



Montana State Legislature

MONTANA HOUSE OF REPRESENTATIVES

Representative Steve Gunderson
House District 1

DURING THE SESSION
State Capitol Building
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12/09/2019

RE: ICIAP Comments

Dania Zinner, EPA Remedial Project Manager:

As the Representative of District 1, which is wholly within the affected and impacted Libby Asbestos Superfund Site, I believe we are neglecting a very important issue that is overlooked by the EPA as it (EPA) views our local problems of maintaining the remedy. The remedy that EPA has spent over 16 years and Millions upon Millions of federal dollars to create should include securing and maintaining the property rights of locals that have endured the cleanup of a disaster that is not of their making.

I believe we need specific CERCLA references (legal references) to ensure Montana and Lincoln County property owners are given protections as are all Montanans across the State. There should be NO bias or discrimination due to the Superfund designation. Property rights that are stepped on only jeopardize the remedy as there is little incentive to fully protect the remedy. There needs to be flexibility to allow homeowners to use their property as they see fit. This protection would be the same for the long-term owner as well as the purchaser that has just bought a property. A developer has just as much right to expect no interference in the right to do whatever the developer needs to do with a property as would any property owner or developer elsewhere in the State. Property Rights and historic land use are historic rights that Montanans have enjoyed since statehood in 1889.

Property rights need to be equitable from city to city, county to county; all across the State. If State legislation is required to set these rights in concrete, I would propose working with EPA to champion a set of "Superfund" private property rights to enable a level playing field across our State. Our property right holders are the foundation required to enable the remedy to be maintained in perpetuity and if the property right owner is snubbed, the remedy will suffer. State and local government collaboration with property owners is crucial to maintaining the remedy. A continued, rigid, "one size fits all" mentality, will only sour public cooperation to maintain the remedy. The remedy will suffer and the huge investment to produce the remedy will be for naught.

The premature comment period without the O&M Plan and O&M Manual is not the right way to proceed with the public's right to comment. These documents are a trilogy of information that intertwine and it is imperative that the public be allowed to comment on them as a complete set. All 3 documents should share a common comment period to simplify public input and to ensure a clear understanding of how each document interacts with the other. Is this not a legal requirement for EPA



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and/or DEQ to have public meetings on these documents? The documents should be made public at an open house with representatives of both agencies present to ensure complete understanding of these documents and what these documents are actually saying. Potentially, we could additionally utilize teleconferencing and social media to help increase public attendance without a large increase in cost to ensure public participation.

I am open to any means available to establish a County/State/DEQ/EPA "open door" policy to enable and ensure the remedy we have ALL worked so hard on, for so long, at a huge expense to maintain, is not lost because of lack of information or misinformation.

The second comment I would like to make address public meetings on ICIAP, O&M Plan and O&M Manual. These 3 documents need equal public comment periods. There needs to be a common public meeting / open house with participation of the all parties to explain the nuances of each document.

I understand the reluctance to hold meetings in such a remote location but there needs to be some form of public input made available prior to these documents and the important decisions made by each, to be scrutinized and comment made by the public at large. We, as partners, (EPA, MDEQ, state and local government) are charged with performing our duties to protect our mutual citizens and constituents.

Regards,

A handwritten signature in black ink, appearing to read "Steve Gunderson", written in a cursive style.

Steve