

## **BACKGROUND:**

During the recent LASOC Meeting, held on September 24, 2020 at 2:00 pm via GoToMeeting, LASOC passed a motion for DEQ to review the *Recommendation for Reimbursement of Property Owner Costs* as described in the *Summary of Property Owner Costs- September 2020* for approval. DEQ reviewed each property on a case by case basis and provides the following determinations:

### **1. 5853 Kootenai River Road, Libby**

**Original Summary:** Current property owner bought a refusal property with a Notice of Environmental Condition (NOEC). It was a refusal because the previous owner did not allow the EPA to finish collecting samples in certain sections of the property. The current owner hired a MT accredited asbestos inspector to collect and analyze samples from those remaining sections. The sample results came back non-detect for LA asbestos. The current owner is asking for reimbursement. Sampling completed in September 2019

**Update from ARP:** ARP spoke to the current property owner on 10/26/2020 and asked the owner for more information. The sale was done between a real estate agent and the seller (previous property owner). In the closing, there was a mention of the property being in the Libby Asbestos Superfund Site boundary. The real estate agent did not tell the current property owner that there was a NOEC placed on the property. The current property owner did not go to the courthouse for documents to purchase the house. After buying the house, the current property owner came to ARP asking about a comfort letter and found out the property had a refusal status and a NOEC. ARP coordinated with the property owner and EPA to understand next steps needed. The EPA worked with the property owner and an accredited asbestos inspector to collect the remaining samples that were refused in the past during a detailed investigation. The EPA did not pay for the sampling. The property owner was informed by EPA that they may be reimbursed in the future once O&M is set up.

**Funding Decision:** Based on the information provided pertaining to refusal situations as addressed in the DEQ Libby Asbestos Site Operations and Maintenance Funding Memo for DEQ state-held funds, DEQ will not reimburse the property owner for the sampling done on the refusal property. Also, based on the interactions with EPA prior to the start of O&M, DEQ will submit a request to EPA for a federal funding reimbursement.

### **2. 25-acre lot on MT-37, Libby**

**Original Summary:** Previous owner bought this property which was part of a source pit that EPA used for topsoil. The property status at that time was Inspection not Required. The previous owner wanted to sell the property, but no sampling was done previously. No comfort letter was available for the property either. Previous property owner hired a MT accredited asbestos inspector to collect and analyze samples from the lot and received a comfort letter from the EPA. The sample results came back non-detect for LA asbestos. This property was sold and has a new owner. The previous owner is asking for reimbursement. Sampling completed in July 2019.

**Update from ARP:** ARP spoke to the previous property owner on 10/26/2020 and asked the previous owner for more information. A buyer was offering to buy the property with cash. The previous property owner said the buyer at the time specifically said that he would not go further with the sale without sampling being done. The offer was off the table if the property owner did not proceed with sampling. ARP also spoke with the real estate agent that handled the sale and the agent said the responsibility to show the property is “clean” is on the seller. The agent also said they would never recommend a buyer to buy property without it being tested. Therefore, the previous property owner worked with EPA and an accredited asbestos inspector to get sampling done. EPA informed the previous property owner that costs may be reimbursed once O&M is set up.

**Funding Decision:** Based on the information provided pertaining to EPA-defined use change situations being addressed in the DEQ Libby Asbestos Site Operations and Maintenance Funding Memo for DEQ state-held funds, DEQ will not reimburse the previous owner for sampling done on the property because the property did not need to be sampled for O&F or O&M, and sampling was required by the buyer.

### **3. 153 Bighorn Way, Troy**

**Original Summary:** A bank is the current owner of this property. A detailed investigation showed 36% of the property contained trace amounts of LA asbestos. The threshold is 25%. The bank is currently in contact with an abatement contractor to remove enough soil so the threshold is met or is under the 25% level. \*SOW for soil removal is in development\* ARP notified in May 2020

**Update from ARP:** This property is currently owned by a national real estate information company. At the time of the previous LASOC Sept 2020 meeting, there were potential buyers of the property and is the reason why it was included in the chart. Since then, the property has not sold and is still owned by the same national real estate information company, which is moving forward with the soil removal.

**Funding Decision:** Based on the information provided pertaining to refusals and property development being addressed in the DEQ Libby Asbestos Site Operations and Maintenance Funding Memo for DEQ state-held funds, DEQ will not reimburse the owner for sampling or cleanup because they are part of the cost of development.

### **4. 6065 Kootenai River Road, Libby**

**Original Summary:** Current property owner explained her late husband chose to refuse EPA access on their property in early 2000. They got their own LA asbestos testing done (not according to EPA protocols) and said that was enough. The current owner would like to get the NOEC removed from the property before giving it to her children. She is at the beginning stages of hiring a MT accredited asbestos inspector to collect and analyze samples from property. ARP will conduct an interior inspection if warranted. \*Sampling SOW in development\* ARP notified in May 2020

**Update from ARP:** The current property owner said their deceased spouse made the decision to refuse EPA investigations. Their deceased spouse observed that EPA investigations/cleanup efforts were ruining other property owners’ yards and they did not want their work they put into their yard to be ruined by the EPA. The living spouse (current property owner) came into ARP asking how the refusal could be removed. ARP directed the owner to hire an accredited asbestos inspector to get

sampling done. Samples were collected and analyzed and were found to have no detectable amounts of LA. Children will inherit property.

(Note: At the time of the previous LASOC Sept 2020 meeting, the samples were getting collected and we offered an estimate cost for the sampling/analysis. ARP was recently told that the owner spent \$2,100. Samples have come back non-detect for asbestos and abatement is not required.)

**Funding Decision:** Based on the information provided that is consistent with a case by case evaluation of refusal situations being addressed in the DEQ Libby Asbestos Site Operations and Maintenance Funding Memo for DEQ state-held funds, DEQ approves the recommendation to refund the property owner for the sampling done on the property for purposes of inheritance.

#### **5. Property Management Company 36573 US Highway 2, Libby**

**Original Summary:** A property management company is the current owner of a refusal property holding a NOEC. The company wants to renovate the house and sell the property. The company is seeking guidance on a removal and wants to know if they would be responsible to pay for all of the cleanup or some of their costs are eligible for reimbursement. Still waiting for an answer before they move forward with SOW. An indoor removal is needed on this property. \*No Abatement SOW in development\* ARP notified in June 2020

**Update:** None at this time. Owner is gathering further information to help DEQ with the process.

**Funding Decision:** DEQ is awaiting further information. At this time, DEQ does not have adequate information to make a decision on this recommendation to reimburse the owner for sampling or remediation.

#### **6. 1.5 acre lot on MT-37, Libby**

**Original Summary:** Current property owner bought the lot and wants to develop it. The previous property status was Inspection Not Required. The current property owner would like to sample the land before and after the construction starts. The owner wants to know if he will be reimbursed for all sampling he wants done on the lot. He wants to move forward with sampling before construction and ARP has recommended that he save his receipts for potential reimbursement in the future. \*Sampling SOW in development\* ARP notified August 2020

DEQ and ARP are currently working with the property owner on sampling situations and the timing of construction. At least one sampling event will be funded.

**Update from ARP:** None at this time. DEQ and ARP are still working with the owner.

**Funding Decision:** DEQ will reimburse the property owner for one sampling event.

#### **7. 2 - 1.67 acre lots on MT-37, Libby**

**Original Summary:** Previous property owner sold two lots that both had a previous property status of Inspection Not Required. The prospective buyers asked the seller (previous owner) to sample the land before buying the land. The owner wants to know if he will be reimbursed for sampling that he

has paid for. ARP recommended he save his receipts for potential reimbursement in the future.

\*Sampling completed in July/August 2020\* ARP notified July 2020

**Update from ARP:** ARP was not able to speak to the previous property owner. However, ARP does know that the same buyer described in #2 (see above) purchased this property as well. This previous owner was put in the same situation as the previous owner described in #2, where the cash buyer asked the seller to have testing done before a firm cash offer was given.

**Funding Decision:** Based on the information provided pertaining to EPA-defined use change and property development situations being addressed in the DEQ Libby Asbestos Site Operations and Maintenance Funding Memo for DEQ state-held funds, DEQ will not reimburse the previous owner for sampling done on the property because this property did not need to be sampled for O&F or O&M, and sampling was requested for terms of the cash buyer.