

PUBLIC COMMENT PERIOD

Public Notice for the lodging of the proposed Anaconda Smelter National Priorities List Site (Anaconda Site) Consent Decree.

On October 23, 2020, the U.S. Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Montana in the lawsuit entitled *United States of America and the State of Montana v. Atlantic Richfield Company, et al.*, Civil Action No. Civil Action No. CV-89-39-BU-SEH.

In accordance with Montana Code Annotated (MCA) Section 75-10-713, the Montana Department of Environmental Quality (DEQ) is inviting the public to comment on the proposed Anaconda Site Consent Decree.

The settlement would partially resolve claims brought by the United States and the State of Montana against Atlantic Richfield Company (Atlantic Richfield) under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. 9607, and by the State of Montana under Section 715 of the Montana Comprehensive Cleanup and Responsibility Act (CECRA), MCA Section 75-10-715, for the recovery of costs incurred and to be incurred in responding to releases and threatened releases of hazardous substances at the Anaconda Site. The Consent Decree is a legal document that provides the framework for the continued cleanup of mining-related contamination to protect public health and the environment in Anaconda.

The Anaconda Site presently is made up of five Operable Units, spanning over 300 square miles of land and water impacted by nearly a century of mining, milling, and smelting at the Site. Two of these Operable Units, the Flue Dust Operable Unit and Mill Creek Operable Unit were addressed in prior Consent Decrees. A third Operable Unit, the Community Soils Operable Unit (CSOU), will not be addressed in this Consent Decree, but will continue to be implemented by BP-AR under an existing Unilateral Administrative Order (UAO) issued by EPA.

Key Remedy features of the Consent Decree:

- Atlantic Richfield will construct enhanced remedial elements to address stormwater loading of contaminated sediments to surface water.
- Atlantic Richfield will remediate two smelter slag piles that have been left at the Site, and will assure future operation & maintenance of the Old Works Golf Course in Anaconda, Montana, which was constructed on smelter wastes.
- The Consent Decree provides a path to waivers of surface water standards after Atlantic Richfield implements the technically practicable remedy elements outlined in the Consent Decree and its Statement of Work.

- The estimated cost of the work required under the Consent Decree is \$23.7 million. The Consent Decree also requires Atlantic Richfield to provide financial assurances for future cleanup actions.

The Consent Decree provides Atlantic Richfield and the State of Montana mutual covenants not to sue under Sections 106, 107(a) and 113(f) of CERCLA, 42 U.S.C. §§ 9606, 9607(a) and 9613(f); Sections 3004(u) and (v), 3008 and 7002 of RCRA, 42 U.S.C. §§ 6924(u) and (v), 6928 and 6972; Sections 309(a) and (b), 311, 504 and 505 of the Clean Water Act, 33 U.S.C. §§ 1319(a), 1321, 1364 and 1365; Sections 601, 602, 611, 613, 614 (except with respect to enforcement of an emergency order under 75-5-621), 615, 617, 631 and 635 of the Montana Water Quality Act, MCA §§ 75-5-601, 602, 611, 613, 614 (except with respect to enforcement of an emergency order under MCA § 75-5-621), 615, 617, 631 and 635; Section 415 of the Montana Hazardous Waste Act, MCA § 75-10-415; and Sections 711, 715, 722 and 726 of CECRA, MCA §§ 75-10-711, 712, 722 and 726.

The Consent Decree has eight appendices. Appendix A is the Anaconda Statement of Work (which has 11 attachments). The Anaconda Statement of Work and attachments describe the scope of work required of the Atlantic Richfield under the Consent Decree. The State of Montana has reserved the right to withdraw or withhold its consent to the proposed Consent Decree if the public comments disclose facts or considerations that indicate this proposed settlement is inappropriate, improper, or inadequate.

The 30-day public comment period starts October 30 and ends November 28, 2020. Written comments must be received by 11:59 p.m., November 28, 2020. Public comments may be submitted to: DEQFSCB@mt.gov or mailed to Attn: Federal Superfund Public Comment, MT DEQ/WMRD P.O. Box 200901, Helena, MT 59620. DEQ will hold a public meeting upon written request to DEQ on or before, November 11, 2020, by 10 or more persons, a group of 10 or more persons (but not including a liable person) or the governing body of Anaconda-Deer Lodge County.

The Consent Decree is posted on the DOJ website at <https://www.justice.gov/enrd/consent-decree/us-and-state-montana-v-atlantic-richfield-company>

Concurrently, the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Justice (DOJ) are publishing notice of lodging of the proposed Consent Decree in the Federal Register.

For more information:

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