

(to be placed on DEQ Letterhead)

June 24, 2019

Greg Sopkin, Region 8 Administrator
United State Environmental Protection Agency
1595 Wynkoop St.
Denver, CO 80202-1129

Subject – Request for Clarification regarding remaining Libby Remedial Action Funds

Dear Regional Administrator Greg Sopkin,

The Libby Oversight Committee was established by Montana Legislative Action to provide an advisory role for environmental actions associated with the remaining elements of EPA's response and remedial work in Lincoln County. The prior regional administrator provided assurances in a December 2018 letter that any of the remaining settlement response funds, following the successful attainment of Operational and Function designation and transition into Operation and Maintenance status for Operable Units 1, 2, 4, 5, 7, and 8, would be available to the State and Lincoln County for activities necessary to maintain the in-place remedy and respond to unforeseen or emerging issues.

In the fall of 2018, Governor Bullock, and Lincoln County provided letters to Mr. Benevento regarding their perspectives on the uncommitted W.R. Grace remediation settlement funds and how those should be made available to the State and Lincoln County. Since much of the remedy is a "waste in place" remedy implying additional work will be required in the future which increases the burden on citizens, while increasing the cost and complexity of actions necessary to maintain the remedy and assure protection of citizens and visitors in Lincoln County. EPA did provide responses to both letters.

With this letter, we are requesting EPA provide additional clarification as to how the State and Lincoln County should seek those remaining funds. Our suggested option is that funds could be requested through a cooperative agreement and any year-end balance could be transferred into a controlled account for future use related to the fund lead portion of the Libby Superfund Site. The State has established an account for this purpose, the Libby Asbestos Clean Up Trust Fund (MCA 75-10-1604), and this approach is also provided from other federal funding entities.

While we appreciate EPA's commitments, the letter to Governor Bullock was short on details about how these funds will be managed and preserved for use by the State and Lincoln County. Understanding how these funds will be managed will be key to our long-term success and avoiding unnecessary financial burden to our citizens.

In prior years, we have successfully sought Cooperative Agreements with EPA to conduct actions related to the Superfund removal and remedial action processes, many of which will carry over into Operations and Maintenance phase of the project. As such, understanding what actions are necessary for the State and County to obtain these remaining settlement funds is critical to the long-term health and economic vitality of our communities, something we are keenly interested knowing.

We request that well before the declaration that the remedy has transitioned to long term Operation and Maintenance, in the aforementioned operable units, that we meet to discuss the outstanding issues from our prior letter and to focally discuss how these vital funds can be apportioned to actions that support the long-term durability of the remedy we all worked so hard to obtain.

Sincerely

The Libby Oversight Committee

Senator Cuffe

Representative Steve Gunderson

Commissioner Mark Peck (Committee Chair)

DEQ Director Shaun McGrath

Citizen Representative George Jamison

Cc: Betsy Smidinger, EPA Region 8
Stan Christensen, EPA Region 8
Jenny Chambers, DEQ