

BOARD OF COUNTY COMMISSIONERS

LINCOLN COUNTY

MARK L. PECK, COMMISSIONER
DISTRICT NO. 1, LIBBY

STATE OF MONTANA
JERRY BENNETT, COMMISSIONER
DISTRICT NO. 2, TROY

MIKE COLE, COMMISSIONER
DISTRICT NO. 3, EUREKA

ROBINA A. BENSON
CLERK OF THE BOARD AND COUNTY RECORDER

Douglas Benevento, Administrator
U.S. EPA Region 8
80C-EISC
1595 Wynkoop Street
Denver, CO 80202-1129

October 24th, 2018

Re: Critical Transition Issues Libby Asbestos Superfund Site Libby, Montana

Dear Mr. Benevento:

The stakeholders of Lincoln County would like to request a formal meeting and disposition on several critical issues that must be determined to fully transition into the operations and maintenance phase of the Libby project. Several of these topics were raised in our meeting in Libby with the Lincoln County Commissioners and others on June 4, 2018. All of the topics have been raised with EPA staff at varying levels. Given the level of discussion that has occurred, for brevity, we have only briefly detailed the topics. The topics are listed below:

O&M Long Term Funding/Grace Settlement Funds:

This topic, along with the County's Position Statement of January 2018 (see attachment), has been articulated several times, including direct discussion in your Regional Office in January with Commissioner Peck. It has also received close attention from Sen Daines. As discussed on June 4, this topic is pivotal to our involvement in O&M, and we agree that it needs to be resolved at a senior leadership level by the Region and the County. We hope that you can personally participate in some of those discussions. The discussions may need to include a nontraditional relationship in O&M and the County (local authority). We are hopeful that together we can find a means to fund the "delta" costs in the post-construction period.

It should be noted that since the June meeting in Libby, considerable progress has been made for O&M planning with DEQ and EPA. In general, we are concluding that all O&M activities are eligible for funding from EPA, DEQ or State SB 315 funds. We have requested that the uncommitted W.R. Grace remediation settlement funds be included in this eligibility matrix, but that has not occurred for reported legal considerations. Also, recent initiatives between the County and DEQ have resulted in a planned outcome whereby the County will assume the lead role in O&M.

Additionally, in the funding discussions we are seeking recognition of the significant inherent uncertainties in O&M operations and funding. For example, we have recently revived concern about the implications of evolving protocols and practices, particularly the adoption of the Site Investigation (SI) procedure with 30-point composite sampling (in about 2007) replacing the Contamination Screening Study (CSS) with 5-point composites. Our concern relates to the hundreds of properties that were

512 CALIFORNIA AVENUE
LIBBY, MONTANA 59923
(406) 293-7781 • (406) 293-7057 Fax
E-mail: lccomms@libby.org

addressed with a seemingly less stringent protocol. We are currently working with your local manager to obtain detailed information to enable a more thorough evaluation and understanding.

Legal and Financial Responsibilities for Legacy Material Left Behind:

An integral element associated with the above funding topic is the presence of the language in the "sitewide" ROD that transfers cost burdens to the property owners for Libby asbestos issues in O&M. We are seeking clarification of legal and financial responsibilities (including modifying or clarifying the ROD) that does not shift the burden to the property owners, or to local or state government entities.

Administration of the Public Health Emergency in the Future:

We understand that any contemplated change to this declaration will first include consultation and dialogue with local entities. We would like to clarify that position and underscore the importance of addressing ongoing community asbestos related health issues, as well as assessing health issues and trends in the future.

Current Grant Issues and Status of IG Investigation:

In cooperation with the Grant staff, we have provided more detailed information related to the inquiry we requested in April 2017. We have recently requested a resolution of the outstanding questions by December. We would appreciate your support of the Grant staff to allocate the resources to conclude this inquiry.

An inseparable issue is the IG investigation. While we recognize their independence, it is very problematic to have no answers regarding any findings, or whether there will ever be any response. Any encouragement for some responsiveness would be appreciated.

The lack of resolution to both elements is harmful to our (and your) efforts to be transparent, and to be able to move forward with full disclosure to the public. We need your opinion of the degree to which grant funds may have been overdrawn so we can address the issue. This cloud is not helpful as we go forward to seek public support of our participation in O&M.

We fully respect the complexities associated with solving the above issues, however, we cannot stress enough how critical resolution is to implement O & M and protecting the fragile remedy and the public health of our citizenry. Lack of resolution of these issues in a timely manner will soon slow or stall our progress in O&M planning.

We request that by the close of calendar year 2018 we schedule a one or two-day meeting to focus specifically on these issues. The location can be Libby, Helena or Denver whichever makes most sense logistically. We thank you for your attention and look forward to working with you.

Sincerely,



MIKE COLE, Chairman



MARK PECK, Commissioner



JERRY BENNETT, Commissioner

Cc: County BOH, Congressional Delegation, Lincoln County Attorney, DEQ- Matheus, Advisory Team (Vincent, Gunderson, Peck, Jamison)