

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE MONTANA DEPARTMENT OF CORRECTIONS AND
CUSTER COUNTY, MONTANA**

This Memorandum of Understanding (MOU) is entered into on this 20th day of December, 2011, by the Montana Department of Corrections, (DOC), an agency of the State of Montana, and Custer County, Montana, (the County), a political subdivision of the State of Montana. The parties enter into this MOU to formally establish the responsibilities of each party with respect to remediation of petroleum-impacted soils which affect property owned by both of the parties.

I. PURPOSE

The parties enter into this MOU to outline a plan to provide mutual aid and assistance in remediating soil contaminated by petroleum leaks or spills from underground storage tanks at three locations in and around the Pine Hills Youth Correctional Facility at Miles City, Custer County, Montana. Two of the sites are on land now owned by Custer County, and one site is on land still owned by DOC. The parties believe that a mutual clean-up effort is the best, most cost effective approach to remediation, and that it is in the best interests of both parties to work together to conduct the remediation.

II. DEFINITIONS

Remedial Investigation and Corrective Action Plan or Work Plan

Written work plans describing the methodology to remove the bulk of the petroleum impacted soil in the former underground storage tank basins have been prepared and submitted to the Montana Department of Environmental Quality, (DEQ). The current plans have been prepared by DOWL HKM, one for each of the three impacted locations. The work plans have five basic components: planning and project management; excavation of the impacted soil; disposal of the impacted soil; installation of wells to monitor the groundwater at the sites into the future; and sampling and reporting requirements. The work plans have been submitted to the DEQ, and are attached hereto as Exhibits "A", "B", and "C". It is anticipated that the plans will be approved as submitted. However, the work plans are subject to DEQ approval and to changes required by DEQ. For purposes of this MOU, it is anticipated that the work plans will be approved without any changes which would affect the overall cost of the project.

III. AGREEMENT

The parties hereby agree as follows:

- A. At no cost to the County, DOC will:
1. Continue to engage DOWL HKM, or other reputable engineering firm, for project planning and management.

2. Provide, through DOWL HKM, specially trained and credentialed workers necessary to perform the oversight and management of the excavation operations.
 3. Rent an excavator for soil removal.
 4. Provide monitoring wells and meet the regulatory sampling and reporting requirements of the DEQ.
 5. Resurface the parking lot at the auto shop site.
 6. Supply needed backfill material for the top two feet of soil surface.
- B. At no cost to the DOC, County will:
1. Provide dump trucks, fuel, drivers, and a dump site at the County landfill for removal and disposal of the impacted soil.
 2. Provide suitable backfill material up to approximately two feet below surface level.
 3. Supply an excavator operator for soil removal.
- C. Excavation and other dirt work required under the work plans will be performed at or around the end of February, 2012, as weather permits.
- D. The parties plan to excavate the first location, dispose of contaminated soil at the landfill, and then begin return hauling of fill material from areas in and around the landfill. The parties agree to optimize efficiency by returning hauls with fill material while the next locations are excavated. The parties agree to try to complete the project within one week.

IV. LIAISONS.

A. Montana Department of Corrections:

1. Steve Ray
Superintendent, Pine Hills
2. Jeff Holland
Quality Assurance Officer, Pine Hills

B. Custer County:

1. Jerry Backlund
Custer County Road Supervisor
2. John Muggli
Muggli Construction / County Landfill Manager

V. MISCELLANEOUS

1. Amendments to this Agreement may be proposed at any time by either party, shall be in writing, and shall become effective upon written approval of both parties.
2. Nothing in this Agreement is intended to waive or otherwise limit any applicable law, rule, or regulation or any other requirements or duties under such laws, rules, or regulations.
3. Employees and agents of the parties shall at all times remain employees or contractors under the supervision and direction of their respective employer or principal.
4. The Montana Department of Corrections agrees to protect, defend, and save Custer County, its elected and appointed officials, agents, and employees, harmless from and against all claims, demands, and causes of action relating to the work to be performed hereunder, including the cost of defense thereof, incurred by Custer County resulting from the sole negligence of the Montana Department of Corrections.
5. Custer County agrees to protect, defend, and save the Montana Department of Corrections, its appointed officials, agents, and employees, harmless from and against all claims, demands, and causes of action relating to the work to be performed hereunder, including the cost of defense thereof, incurred by the Montana Department of Corrections resulting from the sole negligence of Custer County.

VI. TERMINATION OF M.O.U.

This MOU shall terminate upon successful completion of the project described herein. In the event either party desires modification or cancellation of this agreement prior to completion of the project, the parties agree to meet and discuss the reasons for the proposed modification or cancellation in a good faith and reasonable effort to resolve any differences they may have.

Dated this 20 day of December, 2011



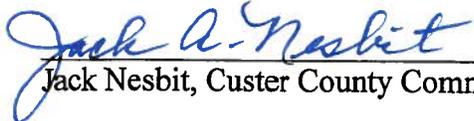
Mike Ferriter, Director of Department of Corrections



Keith Holmlund, Custer County Commissioner



Vicki Hamilton, Custer County Commissioner



Jack Nesbit, Custer County Commissioner