

Libby Asbestos Superfund Oversight Committee Meeting August 19, 2021 3:00 – 4:00 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 3:00pm on August 19, 2021.

This was the 17th 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

Representative 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	Present in Helena
Lincoln County Commissioner designated by the Commission	Commissioner Jerry Bennett	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 Helena
Citizen of Lincoln County nominated by the Lincoln	George Jamison	Present in Libby
County Commission and selected by the governor	*Confirmed by Governor	
Member of the Senate whose district includes at least a portion of Lincoln County appointed by the Senate president	Senator Mike Cuffe	Present in Helena

Other Interested Attendees	Affiliation	
Jenny Chambers	DEQ	Present by Phone
Joann Wiggins	DEQ	Present by Phone
Jessica Wilkerson	DEQ	Present by Phone
Carolina Balliew	DEQ	Present by Phone
Will George	DEQ	Present by Phone
Morra Davin	DEQ	Present by Phone
Virginia Kocieda	Lincoln County ARP	Present in Libby
Brent Teske	Lincoln County Commissioner	Present in Libby
Robin Benson	Lincoln County Clerk & Recorder	Present in Libby
Bryan Alkire	Lincoln County Landfill	Present by Phone

2. Agenda Item	Discussion
Citizen Member • Jerry Bennett	Jerry Bennett: The commissioners have done a letter for the governor. We actually just nominate member. He (the governor) does the appointment. They are far enough behind that I talked to Hannah about a week and a half ago and she basically said George will remain in that position till the governor gets around to those appointments. We did advertise the position and George unfortunately won the toss, so we will be sending that nomination onto the governor.

3. Agenda Item	Discussion
Presiding Officer	Director Dorrington: We have discussed the presiding officer be present, so I will accept nominations for presiding
Position	officer.
Director	Representative Gunderson: I guess if we don't have anybody out there, I will nominate myself.
Dorrington	Director Dorrington: All right. Any other? Hearing none, then with the motion that Representative Gunderson take
-	the role of Presiding Officer for LASOC. We'll take a vote, any discussion?
	Senator Cuffe: I would move that the nominations be closed.
	Director Dorrington: Discussion is to close nominations. Any other discussion? Then vote, let's just do a voice vote.
	All those in favor of Representative Gunderson being Presiding Officer for LASOC signify in saying Aye. I heard three
	for sure, any opposed by saying Nay. Vote passes, Representative Gunderson, you are now the Presiding Officer, and
	will turn the meeting over to you.
	Chairman Gunderson: Thank you Director. Next item is review and approve minutes from March 12, 2021 meeting.

4. Agenda Item	Discussion
Review and approve minutes. • March 12, 2021	 Virginia Kocieda: I sent out the minutes, there is a typo on the agenda, it should not say March, it should be June since that was the last meeting we had. I sent a draft of the minutes to the committee members so after your review, you vote on approving them or editing. Chairman Gunderson: Does anyone have any discussion on that? Senator Cuffe: I was not at the meeting; I had read the minutes. I didn't see anything or notice anything out of line. If you need a motion to approve to approve, I guess I will and then if there is any discussion or changes, that can come about. Director Dorrington: Second Chairman Gunderson: Having a second to the motion, all in favor say aye. Chairman Gunderson: Sounds like it was unanimous. George Jamison: I was not at the last meeting, so I did not vote either way. Chairman Gunderson: George is the only one that did not vote. I take it, we have approved. Let's move on to the next agenda item.

5. Agenda Item	Discussion	Document Link
LASOC Bylaw Amendment Jerry Bennett	 Chairman Gunderson: Commissioner Bennett had a small amendment and I also have a small amendment. Commissioner, if you want to take that, I will follow up after you are done. Jerry Bennett: I think we all have a copy of the bylaw amendment. I would suggest that we look at those as a whole and then see if there is any [indiscernible speaking] I think the issue we ran into was no guiding officer and how to remedy that process and then discussion. We talked about having a vice presiding officer in that case if somebody moved on or whatever, the vice chair officer would take that role until an election. Chairman Gunderson: And I had a small change there and I am not sure if it's really necessary, but I think if we just put it in our bylaws, then it's written in ink and on the printout you have, it's A., The LASOC will consist of: 1 through 5 and B., we added: At 	https://deq.mt.gov/File s/Land/FedSuperFund/ Documents/Libby/Augu st%202021/LASOC%20B ylaw%20Amendment_1 _draft.pdf

the expiration of the citizen member term, the Governor shall reappoint the member for an additional term or replace the individual with a new member. Citizen members continue to serve until reappointed or replaced. I think, it just puts it in our bylaws that that's the way we will run that, and I guess George will be the first one that we will actually use that on. So, having looked at those in our bylaws says we have to review and then at the next LASOC meeting, we actually would vote on them. Is there any other amendments to be proposed? Jerry Bennett: My only comment would be is that's what Hannah told me that is how the governor is operating at this point. I didn't receive the MCA or the language which they pull that from, but it's certainly a good idea I think to have it in our bylaws, because we will roll in and out of this committee and save confusion in the future. Chairman Gunderson: That seems to be an easy thing for us to do, to be confused. I think it does put it more in black and white. Are there any other suggested amendments? Senator Cuffe: Should we vote on Director Derrington: We have one for consideration to vote at the pext meeting. For
think it does put it more in black and white. Are there any other suggested amendments? Senator Cuffe: Should we vote on
Director Dorrington: We have one for consideration to vote at the next meeting. For this is for submittal and consideration, then we vote and accept at the next meeting. Chairman Gunderson: That is our completed agenda item. The next item on the agenda will be the budget report. Jenny Chambers, questions and discussion.

6. Agenda Item	Discussion	Document Link
Budget Report	Jenny Chambers: Chairman and members of the committee, thank you for keeping this	https://deq.mt.gov/File
Questions and	on the agenda as far as the budget overview report. In your packet there is some new	s/Land/FedSuperFund/
Discussion	information that you haven't seen before and one that you have seen before as well.	Documents/Libby/Aug
Jenny Chambers	There is a Libby Asbestos Superfund Oversight Committee report which is from DEQ	ust%202021/LASOC%2
	summary from July 1, 2019, through July 31, 2022. It basically provides the same	0Budget%20Report 04
	information in the same format that you have seen every meeting and it goes through	
	the Libby Settlement Fund, which is the bankruptcy settlement dollars, the Libby	Aug2021.pdf
	Asbestos Cleanup Trust Fund. When the fiscal year, last year ended, we did transfer that	
	remaining balance from the cleanup account to the trust fund and so that balance of the	https://deq.mt.gov/File
	trust fund, which is good news, I think, is 1.8 million dollars. And so that is going to	s/Land/FedSuperFund/
	continue to grow and be invested in our short-term investment pool and continue to	Documents/Libby/Aug
	grow for long term needs. Then, you will see the new budget and the amount for the	ust%202021/Libby%20
	Libby Asbestos Cleanup and Operation account. The fund 02130 and that we have put in	Budget%20Overview A
	there the \$480,000 starting this fiscal year, and then have budgeted those out based	ugust%202021.pdf
	upon the projections of use of both dollars. The current expenditure to date is \$122.61.	<u>agust/02020211041</u>
	So of course, sitting here, one month into the fiscal year and very little dollars have been	https://dog.mt.gov/Filo
	spent, but that's understandable. So, we will continue to track that each quarter. And	https://deq.mt.gov/File
	then there is supporting documentation on the cooperative agreement dollars at a very	s//Land/FedSuperFund
	high level and then the unused settlement account from EPA. We checked with them	/Documents/Libby/Aug
	again and we don't have any new information to share with you on what the EPA	<u>ust%202021/Libby%20</u>
	balance is with that. Their excess money of their settlement dollars hasn't been spent;	Budget%20Overview_A
	they are still trying to reconcile their books. So that's DEQ's handout. In your packet,	ugust%202021%20Spre
	there is also a Libby Superfund Oversight Committee; this is labeled a draft. It is state	adsheet.pdf
	funding and budget reports. The report's dated July 13,2021. I am not sure who	<u> </u>
	authored this document. I think it is very similar information of what DEQ has provided	
	at every LASOC meeting. It just provides a little bit more narrative surrounding it. And	
	so, if somebody has more information that they want to share with committee based	
	upon the draft of this report, I think that would be welcome and it might help you guys	
	in reviewing of that. But I would also state that it would be beneficial if there was some	
	guidance from the committee on if you want to continue with the table type format and	
	the supporting documentation or if want to use this draft narrative document. If you	
	want to use the draft narrative document, DEQ would have comments to share with the	
	committee for consideration because there are some things that we just would want to	
	correct and make sure that it is clearly factual as far as making sure that we are providing	
	the right information to the committee and to the public. We would need some time for	
	DEQ to review that, to give comments back to somebody that authored this document or	
	to the committee in order to finalize this report moving forward. We could continue	
	with the table type format, or switch gears to the narrative type of format, we would just	
	need a chance to comment on to get that into a final version. But also, I wanted to	

mention the third option is maybe a combination of both of these, maybe just a very simple budget report updates for the committee on each quarter meeting. Then you guys could in the bylaws have a smaller budget subcommittee that would roll up their sleeves and go into more detail in discussions on questions or conversations or how this all fits together. That would be a separate process than these quarterly meetings, so we just wanted to share all that with you as far as how you want to proceed with that. The option also on the table, that if you wanted to delegate a couple staff or one staff to just meet every six months, dive into more of the budgetary details and then they could be your representative, eyes and hears on DEQ funding sources or we could continue with the table format, or we can revise this to more of a narrative document. So, we just want to make sure we use whatever template you guys want us to utilize, and then just make sure it's clear, accurate and factually correct for that in the final version when we do meet each quarter. I am happy to answer any questions on the current budget amount, the current expenditures, and the Libby Trust Fund balance if you guys have any questions.

Director Dorrington: I guess the question is who developed the document separate from what we the agency normally created, who developed the document then and what's the purpose of the document? Is that a key request for a new format or is there a hybrid moving forward and on what timeline?

Jerry Bennett: *[indiscernible speaking]* I would probably like a little more detail, on the simple one-page Jenny, the first fund 08230 it shows that balance year of 5,224,000 and change and yet we have expenditures that total 1,335,000 so we just deduct that from the five million?

Jenny Chambers: We could provide that, but its pretty granular information. The State of Montana DEQ in 2008 up in the top part of that under number one, we received \$5,167,000. That was the bankruptcy settlement for the sitewide portion of the Libby site. With the fund balance now is currently 5.2, the money has been invested in since 2008. So certainly, there has been some short-term investment revenue that we have recognized as a state to increase what we received and what our current fund balance is. What I wanted to show there is that while we have used some expenditures out of that account to help defend our Libby bankruptcy of operable unit three, it hasn't impacted the fund balance from what the state originally received back in 2008 of 5.1 million dollars. We still have the amount of money that the state received then, and we are basically utilizing the interest of that account to try to defend that bankruptcy with the idea that if a settlement is reached or if we can litigate based upon operable unit three, we would get that money cost recovered. Certainly, would be revenue calculations that would show each year on how much we received in interest. Pretty granular information, but we could present that to the committee if you wanted to see it. I was trying to take a high level, big picture based upon these tables.

Jerry Bennett: No, that's fine. I was trying to figure it out with the other ones showing revenues. I wouldn't mind taking a little deeper look at that. We don't need to do it every meeting. Every six months or so, I think it would be good to look, if we are truly an oversight committee, to see where those funds are at and the balances. I'm not going to be here more than a couple of years, but other people following can keep track of what's available and the longevity of the program.

Jenny Chambers: I appreciate that Commissioner Bennett. I think maybe annually or something we can do an investment break down as far as what coordination we have had with the board of investments, what they are seeing on the return of profit, how we would potentially invest that if there are other options from a long-term account to a short-term account. We do share that, but we can try to make it more transparent like in an annual budget update meeting.

George Jamison: I would like to respond briefly to the Director's question. If you are wondering where this thing came from and nobody's willing to claim it, I'll claim it as being the primary author of this document. I want to take you back a little bit because I can understand why there might be some confusion about its genesis. We had been fairly circular discussions for quite some time about questions about budget. We have gone through FOIA request that we did with the EPA and one that we did with your department. Frankly, up until a couple months ago we had, in my opinion, at least the county had never put all those things in one place and looked at it the way we probably should have. So, two months ago, after I provided a fairly long list of questions and you were kind enough to respond to those, I took all that and sat down and tried to craft a

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	document that has a more detailed narrative with a goal that, among other things, that
	would be something that a layperson could more easily understand and more
	completely lays out the various sources of revenue for a variety of things. Because the
	oversight of this committee is really sitewide. I didn't intend to go through this today
	and the reason you received this earlier, I think Virginia offered it to you, was it was just
	simply an attempt to give you an opportunity to see this, and I hope that you begin your
	review, process and comment process on it. I understand now you are interested in
	maybe a more formal approach, but anyway, that's how it got here. My thought is to ask
	for comments on this, and I really think a lot of the tables that you already include, I
	tried to blend into this document. But this is just simply an attempt to be responsive on
	our part as I promised we would two months ago.
	Director Dorrington: Fair enough. As a committee member, I am all for the level of
	information that applies to answer questions for those who need it. I think it is
	confusing that we have two documents, so my recommendations would be to accept
	one or blend the two and then agree on a reporting cycle. [indiscernible speaking]
	Sending is probably the most important thing to me and so if we have a document where
	we know what information is presented, we can quickly glance at itthat high level
	information that I'm looking for.
	George Jamison: My goal with this document, it might change as information changes,
	but essentially that the text in this document, as your report has been largely before,
	would be essentially set; its narrative and would provide background. And, about all we
	would have to do every meeting, you folks do it, ARP would update their part and we
	just simply update the tables. I don't feel like the county has ever really come back to
	you with a suggestion about some of the level of detail we would like to see, so this is an
	attempt to try to do that. I would hope the committee would support the department
	looking at this and providing us feedback on that and then I think we can go from there
	on the other questions.
	Director Dorrington: I appreciate the effort and all of your interests to get better and
	more information out. I think I am going to take a look at it to see if there is a blend
	option. I don't think I'm ready to make a decision yet, maybe take a look at it for the
	next meeting,
	George Jamison: Director, my suggestion is not to make any decision today about
	whether or not to adopt this document, my purpose here is just simply to get it in your
	hands and ask for comments. That's all I'm interested in today.
	Chairman Gunderson: Director, if I could interject something, in actually reading
	through this, I think George is spot on. A draft narrative is much cleaner, and I think for a
	layperson to come in and try to figure out what we are doing, this format that we are
	looking at is a much, much, better look and feel to it. I would suggest giving it to DEQ
	and having them look at it and maybe adding the spreadsheet like we normally do as a
	suggestion. And I think Jenny is spot on; we need to do an investment end of year or
	annual investment look as well. I would say if anybody objects let DEQ look at it and
	without objection, continue on. Seeing no objection, let's move on to the next item
	which is the Environmental Quality Committee Report: DEQ-LASOC-Jenny Chambers.

7. Agenda Item	Discussion	Document Link
7. Agenda item Environmental Quality Committee Report: DEQ LASOC Jenny Chambers	Jenny Chambers: Thank you Chair, members of the committee. In your packet, this is the final 2021 annual report that was submitted to the Environmental Quality Council. As a reminder, by June 1 of every calendar year, the committee has to provide an annual report to the Environmental Quality Council. Keep in mind EQC is a policy committee and not necessarily budgets. So, sometimes they do have budgetary questions, but most of the time, it's more policy, high level. You know, how are we doing with stakeholders, how are our efforts moving forward, how we return the site protective, those type of dialogs is what's usually presented. Just want to thank Virginia again, with ARP for getting the initial draft down through the MOU that supports this committee, I appreciate that. You approved the report at the last meeting and then this was submitted. I, along with Representative Gunderson and Director Dorrington went to the EQC meeting and presented the report to them on your behalf. It was a pretty easy meeting; it was all virtually and received no comments or questions on the annual report. So, pretty simple and very high level and we will continue to move forward with	https://deq.mt.gov/File s/Land/FedSuperFund/ Documents/Libby/Aug ust%202021/EQC_2021 %20LASOC_Annual%20 Report_final.pdf

our efforts moving forward. That's all I have today.
Chairman Gunderson: Thank you Jenny, next item is the O&M update.
Senator Cuffe: I think Jenny officially gave the response of EQC, was there any further
kind of discussion, thoughts, any expressions at all?
Chairman Gunderson: Senator Cuffe, no, from EQC's viewpoint which I am a member
of, I think everybody was pretty satisfied with the report that Jenny gave. I didn't have
any questions asked to me after the meeting, so I think it went pretty smooth.
Any other discussion on EQC meeting/report?
Moving on, to O&M update.

8. Agenda Item	Discussion
8. Agenda Item O&M Update: Jason Rappe and Virginia Kocieda	Discussion Virginia Kocieda: Representative Gunderson, Jason is absent today, so he asked me to give the report. In summary, the Asbestos Resource Program has responded to 209 requests for information about the Libby Asbestos Superfund site since the last LASOC meeting in June. 151 of those responses were from the Montana 811 Utility Locate Tickets within the superfund site boundary and 58 of those 200 or so requests were hotline calls with the most request being comfort letters from EPA and DEQ status letters for property sales. Since the last meeting, there has been four main projects that we have been working actively on. DEQ and ARP recently completed two requests for bids on two abatements. There is a commercial property here in Libby that will have concrete masonry unit wall defaced and vermiculite insulation removed, leaving a clean wall for the property owner to safely demolish. The second project located in Troy and is a property that as a Notice of Environmental Conditions (NOEC) on it will involve contractors removing soil with trace levels of Libby Amphibole Asbestos. ARP developed the two scopes of work for the soil sampling and for the interior abatement. Two additional scopes of work for soil samples are developed and they are for two residential property is any Outreach event yesterday. We played an identify vermiculite game and shared brochures about vermiculite and our program. And also, a brochure developed by the Asbestos Control Program at DEQ for regulated asbestos. Just a quick note, since we have had so many new people coming into Libby and there has been a lot of construction in Libby and Troy, we have sort of entered the world of regulated asbestos in answering some questions about that due to stringent actions at the landfill and also our local disposal company asking for asbestos testing for materials coming from demolition and construction sits. Finally, Lincoln County manages two Memorandum of Agreements with DEQ to fund Q&M activities. Since July 1 st 2020, DEQ has reimbursed a
	move on to public comment. 40:51

Public Comment	Chairman Gunderson: Is there anyone out there that would like to make public comment? Hearing none, let's move
	on to the next agenda item, Discussion and Next Steps, Date and Location of next meeting.

10. Agenda Item	Discussion	Action Items
Discussion and Next	Chairman Gunderson: Does everybody agree that we continue with a doodle poll	
Steps	through Virginia?	
a. Date of next	Senator Cuffe: I think that is a good way to proceed. It has been working pretty well,	
meeting	she does a great job keeping us all in track.	
b. Summary of action	Chairman Gunderson: I second that, she has been doing a great job and the doodle	
items.	poll is working out pretty well I think for everybody. Any other discussions on the next meeting?	
	Senator Cuffe: The piece that Mr. Jamisonsomebody needed to take responsibility	
	on the paper that was presented, and I think it's fair to say that several of us had talked	
	about it. George took the lead on putting that together, but there were several that	
	had discussed it and I guess, I might go on record saying yes, I do support some good	
	consideration of this by the folks at DEQ. That is all I have.	
	Jerry Bennett: I was just reading through the bylaws in the last few days and part of	
	the bylaws state that the goal is reducing the state and federal roles in the long-term	
	operation and maintenance work of the Libby site and increasing the role of Lincoln	
	County and the program. So, with that, I have talked to George, and I think we have	
	some additional budget questions that he has typed out, but not wanting to just run	
	through those today, if we just include those in the minutes so that you can take a look	
	at that. Some of these things, as a new member would really help me in the role to	
	understand funding a little better, if what was shared with the draft, if the department	
	wouldn't mind taking a look into the questions, it would be helpful, and Virginia can	
	send them as well if the department is open to that.	
	Chairman Gunderson: Thank you for that commissioner because that is something we	
	definitely need to do. Might I suggest that we compile questions, additions or thoughts	
	and forward them to Virginia and then have her forward those to the Director's Office	
	and they can work on that between now and the next meeting.	
	Director Dorrington: The only amendment I would add to that is let's try to give them	
	30 days to work out the recording and closeout reporting period. I just don't want to	
	do it seven days in advance. I don't know what questions there are, but I don't want to	
	scramble through them.	
	Chairman Gunderson: I agree Director. That should be something that we would put	
	on your table fairly early, but I do think if we just sit down and take some time to go	
	though it, and I think, Commissioner Bennett is correct that we should forward those to	
	you and given ample time, see if we could be incorporated. I think that is something	
	we need to work on for the next meeting.	
	Jerry Bennett: Again, we have a few questions proposed. If there is something else	
	burning in somebody's mind, if you want to send those to Virginia. If we are doubling	
	up, we won't add more work to the department, she can just send out the list of	
	questions. I agree with the Director, it doesn't really need to be done in 30 days, but	
	just take time to look at the questions and get back responses to that. Just to combine	
	the other document, that would be great.	
	Senator Cuffe: In regard to as we move our meetings as we lose a member, in this case	
	we lost our chairman and we are looking like how do we do that, should we consider	
	having a vice chairman.	
	Director Dorrington: It's in the bylaws, in the recommendation.	
	Chairman Gunderson: We have covered that Senator, it is in our bylaws, so we will	
	look at those over the interim to the next meeting and then we will put those on the	
	agenda and actually vote on them then. I think we have figured out we need a backup	
	plan and we have never had one, but we have been able to wing it, so we will deal with	
	that at the next meeting.	
	Senator Cuffe: Does that mean we would elect the vice chair at the next meeting?	
	Director Dorrington: Yes	
	Chairman Gunderson: Just to go back to summary of action items, DEQ will be working	
	on the new format of the Budget Report in the interim up to, what do we want to do,	

	 ending 30 days to give them time to look at them and take new ideas. And then, number three, work on a new annual investment report. Does anybody have any other action items that we need to add? Director Dorrington: [indiscernible speaking] Just to amend the last piece, just to look at what the account is in terms of performance. I don't know if there is a revision in the entire report, so essentially looking at it or a long-term investment performance annual report that much is not included in the existing annual report at the end, agenda last page that has investment info. Chairman Gunderson: Director, I think you are right, that will only be an annual report that will not be a report that is going to be generated at each meeting. Director Dorrington: Right Chairman Gunderson: And it's something we can look at. I don't think anything that we've got needs to be set in stone at this time. Just gives us more to look at. Ok, moving on. Is there anything for the good of the order or within the purview of LASOC that anyone would like to discuss or ask a question? Hearing none, I will call this meeting and we will adjourn. Thank you everybody. 	
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