



Libby Asbestos Superfund Advisory Team Meeting
September 21, 2017
1:30 PM

Location of Meeting:
Metcalf Building
1520 East 6th Avenue
Helena, MT 59601
Room 111

*Remote access was also available.

I. Call to Order

The Libby Asbestos Superfund Advisory Team meeting was call to order at 1:36 PM on September 21, 2017 at the DEQ Metcalf Building.

This was the first meeting in accordance with 2017 SB315 Legislation. Meeting was public noticed via newspaper ads, press release, and DEQ website.

II. Roll Call

Tom Livers, Department of Environmental Quality Director, conducted a roll call of attendees and confirmed advisory team members present. The following persons were present or attending by phone:

| Advisory Team Members: | | |
|--|---|-------------------|
| Director of DEQ or designated representative | Tom Livers | Present |
| Lincoln County Commissioner designated by the commission | Commissioner Mark Peck | Present |
| Member of the House of Representative who district includes at least a portion of Lincoln County appointed by the speaker of the house | Representative Steve Gunderson | Present via Phone |
| Citizen of Lincoln County nominated by Lincoln County commission and selected by Governor | George Jamison *nominated by commission, but still pending selection by Governor | Present via Phone |
| Member of the senate who district includes at least a portion of Lincoln County appointed by the senate president | Senator Chas Vincent | Absent |

| <u>Other Interested Attendees</u> | <u>Affiliation</u> | - |
|-----------------------------------|---|-------------------|
| George Mathieus | DEQ | Present |
| Jenny Chambers | DEQ | Present |
| Tom Stoops | DEQ | Present |
| Christina Prograss | EPA | Present via Phone |
| Dania Zinner | EPA | Present via Phone |
| Eric Whitney | Public Radio | Present via Phone |
| Jacob Fuhrer | KTVH | Present |
| Jennifer Harrison | EPA | Present via Phone |
| Joe Kolman | Legislative Environmental Policy Office | Present |
| Erin Bills | Legislative Environmental Policy Office | Present |
| John Podolinsky | DEQ | Present |
| Karen Ogden | DEQ | Present |
| Joann Wiggins | DEQ | Present |
| Linda Bauer | Citizen | Present via Phone |
| Lisa DeWitt | DEQ | Present |
| Matt Brown | Associated Press | Present via Phone |
| Mike Cirian | EPA | Present via Phone |
| Nick Raines | Lincoln County | Present via Phone |
| Patrick Reilly | Daily Inter Lake News | Present via Phone |
| Thad Adkins | DEQ | Present via Phone |
| Delaware Call | | Present via Phone |
| Guests (two) | | Present via Phone |

III. Approval of Agenda

The agenda for the meeting was distributed and approved prior to schedule meeting.

IV. Consideration of Open Issues

1. Introductions of Advisory Team Members and positions held. Selection of a Superfund Asbestos Advisory Team Chair. (Tom Livers)

**** See above for introductions and positions held****

Commissioner Peck indicated that Mr. Jamison was approved for nomination by Lincoln County and that his application was submitted to the Governor's office for consideration. There was also a question on if the Speaker of House confirmed Representative Gunderson to the committee. Jenny Chambers indicated that he was appointed by the Speaker of the House.

*****See attached letter dated May 18, 2017*****

There was a question on if there was an appointment made from the senate. DEQ has not received a letter and was going to check with Senator Chas Vincent on any confirmation.

Advisory Team Chair:

Mr. Livers opened the discussion for nomination of Chair. Based on logistics and coordination of the meeting, Tom Livers volunteered to be Chair if no one else was interested. It was noted that DEQ may have the staff resources to coordinate and assist the advisory team with action items. Commissioner Peck and Representative Gunderson supported DEQ taking the lead and for Tom Livers to be chair.

2. Intent and overview of Legislation (Commissioner Peck)

Commissioner Peck discusses the intent and provides a high level overview of the 2017 SB315 Legislation and also the funding that was authorized in the 2015 Senate Bill 20. He understands that when the site moves to the Operation and Management (O&M) phase that the State of Montana has certain legal obligations, but the legislative will assist with coordination and on-going involvement. In general, he summarized the bills and highlighted the following points:

- Establishes an administrative framework to managed the funds;
- Frames an administrative foundation for discussion and maintains Record of Decisions;

Provides a platform for open dialogue and coordination as the site transitions and will allow the State and County to work together to tackle O&M challenges. It will develop Tom Livers noted that Jenny Chambers, DEQ testified before Legislature on both the 2017 Senate Bill 315 (SB315) and the 2015 Senate Bill 20 (SB20).

Jenny Chambers discussed the importance of stakeholders and reaching out to the community and how to move forward. She stated that DEQ would have had to find a way to provide a forum for the dialogue and coordination regardless of the legislative, however the structure and both Senate Bills helps establishes a clear path forward and framework for the Libby Superfund site.

3. Overview of Trust / O&M Accounts - Establishment and structure (Jenny Chambers)

To provide some general understanding of the funding associated with the Libby Superfund Site as several of the Site's operable unit's transition into O&M, Jenny Chambers discussed the three types of funds available to the State of Montana for the Libby 2017 SB315 Legislation Asbestos Site for O&M. DEQ will be asking for the Advisory Team for input and discussion as things move forward.

1. EPA has approximately \$11 million in O&M funds for all operable units excluding operable unit 3 (mine site) and operable unit 6 (BNSF). The funds are administered by EPA to DEQ through cooperative agreement grants. DEQ currently has a small amount this year for Operable Unit 1 and Operable Unit 2 for general O&M, which includes site inspection and reporting. In addition,

EPA will have their own charges to this funding source for their administration and oversight.

2. The State of Montana, DEQ has approximately \$5.2 million for O&M received as part of the bankruptcy settlement. These funds are currently in an interest bearing account.

In the future, one question for the Advisory Team may be how should these funds be used and managed and if these funds should be rolled over to Trust account established in SB315 or left stand alone.

3. In the 2015 SB 20 Legislation, DEQ received an appropriation of \$600,000 annual from an Orphan Share transfer that will start in July 1, 2018. In addition, the 2017 SB315 that was passed provides a framework on how this money can be used and establishes a permanent Trust fund to pay exclusively for cost to the State of cleanup and long-term O&M. Sections of both Senate Bill 20 and Senate Bill 315 were reviewed:

**SENATE BILL NO. 20
AN ACT REALLOCATING A PORTION OF METALLIFEROUS MINES
LICENSE TAX COLLECTIONS; PROVIDING A TRANSFER OF FUNDS
TO THE ENVIRONMENTAL QUALITY PROTECTION FUND;
AMENDING SECTIONS 15-37-117, 75-10-704, AND 75-10-743, MCA;
AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION
DATE.**

**(i) 50% to the state's contribution for cleanup and long-term
operation and maintenance costs at the Libby asbestos
superfund site; and**

After July 1, 2018, the department shall transfer \$1.2 million in each fiscal year from the orphan share state special revenue account to the environmental quality protection fund provided in 75-10-704.

****See attached 2015 Legislative Senate Bill 20****

**** See attached 2017 Legislative Senate Bill 315****

4. Update on Libby Liaison Position.

Libby Liaison Position:

The 2017 SB315 authorizes DEQ employee to serve the role as Libby asbestos superfund liaison. The position is currently vacant and a draft job description has been developed. The Advisory Team members discussed Section 2 of SB 315 and also key attributes for a candidate in this position.

Mr. Peck discusses what should be considered as key attributes for the Libby Liaison, he then reads from Senate Bill 315, Section 2;

Section 2. Libby asbestos superfund liaison.

(1) There is a Libby asbestos superfund liaison who is an employee of the department of environmental quality but serves as staff to the Libby asbestos superfund advisory team created by [section 1].

(2) The Lincoln County commission shall nominate three candidates for the liaison position. The governor shall select the liaison from those candidates. The liaison reports to the director of the department of environmental quality or the director's designated representative.

(3) The liaison shall represent the interests of Lincoln County and the state by assisting the department of environmental quality in dealing with federal agencies related to the Libby asbestos superfund site. In carrying out these duties, the liaison shall:

(a) Monitor activities related to the Libby asbestos superfund site;

(b) Assist in the implementation of final cleanup plans for the Libby asbestos superfund site;

(c) Review documents and provide comments and recommendations to the department and, at the department's request, to local governments and appropriate federal agencies regarding the Libby asbestos superfund site;

(d) Assist in the preparation and dissemination of reports and other information as necessary; and

(e) Other duties as assigned by the director of the department of environmental quality or the director's designated representative.

Mr. Livers added that the skillset needs to be around communication, both verbal and written. The ability to understand policy consideration, navigate discussions with multiple groups, and a technical understanding of concepts and the ability to recognize significance differences and points of views.

Mr. Peck feels the individual needs to have a background in public relations to be able to facilitate and can help with negotiations. He is leaning towards someone with a solid leadership skillset.

Mr. Jamison wants the recognition of how difficult finding someone who is the right person for the position. It may be a hard position to fill, however it will be worth the effort for success of the program.

Mr. Peck agrees with Mr. Jamison and states "It can be done."

The individual will need to be able to handle going thru some very difficult situations.

Mr. Livers agrees with comments that the individuals selected will need to have leadership skills, good judgement, and communication is more important. The new liaison will fail with poor communication.

Mr. Jamison feels a technical background with work experience, such as, biology or science.

Representative Steve Gunderson would like someone capable of handling (in order of importance) crisis management, leadership, communication and technical.

Mr. Peck agrees with conflict management and don't rush to find someone let's make sure it is the right person.

Mr. Livers ask Representative Steve Gunderson to clarify crisis management Steve Gunderson explains the ability to work with people who are going thru the effects of asbestos, not pick a side, not have clouded judgement, draw people together with difference in opinion.

Mr. Livers reiterate conflict management is the ability to appreciate the severity of the situation, take action. He added when posting the position try and not to make education such a tight requirement or right person may be lost.

Mr. Peck discuss the new liaison will be a state employee working with all interested parties. His concerns about "what if" they are not able to find three applicants to submit to the Governor and documenting the official number of applicants. His interests in having Committee play a role in interviews and the selection process.

Jenny Chambers reminded the Team Members that the hiring process is established in the 2017 Senate Bill 315 and states three candidates for Libby Liaison position will need to be sent to the Governor and he will select the Liaison from those candidates. The Liaison will report to the director of DEQ or director designated representatives.

Advisory Team discusses potential timeline to get the Libby Liaison position posted;

- Two weeks on Draft of Position and updating attributes
- Two weeks to get a final Job Description
- Two weeks to get the job classified by Human Resources

After the following steps have been completed Lincoln County can send out the job posting and DEQ will help with the recruiting process.

Team discussed that the holidays may not be a great time for recruitment. If the position and recruitment packet is completed early fall then it would be good to get the notice out. However, if it is later in the fall and early winter, then maybe consider waiting until first of the year. All Advisory Team members agreed not to rush recruitment and the focus needs to be on getting the right candidates and not just getting the position filled.

5. Discussion and Next Steps

a. Date of Next Meeting

Doodle Poll will be sent out for next meeting scheduled either mid-November or second week in December.

b. Summary of Action Items

- DEQ will finalize the Libby liaison job description and draft recruitment notices and strategy for consideration by Advisory Team.

- Jenny Chambers indicated that EPA and DEQ would be willing to have a brief presentation at the next meeting to provide an overview of the Libby Superfund Site and update on status of each operable unit. This will help set the stage and make sure everyone is on the same page and the Advisory Team starts to determine work plans and future action items.

Mr. Livers discussed the overview of Operable Units would be helpful, it will help focus on all the different pieces that the liaison will be fulfilling, assist with building a draft work plan items, and the need to identify the scope for the new liaison.

Jenny Chambers pulled Libby Asbestos Superfund Advisory Team website up and indicated that all meeting information, agenda, dates, contact information and meeting minutes will be posted and maintained on this site.

<http://deg.mt.gov/DEQAdmin/dir/libby/SATeam>

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