



Libby Asbestos Superfund Oversight Committee Annual Report

Background:

During the 2017 Legislation Session, Senate Bill 315, passed and was signed into law by Governor Bullock and established a Libby Asbestos Superfund Advisory Team attached to DEQ for administrative purposes. The Advisory Team was created to enhance communication with stakeholders. In addition, the Advisory Team advises DEQ on administration of the Libby Asbestos Cleanup Trust Fund and operation and maintenance accounts. The bill also established a full-time employee as the Libby Asbestos Superfund Liaison who will perform duties recommended by the team and facilitate the required quarterly Advisory Team meetings.

In 2019, HB 30, sponsored by Representative Gunderson, passed and was signed into law by Governor Bullock and amended section 75-10-1601 Montana Code Annotated, 72-10-1604 MCA, and repealed 75-10-1602 MCA. The primary changes included:

- Rename the Libby Asbestos Superfund Advisory Team to Libby Asbestos Superfund Oversight Committee.
- Delete the Libby Liaison position.
- Articulate a general emphasis for Lincoln County's role in decision making for the Libby Trust fund and committee.

Oversight Committee:

The Libby Asbestos Advisory Team, in accordance with 75-10-1601 MCA has met once per quarter over the last year. Members of the committee:

- Shaun McGrath, Director of the Department of Environmental Quality
- Mark Peck, Lincoln County Commissioner
- George Jamison, Citizen of Lincoln County
- Sen. Mike Cuffe
- Rep. Steve Gunderson

Over the past year DEQ has established a website for the Team, to facilitate communication, with information on the team, agendas, and minutes and handouts from meetings. The website is accessible to the public.

The quarterly meetings have focused on the operation of the Team, including administration, the Libby Liaison position, and changes in HB30 proposed legislation, along with updates on the development of the Institutional Control and Assurance Plan required by EPA CERCLA process.

During state fiscal year 2019, DEQ filled the liaison role organizing the Libby Asbestos Advisory Team meetings, preparing agendas and minutes, monitoring and regular reporting of the trust fund budget, and consulting with EPA for to define site institutional controls and what activities are needed for operation and maintenance of the remedy.

Budget Information:

There are three types of funds available to the State of Montana for Libby Superfund Site for Operation and Maintenance (O&M). Two of the accounts are related to the prior CERCLA settlement, and the third was approved by the Montana Legislature. Use of the CERCLA settlement funds are limited by the requirements of the CERCLA settlement, along with applicable State and Federal rules. The third account are the legislatively approved funds which are governed by originating legislation, as modified. DEQ will be working with the Libby Asbestos Superfund Oversight Committee for input and discussion on O&M work elements identified by the agencies and to assist the Committee on effective use of the legislatively approved funds. It is important to note that as part of the CERCLA statute, the State must cover 100% of O&M costs once the settlement funds are expended. The third fund was established for this purpose.

A summary of the fund types is presented below:

- 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 a cooperative agreement grant. The grant submission is developed in third quarter of the State fiscal year, for approval prior to the beginning of the State fiscal year. The fund covers both EPA and State approved costs for O&M.
- The State of Montana, DEQ received \$5,167,000 for O&M as part of the bankruptcy settlement. Follow approval of SB-315 \$480,000 dollars were allocated from this account for FY2018 for oversight and support of the Advisory Team, since the 2015 SB315 appropriation and transfer did not occur until July 1, 2018 (State Fiscal Year 2019).
- As authorized in Montana Code Annotated 75-10-743(10)(c) and 75-10-704(4)(j)(I)., DEQ received an appropriation for \$600,000 from an Orphan Share account beginning July 1, 2018. Additionally, Montana Code Annotated 75-10-1601 provides a framework on how this money can be used and establishes a permanent Trust fund to pay exclusively for costs to the State of cleanup and long-term O&M.
 - 20% of the funds or \$120,000 allocated to trust fund
 - 80% of funds or \$480,000 allocated to cleanup operation and maintenance account
 - 25% of these funds or \$120,000 used for administrative purposes.

Future Committee Activities:

- Quarterly Meetings will continue as required, with notice provided for public participation included in each published agenda. Agenda will be published on the website.
- Meeting minutes will be prepared and published to the website, following approval.
- The website is located at (<http://deq.mt.gov/DEQAdmin/dir/libby/SATeam>)
- The committee will be provided information related to the development of Institutional Controls and Assurance Plan, that includes Operation and Maintenance plans for the remedy elements already in place and provide input to the State and EPA.
- The committee may review and approve the expenditure of funds to assist the completion of appropriate actions.
- Monitor activities related to the Libby asbestos superfund site to;
 - Assist in the implementation of final cleanup and long-term operation and maintenance plans for the Libby asbestos superfund site;
 - Review documents and provide comments and recommendations to the Department of Environmental Quality and to local governments and appropriate federal agencies regarding the Libby asbestos superfund site, including policies related to O&M;
 - Assisting in the preparation and dissemination of reports and other information as necessary;
 - Provide recommendations to the Department of Environmental Quality regarding the administration of:
 - Libby asbestos cleanup trust fund provided for in 75-10-1603; and
 - Libby asbestos cleanup operation and maintenance account provided for in 75-10-1604; and
 - Initiate and strive to maintain negotiations with the agencies, and any other entity with a goal of reducing the state and federal roles in the long-term operation and maintenance work at the Libby asbestos superfund site while increasing the role of Lincoln County in expending funds and managing and implementing operation and maintenance activities; and
 - Participate in the development of Memorandum of Understanding for the administration of the Committee, including development of the Committee's meeting schedule, including workgroups,
 - Submit a report to the environmental quality council on or before July 1 of each year.

State Fiscal Year 2019 Budget: June 2019 update**Libby Asbestos Cleanup Trust (Fund 09033)**

	Fund Balance (06/30/2018)	SFY 2019 Revenue	Current Fund Balance
530025 Short Term Investment Pool Participant Earnings	\$1,763.98	\$2,983.80	\$4,747.78
530032 Montana Board of Investment Appr/Depr	\$8.69	-\$8.69	\$0.00
282825 Income Transfers -Nonbudgeted	\$120,000.00	\$120,000.00	\$240,000.00
TOTALS	\$121,772.67	\$122,975.11	\$244,747.78

Libby Asbestos Cleanup and Operations Account (Fund 02130)

	Allocated	Expenditures	Projected Expenditures	Total Projected Expenditures	Projected Balance
Personal Services	\$71,742.00	\$843.14	\$4,162.00	\$5,005.14	\$66,736.86
Operating Expenses	\$166,743.00	\$354.20	\$2,000.00	\$2,354.20	\$164,388.80
Potential Transfers-out	\$241,515.00	\$0.00	\$0.00	\$0.00	\$241,515.00
TOTALS	\$480,000.00	\$1,197.34	\$6,162.00	\$7,359.34	\$472,640.66

- Summary from July 1, 2018 through June 1, 2019.
- Estimated expenses for the remainder of the year include:
 - Personnel Services (salary and benefits) for DEQ staff time to support Libby Asbestos Superfund Oversight Committee efforts.
 - Operating expenses for travel, including non-employee travel for recruitment if needed.