



Libby Asbestos Superfund Oversight Committee Meeting
December 15, 2022
2:00 PM

Location of Meeting:

Virtual attendance with in-person gatherings in Libby, MT and Helena, MT.

*Remote access was also available.

Call to Order

The Libby Asbestos Superfund Oversight Committee conference call was called to order at 2:00 pm on December 15, 2022.

This was the 22nd meeting in accordance with the Montana Code Annotated 75-10-1601. Public notice of this meeting was provided via newspaper ads, press release, social media, and the DEQ website.

1. Roll Call

Chairman Gunderson conducted a roll call of attendees and confirmed that a quorum of Advisory Team members was present. The following persons were present or attended by phone:

Oversight Committee Members:		
Director of DEQ or designated representative	Christopher Dorrington	Excused
Lincoln County Commissioner designated by the Commission	Commissioner Brent Teske	Present in Libby
Member of the House of Representatives whose district includes at least a portion of Lincoln County appointed by the speaker of the House	Representative Steve Gunderson	Present in Libby
Citizen of Lincoln County nominated by the Lincoln County Commission and selected by the governor	George Jamison *Confirmed by Governor	Present in Libby
Member of the Senate whose district includes at least a portion of Lincoln County appointed by the Senate president	Senator Mike Cuffe	Present in Libby

<u>Other Interested Attendees</u>	<u>Affiliation</u>	
Jason Rappe	DEQ	Present in Helena
Carolina Balliew	DEQ	Present in Helena
Amy Steinmetz / Proxy for Director Dorrington	DEQ	Present in Helena
Jessica Wilkerson	DEQ	Present in Helena
Amanda Harcourt	ARP	Present in Libby
Ray Stout	KVR	Present via Zoom
Hayden Blackford	WN	Present via Zoom

2. Agenda Item	Discussion
Review and approve minutes. <ul style="list-style-type: none"> September 22, 2022 	<p>Chairman Gunderson: Let's review and approve the meeting minutes.</p> <p>Senator Cuffe: Correction on page 2, second paragraph, about 3 lines down, Vinson is misspelled, should be Vincent. There was one other minor typo, I thought was in the first 3 pages, but I am not finding it now.</p> <p>Chairman Gunderson: Anybody else have any corrections or amendments to the minutes? That was September 29. Would anybody like to approve the minutes for September 29.</p> <p>Commissioner Teske: Motion to approve the September 29, 2022 minutes with one correction.</p> <p>Senator Cuffe: Second</p> <p>Chairman Gunderson: So moved, motion passed. Now we have George Jamison Site Budget and Funding Report.</p>

3. Agenda Item	Discussion	Document Link
Site Budget and Funding Report George Jamison	<p>George Jamison: Thank you. You have been provided a report that indicates it's through November 30th of this year. So, I guess I'd ask the group if they have any questions, comments or concerns about it. Myself, I do have one comment. In the review here, it deals with Table 5 Libby Asbestos Cleanup & Operations Account 2130. If you look back at the proceeding report, that table has been modified since the September report and a little bit of the wording in the preceding paragraph, and I don't know that that's necessarily bad or whatever, but this isn't something that we reviewed or anything prior to the meeting today. What we have done with this report in the past, is all the text has been standardized and has been approved by the committee. I was just a little thrown off when I looked at this about what this change represents. I think it might be appropriate to have maybe offline after this meeting, have a little more discussion because I'm not sure where this change came from.</p> <p>Jason Rappe: Mr. Chair, if I may.</p> <p>Chairman Gunderson: Go ahead.</p> <p>Jason Rappe: Thanks for pointing that out, George. We did modify that language a little bit to clean it up. Specifically for Table 5, we removed some of the projection columns. The reason being we felt that table 5 looked more at expenses and those two projection columns we felt there was little value and it really just adds confusion to them. What happens with those funds is any unspent funds and interest earned goes straight into trust at the end of the year. So, when you are taking that table and only looking at expenses, it didn't really, actually, it didn't accurately show what those final sweep amounts were going to be. This was an attempt to kind of clean that language up and I should have pointed that out in the draft, and I apologize, but that was the intent.</p> <p>George Jamison: Ok, I'd suggest that, and thank you Jason for that background. I'd like to at least have the opportunity sometime before the next meeting, maybe discuss that with Jason and whoever works on this report, to see if we are comfortable with this change. I just need a little more time to digest it. That's the only comment that I have.</p> <p>Chairman Gunderson: Anybody else have any comments on the Site Funding and Budgets Report? Seeing none, let's move on to Support of Property Owners Report.</p>	https://deq.mt.gov/Files/Land/FedSuperFund/Documents/Libby/December%202022/LASOC%20Budget%20Report_December%202022.pdf

4. Agenda Item	Discussion	Document Link
Support of Property Owners Report George Jamison	<p>George Jamison: Ok. And on that last report, I assume it's ok for us to have some dialogue between now and our next meeting.</p> <p>Chairman Gunderson: I think you should.</p> <p>George Jamison: Alright, thank you. The next report is the O&M Support for Property Owners report, and this one is the June 1, 2022 through June 30th, 2023. And at the last meeting, if you remember in the minutes, we showed the abatement action that was shown as, Table 2 as I recall, being taken out of the settlement account, and in fact it should have been over in the fund 02130 which is the Cleanup and Operations Account. That correction has been made on this December report. The only comment I have</p>	https://deq.mt.gov/Files/Land/FedSuperFund/Documents/Libby/December%202022/LASOC%20O&M%20Support%20to%20Property%20Owners%20Report_December%202022_Update

	<p>myself is, I think we need to be careful on these reports with the report dates, the ending date, in that line is always the latest data because for example, this one says through June 30th next year, and that's obviously cannot be true, but also on this one, as another example, I noticed looking back, I pulled out the last four reports, even some of the starting dates are bouncing around a little bit. This one says June first of 2022, but we also have O&M totals in here and O&M started July 1st, 2020. So, I think we need to get these dates cleaned up because it gets confusing when you look at them.</p> <p>Chairman Gunderson: Jason, is that something you can take a look at as well?</p> <p>Jason Rappe: Yes, I understand what George is saying, so we can take a look at that. I can set up a meeting with George to make sure the dates accurately reflect what the committee is interested in.</p> <p>Chairman Gunderson: Ok, thank you Jason.</p> <p>Commissioner Teske: So, being new to the board, I'm not familiar with some of the guidelines for some of these funds, what they are set aside for specifically; is there somewhere I could get that information and find out, you know what specifically Libby Settlement is, Cleanup, Operations Funds, something that gives me a definition of that. So, I'm familiar with what's being expended, how, where and why?</p> <p>George Jamison: That is basically outlined in the site funding and budget report, so they sort of pair up with each other and there are a couple other documents too. I'd be happy to help you with that. Thanks for your interest. And one other suggestion I have is, I sort of inherited introducing these reports because somebody needed to and since I was a proponent of these reports in the beginning, I inherited that somehow. I think it might be better if Jason or whoever has the responsibility for the DEQ since they populate these tables. Mandy gives some input with the property owners table, but for the most part, these numbers come from the DEQ. I think it might be better if somebody else introduce these that would be more appropriate to address the questions.</p> <p>Chairman Gunderson: Jason, I guess I have the same outlook as George. What's your input on this?</p> <p>Jason Rappe: I think that's appropriate. I don't have an issue with presenting these documents.</p> <p>Chairman Gunderson: Ok, I guess we will just start next meeting hearing from Jason on all these reports.</p> <p>Commissioner Teske: And I see the correlation between these reports, so that helps, thank you.</p> <p>George Jamison: Thank you Jason for taking that on.</p> <p>Chairman Gunderson: Is there anything else on Support for Property Owners Report that we need to cover? Seeing none, let move on to the O&M Report. Jason Rappe and Mandy Harcourt. Which are the Activities at OU 1, 2, 4, 5, 7, and 8.</p>	<p>d.pdf</p>
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5. Agenda Item	Discussion
<p>O&M Update Jason Rappe Amanda Harcourt OU1, 2, 4, 5, 7, & 8</p>	<p>Amanda Harcourt: ARP responded to 44 hotlines between September and December and we responded to 281 utility locates and we conducted 38 site visits. Libby active properties: 713 Michigan Avenue, this is ongoing, endorsed scope of work for our sub floor. We are waiting on the property owner to solicit bids. GID 5730, this is Port Blvd, fence and tree removal within an area containing mine tailings. Scope of work has been approved and signed and the property owners currently working on collecting bids for the work to be done. Once we get those, we are going to tentatively schedule it for spring of 2023. 146 White Avenue property owner contacted ARP after demolishing the small outbuilding on their property. This property had a previous removal excavated from fencepost to fencepost. When they tore down the building, they started seeing some mine tailings so they called us out. We took a look at it, it's really nasty out there, wo we couldn't get to the actual abatement this year. W provided the property owner with best management practices of course, but also some orange fencing, staking so they could stake a boundary around to keep their animals and stuff out. The scope of work has been drafted and abatement activities scheduled for spring.</p> <p>Chairman Gunderson: I'm sorry, but what address was that?</p> <p>Amanda Harcourt: 146 White Ave.</p> <p>Chairman Gunderson: Thank you.</p> <p>Amanda Harcourt: Active Libby Properties: 66 Cross Roadway. Property owner contacted ARP regarding demolishing a section of the ceiling in their home. ARP conducted an inspection. This property also had a previous removal however, vermiculite insulation was sealed in place in the sub floor beneath the second story which is where she is doing ceiling job. So a scope of work has been drafted and signed for that and we are waiting for the property</p>

owner to solicit bids. Hopefully we will be able to knock that one off during winter. 289 Avenue B. Vermiculite identified in an attic. Scope of work has been drafted and approved. The property owners started solicitations for an abatement contractor, we are just waiting to hear back. That's another one we are hoping can go during the winter. 154 Paulines Way. This is a NOEC property and one that we are going to be discussing later on the agenda. The property was a refusal. The inspection that was done resulted in greater than 25% of trace LA existing at the property. ARP developed a scope of work to knock that percentage down below the 25% EPA criteria. 100 Manor Drive. This was another NOPEC property. The property owner has chosen to self-perform sampling. Eligibility for reimbursement has been approved by LASOC and a sampling event is scheduled for Spring 2023. Asa Wood School. The abatement for Brownsville Project, knowing they are hoping that the final inspection with Newfields is scheduled for January 10th. The Scope of work for the demolition of the west wing containing VCI is on hold for right now. There are three main reasons for that. One, we cannot do a demo in winter, hard to do dust suppression when the water is freezing. Unsure whose hands the property is going to be in at the time where we can move forward. And the other issue is at some point, going to need a structural engineer to get involved to make a determination on the roof that sits on that building and figure out whether or not it can be removed prior to demolition. We've done it both ways in the past, with these bigger demos. Sometimes the roof can be removed, but other times if the roof is removed prior to demolition, it's opening up an exposure pathway that we don't want to deal with. And it needs to come down, so that determination has to be made before we can move forward with a scope of work for it.

Active Troy Properties: 386 Riverside Drive. This is a planned soil removal. Scope of work has been signed and approved. Property owner is collecting solicitations for work. That's another one that's lined up, hopefully to go in the spring. That's all I have.

Jason Rappe: I just have a couple of high level O&M things. So, for sitewide documents, the sitewide O&M Plan and sitewide ICIAP, I made a commitment to send county commissioners and city officials the statewide ICIAP. I had a couple small corrections I needed to make on that document before I send it over to you or send it over to the county commissioners and city officials. Those are just now done. It's been a little busy on my end, so probably at the end of this meeting or before the end of the week, I will be sending that document over to the county and the city. It's a courtesy notice that you guys can send us comments if you wish. I will probably have like a 30-day deadline for that and then the plan is sometime late January or early February, we will have a 30-day public comment period for both of those documents. In addition to that, I think the only other big thing that's happening is EPA is finalizing an ESD for OU5. That ESD memorializes the IC's which for the most part is not any different than the ones that are already in place for OU's 4 and 7. The only other addition is the environmental covenant. Once they memorialize the IC's and that ESD is finalized, EPA is going to be interested in working towards a partial deletion for OU5. Those are the only two high level things I think I have. Are there any questions?

George Jamison: I have a question about Asa Wood. It was reported in the local press, some of the abatement cost related to asbestos would be reimbursed by DEQ. I was curious to know where those funds come from, and I am assuming that they do not come from any of our funds that we monitor, for example, in these reports.

Jason Rappe: Those funds are coming from the EPA O&M grant that we received, so it's not state held funds or LASOC funds.

George Jamison: Ok.

Senator Cuffe: Jason, where did you say again?

Jason Rappe: It's the EPA grant funds that we will be using to pay for Asa Wood.

Senator Cuffe: Very good, thank you.

Chairman Gunderson: Jason, I have a question. You said that there were letters going out the Libby City in Lincoln County. Is Troy going to be included on that since we have Troy properties?

Jason Rappe: Yes. This is just going to the officials. The county commissioners and the Mayor of Libby and Troy. This is a courtesy; this is the draft sitewide ICIAP, if you are interested in providing comments on that, please do. If not, there is also the opportunity to provide comments during the public comment period. But yes, it will also go the Troy officials.

Chairman Gunderson: Jason, when will that ICIAP be made available to us?

Jason Rappe: I am working on sending the draft out to those officials by the end of this week.

Chairman Gunderson: Ok. Will we be included on that then as well?

Jason Rappe: Yes, I can include LASOC.

Chairman Gunderson: Ok, please do. Anything else for Jason or Mandy on O&M Update? Let's move on to DEQ/EPA Site Update from Jason Rappe. Activities on OU3 and OU6.

6. Agenda Item	Discussion
DEQ/EPA Site Update Jason Rappe Activities OU3 & OU6	<p>Jason Rappe: Thank you. This update should be pretty short. We are still working on the feasibility study for OU3. There's nothing really to update there. For OU6, since the last meeting, BNSF did submit to EPA and DEQ, their annual inspection report which basically identifies whether or not they are being consistent with the O&M documents and the requirements for O&M. There's nothing that stood out. Everything they are doing; they were doing as they laid out those documents. So, nothing to report on OU6. That's all I have for those. Any questions?</p> <p>Chairman Gunderson: Any other questions for Jason on OU3 and 6? Ok, moving on. Thank you, Jason. Then we are back to Mandy with NOPEC and NOEC Properties.</p>

7. Agenda Item	Discussion	Document Link
NOPEC/NOEC Properties Amanda Harcourt 154 Pauline's Way (Bernardi)	<p>Senator Cuffe: Many could you review what NOPEC and NOEC means.</p> <p>Amanda Harcourt: NOPEC is Notice of Possible Environmental Conditions. So, in those circumstances, it would be for example a property that was a refusal or any sampling. So there would be no information that exists. NOEC means Notice of Environmental Conditions, meaning that after the inspection was done, it was shown that it needed abatement, then they refused. So, those are the differences between the two. This 154 Pauline's Way is a NOEC. So, it has had sampling done. It was greater than 25% of the property, so it met removal criteria. At that point, the property owner refused. Now, the property owner has reached out to ARP and wanted to move forward with getting at least sections of the property abated to knock it down below the 25% which would meet the EPA criteria and they could get the NOEC removed. So ARP developed the scope of work to get that done, passed it onto the property owner, got approved. Property owner reached out to three different contractors and solicit bids. The only bid they received back from three solicitations were the ones that guys have in your packets. So, I guess what I'm looking for is LASOC's approval to draft a letter of recommendation for the reimbursement to pay for the cost of the property abatement.</p> <p>Commissioner Teske: Is this the same property owner or a new property owner.</p> <p>Amanda Harcourt: Same</p> <p>George Jamison: This is what we have done once or twice before.</p> <p>Amanda Harcourt: Once</p> <p>George Jamison: Once before, ok. I think it's always been important to us to take care of these properties and I think this represents another one that's come up. We talked about this at the last meeting and a number of meetings. I think this is just the next one. I certainly would support the committee making a recommendation to DEQ that this be funded through the, what we commonly call the Vincent Bill monies, like we have done before. I would be willing to make that a motion.</p> <p>Senator Cuffe: Vincent as in V I N C E N T</p> <p>George Jamison: Or however, Robin decides to spell it.</p> <p>Senator Cuffe: At the bottom, Project Description, A, B, and C. Are they supposed to total 19,895?</p> <p>Amanda Harcourt: I don't know.</p> <p>Senator Cuffe: Oh, wait a minutes. I think they do. Yes, they do.</p> <p>Commissioner Teske: Well, that's always been a concern of the publics and ours. If we don't handle this correctly and get it take care of, then it gets handled incorrectly and it's just going to end up somewhere else. So, I agree with your recommendation on that.</p> <p>Chairman Gunderson: And I'll fall back on my stance that I've always had, is that if we don't continue ensuring the remedies in place, we are going to end up with five-gallon buckets and black garbage sacks out in the forest of materials that are removed by someone else and putting themselves at great risk. So, I myself would say I am definitely behind making sure this one gets taken care of as well. Should we take a vote?</p> <p>Senator Cuffe: I would say that's exactly what this committee is about.</p> <p>George Jamison: The process that we have developed, when we did the first one of these, in the past I think we had to do it by email because we didn't have the information, the timing didn't work out, so here we do, so it seems to me that what we need to do is to agree to make a written recommendation from this committee to DEQ to fund the cleanup, at the Bernardie residence.</p>	<p>https://deq.mt.gov/Files/Land/FedSuperFund/Documents/Libby/December%202022/154%20Paulines%20Way%20Bid.pdf</p>

	<p>Commissioner Teske: I'll second your motion.</p> <p>Chairman Gunderson: One more thing before I recognize that. Amy, what is your feeling from DEQ and standing in for the Director?</p> <p>Amy Steinmetz: Well, I would say we don't disapprove, but I may want to abstain as the approving agency, but I don't disapprove. I just think procedurally, might be best if we abstain.</p> <p>Chairman Gunderson: Ok. Just wanted to remind you that on of things that Director Dorrington wanted us to do was to have consistent, unanimous decisions on doing this. We are not doing anything that we haven't done before, and I think we are fulfilling our mission for the legislation that got this committee started. So, just making that comment.</p> <p>Amy Steinmetz: Ok</p> <p>Chairman Gunderson: Commissioner Teske, you had a motion.</p> <p>Commissioner Teske: Second. George made the motion.</p> <p>Robin Benson: I just want to ensure that I have the motion right. George made the motion to approve cleanup at the Bernardie property and accept the daily work report?</p> <p>George Jamison: Well, yeah, you are right, I made that originally. I am modifying that to our process. So you can forget the first motion as far as I'm concerned. The Motion is for this committee to approve drafting the recommendation from LASOC to DEQ to fund the cleanup of the Bernardie property.</p> <p>Robin Benson: Ok, thank you.</p> <p>Chairman Gunderson: Ok, all in favor say Aye.</p> <p>Committee as a Group: Aye</p> <p>Chairman Gunderson: All opposed same sign. Amy, did you want to abstain?</p> <p>Amy Steinmetz: I will go with Aye, so we are completely unanimous.</p> <p>Chairman Gunderson: Ok, thank you. Appreciate that. Lincoln County's going to need that.</p> <p>George Jamison: So, just to clarify, because this goes back to Mandy's desk. So, we are all clear on what we are asking her to do. She and her crew will draft up a letter like they have done in the past.</p> <p>Amanda Harcourt: I'll send it out to LASOC for your approval. Once I get that, I will send it on to DEQ.</p> <p>Chairman Gunderson: Yes, I think that's a process that has worked really well in doing what we are doing and making sure everything gets done in timely manner.</p> <p>Commissioner Teske: They only received one bid as well?</p> <p>Amanda Harcourt: Yes</p> <p>Chairman Gunderson: How easy is it to get second and third bids?</p> <p>Amanda Harcourt: That actually depends on time of year and we are given a list from DEQ. We provide that to the property owner. They go through it. A lot of times, contractors are out of town that travel, especially right now, and during the summer, they are extremely busy.</p> <p>Chairman Gunderson: Right. So we either have one way or the other and there's no in-between. Ok, so Mandy will formalize that letter and send that to DEQ after our approval. Having covered that, let's move on to public comment.</p>	
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8. Agenda Item	Discussion
Public Comment	<p>Chairman Gunderson: Is there any public comment on anything that we haven't covered that within our purview?</p> <p>Commissioner Teske: Just for my own clarification, I get what the two acronyms there are. What is it called in the case of the port. We are looking at property that was cleaned and left.</p> <p>Amanda Harcourt: It's just a normal process.</p> <p>Chairman Gunderson: I guess just one thing in public comment, I just wanted to say to Amy, I do appreciate that vote because that is something that the legislative intent of this committee was to do just that. So, thank you, we really appreciate that. Ok, moving on to discussion and next steps. Date and location of next meeting.</p>

9. Agenda Item	Discussion	Action Items
<p>Discussion and Next Steps</p> <p>a. Date of next meeting</p> <p>b. Summary of action items.</p>	<p>George Jamison: As far as the dates of the meetings. I know we all tend to push things off, procrastinate. I'll speak for myself at least on that. And we have these quarterly meetings and it seems like more and more, we are getting our meetings at the tail end of the quarter and it rushes us. I don't think things go quite as orderly when that happens. And so, I think our next meeting needs to be January, February, or March some time. And I would recommend we shoot for February instead of March or something. I just see this pattern, we get closer and closer to the end of th quarter and it rushes things, and I just don't think that is good.</p> <p>Commissioner Teske: You guys have legislative dates.</p> <p>Senator Cuffe: We should do it in transmittal. Not just before transmittal, but either during or just after.</p> <p>Chairman Gunderson: I can work with you Mandy on dates. One suggestion that I might make is that since we are in Helena, let's have the meeting in Helena and that way we got the Director and any of the DEQ staff there. And George, Commissioner Teske and Mandy can actually come in from here. So, I think that would be a good idea.</p> <p>Senator Cuffe: I kind of think maybe, is the first we come back here Monday or Tuesday after transmittal, ordinarily. I think that would be better.</p> <p>Chairman Gunderson: Well, I'm not planning on coming back. My problem is that I have to spend more time down there, so I wasn't planning on coming up here.</p> <p>Senator Cuffe: What I'm talking about is as we come up to transmittal, house bills go to the senate and vice versa, and there is a heavy load of tension that, you know, it's hard.</p> <p>Chairman Gunderson: It's a lull though.</p> <p>Senator Cuffe: But immediately after that comes a lull. We come home get our heads unsettled a little bit, and then the first few days after that, it may be a better mental time for us is what I am trying to say.</p> <p>Chairman Gunderson: I'll have to look at the calendar. I don't have our legislative calendar in front of me. I'll get with Mandy and put out a doodle poll. We'll try to put some dates in front of it during it and behind it just to let you know what's the best.</p> <p>George Jamison: The sooner the better.</p> <p>Chairman Gunderson: What we'll do is I will throw some dates out there and we'll look and see what works.</p> <p>Next Steps: Subcommittee work</p> <p>Action Items:</p> <p>Chairman Gunderson: Summary of our action items. We are going to have the Bernardie letter to the DEQ. Anything else that we need to address under action items?</p> <p>George Jamison: Jason and I are going to talk about the forms a little bit.</p> <p>Chairman Gunderson: I think we definitely need to do that. And then having Jason basically give us the report, I think is an excellent idea. Is there anything else for the greater good that we need to cover?</p> <p>Senator Cuffe: I appreciate the way the committee is operating. The way the meetings operate compared with when I first came on, whatever it was, four years ago, at least through that three to four years ago, we were spinning our wheels, and a lot of argument back and forth of what we should do and what we could do. Those sorts of things, and I feel the committee is now and the department working together to do what we are supposed to do, what we should be doing. I appreciate being part of it so much better. It wasn't that we didn't have good people all the way but finding our way with us and with DEQ.</p> <p>Chairman Gunderson: And I would mirror that. I think we finally came to a point where everybody understands the legislative intent of building LASOC and actually the evolution that we went through to get where we are at. But I do think we have to thank Director Dorrington for his vision and moving together there, getting us to the point where we're at.</p> <p>Senator Cuffe: Absolutely</p>	

	<p>Chairman Gunderson: We couldn't have done it without him. And sometimes we had to drag him along, kicking and screaming, but we got it done, so again I would...Amy if you could pass that on to the Director too. Lincoln County really appreciates the direction we are going right now.</p> <p>Amy Steinmetz: I will definitely pass that on.</p> <p>Chairman Gunderson: Ok, thank you. Hearing nothing else from the panel, we are adjourned.</p>	
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