues raised, the courts' decisions, and the Board and Board staff's attempts to follow the Courts' directions. These issues included:

- DEQ administration and tracking of the contamination at the site under a single release vs. PTRC with four (4) releases – coordination of information and processes,
 - Work plans, claims, etc.
 - Closure of DEQ release and effect on PTRCB releases.
- Determination of appropriate costs attributable to each release allowed by the Supreme Court,
 - Each release with a separate copay,
 - Each release with required maximum reimbursement,
 - Contamination volume and cleanup costs attributable to each release,
- Separation of ineligible costs from eligible costs, including:
 - Costs for contamination that are not associated with the four (4) Supreme Court identified releases,
 - Costs associated with cleanup of contamination from the old refinery that pre-existed Cascade County's use of the site (i.e., refinery contamination vs. non-refinery contamination), including railroad spur area,
- Evidence (scientific and soil volume information) to attribute costs to specific release areas may not be available,
- Cost control measures not implemented for later claims filed under Release 3051 because it was known that costs would exceed the maximum allowable reimbursement for that release regardless of cost control efforts.

Ms. Oomens clarified that the Montana Supreme Court's decision did not state that the Board needed to approve or deny the claims to move forward, but simply to decide one way or the other. Mr. Monahan asked if this meant it was up to the Board, as opposed to the Board staff deciding one way or the other. Ms. Oomens stated that it would be based on whatever the Board staff brought up for recommendation, but that this was otherwise the case.

Ms. Oomens presented the Board with an update on the Public Forum comments that had been presented at the April 14, 2025 Board meeting. She stated that there had been public comment at the last meeting about Board interaction of costs and what actions were approved and refunded. She stated that she had been in communication with Mr. Nate Olson, Project Manager, West Central Environmental Consulting, who had submitted the comments at the last meeting. In these communications, she stated that she had been explaining how the Board's procedures worked in relation to the consultants, owner, Department, and the Board itself. She stated that she had not heard back from Mr. Olson after their latest communications, and she hoped that they had reached an understanding.

Ms. Oomens stated that, as a final point, there were communications that Ms. Aislinn Brown, the previous Board Attorney, had with the Northern Cheyenne Tribe about costs for which they were seeking reimbursement. She stated that the communication had been ongoing, but that she hoped an understanding could be reached. However, nothing of major note had come of it yet.

Mr. Monahan asked about the federal grant from the Environmental Protection Agency (EPA) that the Northern Cheyenne Tribe had, and if it had been specifically for the cleanup the Northern Cheyenne Tribe had been using in their request for reimbursement. Mr. Wadsworth stated that the Northern Cheyenne Tribe received a grant from the EPA to perform cleanup

within the tribal boundaries. He stated that he was not sure if this grant was for the cleanup of a particular facility within the tribal boundaries. He stated that Northern Cheyenne Tribes chose to use the grant money towards some Fund-eligible facilities. Then, they were seeking reimbursement from the Fund on the EPA grant money. Mr. Wadsworth stated that the Board was legally prohibited from reimbursing grant funds to the grantee. He stated that the only workaround to this was if the Board staff was reimbursing the EPA (the grantor) and that EPA had been made the claimant and the one intended to receive this particular reimbursement. He stated that with this particular case, there had been claims submitted by the Northern Cheyenne Tribe seeking reimbursement for costs that were covered under a grant. He noted that, because of this, the Board staff was walking a legal line over what could and could not be reimbursed. He stated that Ms. Brown had started a conversation with Northern Cheyenne Tribe's attorney prior to her departure, and that Ms. Oomens was continuing that effort. Ms. Oomens stated that her latest communication with the attorney was to look for clarification as to what money went where in the seeking of reimbursement. She stated that, hopefully, there would be answers obtained from this communication.

Fiscal Report through AprFY2025

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 none.

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 to April 2025. He noted that there had been two (2) informational-only entries during the eligibility ratification portion at this meeting, and these had both been eligibility applications that were withdrawn. He stated that these eligibilities were previously pending but were now identified as withdrawn. He hoped this would tie these details together for the Board. Mr. Wadsworth added that, in April, three (3) new eligibility applications had been received.

Mr. Monahan noted that these were the same three (3) eligibilities that were ratified as eligible earlier in the meeting. Mr. Wadsworth confirmed this was so. Mr. Monahan asked if, for clarity, December 2024 to March 2025 passed by with zero (0) new eligibilities submitted or ratified. Mr. Wadsworth confirmed this was so.

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 the last Board meeting, there had been 11 suspect releases, ten (10) confirmed releases, and six (6) releases resolved. She noted that Mr. Monahan, at the previous Board meeting, had asked about the number of releases that were resolved and eligible. She stated that, out of the six (6), one (1) of them was eligible. She stated that, when the resolved releases from the last meeting were factored into this, there were a total of 11 releases resolved, with three (3) of them eligible, one (1) ineligible, and the other seven (7) falling into other categories such as pending, withdrawn, or not applied. For a summary of petroleum release activity to-date, there were a total of 4882 confirmed releases, 3969 resolved releases, and 913 total releases open. Of the 913 total open releases, PTCS managed 859 of them, with 583 of the releases being eligible for the Fund and 276 falling into the other category of ineligible, pending, withdrawn, suspended, or not applied.

Mr. Monahan noted that there appeared to be an elevated number of suspected and confirmed releases and asked Ms. Pankratz if there was anything to which this could be attributed. Ms. Pankratz answered that she believed this upsurge was due in part to construction activities at active facilities. This included the upgrading of piping or tanks. She stated that owners were often finding contamination from this. She added that environmental site assessments of properties during property transactions could also be a contributing factor. She stated that there would also naturally be an upsurge in releases during this season because there would be more activity being conducted at sites.

Robins Service, Facility #11-02466, TID 19718, Rel #3854, WP #716835025, Glendive, Priority 3.0

Ms. Pankratz presented the Board with a summary of WP 716835025. She stated that Robins Service was the responsible party for this release, and had retained AJM, Inc. as their environmental consultant, who had submitted the WP on the owner's behalf. The WP was anticipated to aid in the remediation of petroleum-contaminated soil and groundwater. The WP proposed the installation of an SVE and air sparging (AS) system, along with system operation and maintenance, well replacement, groundwater monitoring, and reporting. The estimated cost of the WP was \$277,954.76. The release was reported to the

Department in 1999 during underground piping removal when petroleum-contaminated soil was encountered. Approximately 350 cubic yards were removed and disposed of at that time. The groundwater had continued to exceed RBSLs.

Mr. Monahan asked Mr. Wadsworth if he had any comments from the Board staff on the WP. Mr. Wadsworth stated that the WP proposed a carbon filtration system for the exhaust portion of the SVE system. He stated that there was no evidence to indicate why the carbon filtration system was necessary. He stated that it was not required by law and the costs would not be considered necessary. He also stated that the Board staff recommended the number of employees on the site to be reduced from three (3) employees to two (2). Another reduction recommended by the Board staff was related to the report preparation.

He agreed that the release was discovered in 1999, and at that time 350 cubic yards of soil were removed. Then there was no activity until 2013. Twelve (12) monitoring wells have been installed since 2013, followed by groundwater monitoring. In 2014, an additional 500 cubic yards of soil were removed. Then there were no active WPs for about seven (7) years from 2014 to 2021. He stated that this WP proposes the installation of an SVE/AS system, with six (6) sparge points, and five (5) SVE wells, along with monthly system inspections for a year. Additionally, there would be 200 pounds of activated carbon put into the system trenches when installing the piping, construction of two (2) additional groundwater monitoring wells near the sewer line, and three (3) additional rounds of groundwater monitoring conducted on the 11 wells at the site. With the high chemistry and a successful pilot test of the SVE/AS system in 2024, Mr. Wadsworth stated that there did not appear to be any issues with the need for a remediation system. He stated that one of the monitoring wells had low concentrations of Benzene in 2022 (2.5 ppb) and 2024 (25 ppb). If the sampling shows that concentrations do not exceed any RBSLs the well may only require a few more monitoring events. The installation of two (2) proposed new wells along the sewer line may not be necessary since there are 4 monitoring wells already near the sewer line.

Mr. Pointer noted that the Board staff's proposed costs were a substantial reduction from \$277,000 and asked for further details. Mr. Wadsworth stated that he did not have detailed information available to provide a clear picture of reductions on each activity proposed in the work plan, but the items mentioned earlier made up a large portion of the staff's proposed reductions. Those were not reimbursing for the carbon filtration system that was proposed for the exhaust of the SVE (\$2,000), the reduction of three (3) employees to two (2) employees working at the site (\$23,000), unnecessary reporting costs (\$3,500), costs found above allow standard rates (\$3,000) and the two (2) wells near the sewer line that may not be needed.

Mr. Monahan asked if Mr. Franks was available to address Mr. Pointer's question. Mr. Franks stated that the carbon filtration system would help to address the high concentrations of hydrocarbon-filled air from the soil so the system would not impact people within the range of the vapors. He stated that this exhaust air, unfiltered, could make someone's eyes burn. When the SVE test was performed, the concentrations were at 4,000 ppm on the PID, and the owner asked about the smell. He stated that the options were to use a 40-foot tower to offset the emissions or alternatively use the proposed carbon filtration system to mitigate the hydrocarbons. This system was proposed to address the complaints of the neighbors and the staff at the facility.

Mr. Monahan asked if the 40-foot pole was the least feasible option. Mr. Franks confirmed this was so, as that method did not address this problem at sites nearly as well when it had been tested at other locations. He stated that carbon concentrations would eventually dissipate, but that this could take up to six (6) months if left on its own, during which concentrations in the air would be very strong. He stated that, because of this, AJM, Inc. recommended the carbon filtration system.

Mr. Monahan asked what the approximate cost of the carbon filtration system was. Mr. Franks noted that it was a few thousand dollars.

Further discussion was held concerning the materials in the packet, and the reductions proposed by the Board staff. Mr. Franks provided reasoning behind the proposed need and costs for the carbon filtration system, the use of three (3) personnel at the site, and the need for the additional wells proposed. There was an extensive discussion about the carbon filtration system for the SVE exhaust, the possible issues, and the air quality laws. Mr. Franks indicated the carbon filtration system would mitigate odors produced by the SVE/AS system. He admitted that it was a new thing, and he had installed one up in Libby for the solvent chloroethylene contamination. He stated that it was effective in preventing vapors and odors from spreading over the surrounding neighborhood and also meant that it would eliminate the need for a taller exhaust. Mr. Franks testified that the concentrations being emitted from the SVE system during the test were not higher than what the state had seen from other SVE systems installed in the state. Mr. Franks noted that the SVE system was being installed in a neighborhood, and the odor would flow into the neighborhood, however, most SVE systems are installed at facilities that are in or near a neighborhood. Mr. Wadsworth reiterated that carbon filtration systems were not something used with SVE/AS systems that remediate petroleum contaminated sites in the State of Montana and are not required by State law and there remains no sufficient scientific or legal evidence for the Board staff to consider it to be a necessary expenditure.

Mr. Pointer noted that every gas station in the state was required to have a vapor recovery system installed when they had an output of 100,000 gallons a month. He stated that it did not matter if this was over one (1) month or 12 months, as they were still required to have it. He stated that the carbon filtration system could be regulated the same way. He stated while it was air quality laws and not the Department enforcing this, but that the entire idea behind the gas stations' vapor recovery was to contain the vapor so that it didn't spread into the environment, whereas, at the Robins Service facility, the vapors were being intentionally emitted into the atmosphere. Because of this, he noted that one would expect there to be something in place to control the vapors emitted. He stated that, even if the Petroleum Tank Cleanup Section was not regulating the vapor recovery, the Air Quality Division of the Department was.

Mr. Monahan asked if it would be reasonable to reimburse the carbon filtration system if Ms. Pankratz stated that the Department required it by air quality law. Mr. Wadsworth stated that this was correct. He stated that a legal requirement for the carbon filtration would provide the data to indicate that air quality exceeded state standards, and the Board staff could then agree to the reimbursement of the carbon filtration system.

Ms. Pankratz stated that the Department did regulate air emissions, that this was of interest to the Department, and that the Department would be interested in obtaining additional information on the topic to report back on. Mr. Monahan stated that the Board would appreciate this.

Mr. Franks indicated that three (3) workers were needed to be present at the site because it was his intention to complete the SVE/AS system installation work as quickly as possible to minimize disruption to the owner's business. There was discussion about the costs of the extra people and the additional costs for mobilization, lodging and per diem. Mr. Franks also indicated that discussions had been held with the Executive Director concerning report costs, but a final resolution had not yet been reached.

Town Pump Columbus, Facility #48-08691, TID 28607, Rel #4028, WP #716834982, Columbus, Priority 3.0

Ms. Pankratz presented the Board with a summary of WP 716834982. She stated that Town Pump was the responsible party for the release, and that they had retained AJM, Inc. as their environmental consultant. The consultant had provided a WP on behalf of Town Pump, which proposed an excavation of petroleum-contaminated soil, application of PetroFix®, removal of the former remediation system, and well abandonment. The estimated cost for the WP was \$302,274.66. The release was reported in 2001 when a line tightness test failed and perforated piping was found.

Mr. Monahan asked if Mr. Wadsworth had any comments from the Board staff. Mr. Wadsworth stated that the proposed scope of work included the removal of around 1,000 cubic yards of contaminated soil from the UST basin, the dispensers, and anywhere else it was needed. There would be ORC® and PetroFix® added into the excavation area, along with the abandonment of 16 wells. Town Pump was going to build a new facility adjacent to the property so all the current fueling components were being removed. The Board staff had already reviewed the proposed excavation in-depth, and found the proposed scope of work reasonable, with the exception of the addition of the ORC® and PetroFix®. In the sanitarian review, the Board staff has asked why both ORC® and PetroFix® were needed. He stated that Regenesys, Inc. had recommended the ORC® and PetroFix® combination. The Board staff agreed that the ORC® would assist the local microbes in the biodegradation of the hydrocarbons present in the source area where there was groundwater, but the PetroFix® was what trapped the contamination. Mr. Wadsworth stated that, if there was PetroFix® in place to trap the contamination, there was enough bacteria in the soil to biodegrade it without the use of ORC®. He stated that most of the cost reductions the Board staff had performed on this WP were associated with the mobilization, excavation oversight, and the well abandonment oversight. He stated that it was worth noting that the Board staff did not reimburse for well abandonment oversight. Rather, the authorized water well constructor had to do the work. The Board staff did not allow the consultant to do the oversight when there was a licensed professional on the site to do the work. Because of this, well abandonment oversight had been an adjusted cost to the WP.

Mr. Monahan noted that there was a \$50,000 reduction on the WP. Mr. Wadsworth stated that the adjustments included the mobilization costs, the labor for the oversight, and the reduction to some of the products used, such as the ORC®. He stated that the bulk of the reductions likely came from the decrease in ORC® and Petrofix® products, as these are expensive products.

Mr. Monahan asked if the ORC® was being removed from the budget altogether because the Board staff had deemed it unnecessary. Mr. Wadsworth stated that was correct. PetroFix® was a carbon injectate that would trap the contaminants, and then the contamination would naturally biodegrade over time. There was no benefit to enhancing the biodegradation with ORC® if the contamination was already trapped. If enough carbon was injected into the soil, one could trap petroleum inside the carbon without a need to biodegrade it. He stated that he understood the benefit of getting rid of the chemistry altogether by using both, but that if the contamination was no longer leeching into groundwater or an issue for dermal contact, it was also not an issue that needed to be biodegraded.

Mr. Pointer asked if there had been a reduction in excavation costs made to the WP. Mr. Wadsworth stated that he believed there had been a reduction only on the excavation oversight, but not on the excavation costs themselves. He stated that most of the reductions present entailed field work oversight, most of which was to the oversight of well abandonment. Once the oversight costs were adjusted out, this also saved associated costs related to mobilization, lodging and per diem.

With regard to well abandonment oversight, Mr. Monahan asked if there was an administrative rule that covered this. Mr. Wadsworth indicated that costs are not considered reasonable costs of responding to the release and that the Board staff had compiled a large amount of information as to why it was not reasonable for the Fund to pay for well abandonment oversight. He added that this was a discussion that had gone on for a number of years. Mr. Monahan noted that whoever was abandoning the well was someone certified by the State. Mr. Wadsworth agreed that abandonment was done by a state licensed professional and that if the owner wanted the consultant there for any reason in this scenario, they could pay for it out of their pocket. He stated that there was no reason for the state of Montana to license an individual, only to have an unlicensed individual oversee the licensed individual perform the work. He stated that it did not make sense to have a state special revenue account pay to have an unlicensed worker oversee a licensed one. He stated that this would be similar to having someone oversee a licensed professional dispense drugs.

Mr. Pointer asked if the reductions would affect Mr. Franks' work as far as the Board staff being unable to reimburse the oversight tasks. He asked if there would also be additional monitoring conducted after the excavation to ensure that everything had been taken care of. Mr. Wadsworth indicated the work can be performed, it just won't receive reimbursement from the Fund and that it was likely another WP would be created after this WP had been completed to perform the additional monitoring. He stated that, after a cleanup activity was performed, there would be a number of activities in the following years such as groundwater monitoring. He stated that it would not likely occur as part of the current WP, but it would likely come later on a separate WP. It was noted that follow-up work would be done to assess if cleanup was complete.

Mr. Pointer asked Mr. Franks what part of the WP would be affected by the adjustments as far as the job was concerned. Mr. Franks stated that one thing he noted was the cost of soil removal, which was over \$115,000. He stated that he had originally submitted the WP with it at an estimated cost of over \$146,000 for this task. He stated that he had received three (3) competitive bids for it at \$250,000, \$200,000, and \$146,000. He stated that, because of the bid process, they had already been able to save \$100,000 on the excavation costs. He stated that, because of this, he was unsure why the Board staff had adjusted the costs by another \$30,000. As far as the labor and fieldwork, he had projected it at \$30,000 while the Board staff had allocated around \$8,500 for it. He noted that the lab analysis task was at over \$44,000, which was a lot of samples for one analyst to handle. As far as the PetroFix® and ORC® were concerned, Mr. Franks stated that PetroFix® was an excellent product, as it was carbon-based, and worked well to absorb the hydrocarbons in the groundwater. He added that the ORC® provided oxygen to local microbes, which then would eat at the hydrocarbons off of the PetroFix®. He stated that he believed this interaction was important, and that the usage of both was beneficial.

Mr. Wadsworth stated that the Board staff would go back and look at the information available to see if there were additional costs to correct. Mr. Monahan stated that this was what these discussions were for, as the Board could receive information from the department and consultant and then go back to the WP to make more accurate adjustments to each task item. Mr. Wadsworth added that these discussions also helped provide better documentation for why the Board staff made different decisions and why certain other costs were allowed.

Mr. Monahan asked if the Board staff were not required to reimburse these expenses without the right data. Mr. Wadsworth answered that the staff would likely resist it, as this was what the Board staff had proposed already in their comments. He stated that this related back to the current release and WP, because when it came to excavation at the site, one of the challenges was that excavation oversight came down to whether other work was being done at the site at the same time the excavation was occurring. He added that a representative of Town Pump could add further information to the discussion. He stated that if the only activity at the site was excavating contaminated soils and transportation, the work would happen fairly quickly. However,

if the excavation activity was occurring during site redevelopment that was happening at the site, then the redevelopment would affect the speed at which excavation could be completed and, in that case, additional oversight would result. But the additional oversight cause by the redevelopment was still not something the Fund could reimburse. He stated that the Fund could only reimburse what was permitted in the rules within their statistical allowances. He stated that an exception would be if the soils were unlike any previous release excavation seen in the state of Montana, or if the consultants somehow had unseen complications such as excavating around dinosaur bones. He stated that, normally, what the Fund considered reasonable was their statistic.

Mr. Franks stated that he had an additional comment regarding the site. He stated that he agreed with Mr. Wadsworth in that they were not abandoning the wells, however, he noted that at other sites, there could be a large number of wells that were either buried in gravel or difficult to locate. In these cases, his company worked alongside the driller to find the location of and marking of such wells, while allowing the licensed professional to perform the removal. He stated that, with sites like these, there were often wells buried in gravel, which would have to be located with metal detectors. In this, he stated that they wanted the well contractor to perform this task too, but that there would be expenditures for this task either way.


There was no further discussion.

Public Forum

There was no discussion at the Public Forum.

The next meeting is scheduled for September 15, 2025. The place of the meeting will be sent out to all parties and published on the website.

The meeting was adjourned at 12:30 a.m.


Signature - Presiding Officer