

Libby Asbestos Superfund Oversight Committee

2025 SFY Annual Report

Background:

During the 2017 Legislation Session, Senate Bill 315 was passed and signed into law by Governor Bullock and established a Libby Asbestos Superfund Advisory Team attached to DEQ for administrative purposes. The Advisory Team was created to enhance communication with stakeholders at the Libby Asbestos Superfund Site (Site). In addition, the Advisory Team advises DEQ on administration of the Libby Asbestos Cleanup Trust Fund and operation and maintenance (O&M) accounts. The bill also established a full-time employee as the Libby Asbestos Superfund Liaison who would perform duties recommended by the team and facilitate the required quarterly Advisory Team meetings.

In 2019, HB 30 amended section 75-10-1601 Montana Code Annotated, 72-10-1604 MCA, and repealed 75-10-1602 MCA. The primary changes included:

- Renamed the Libby Asbestos Superfund Advisory Team to Libby Asbestos Superfund Oversight Committee (LASOC) to provide funding recommendations for long-term protectiveness of the remedy.
- Added duties to LASOC (discussed below).
- Removed the Libby Liaison position.

A Memorandum of Agreement (MOA) between Montana DEQ and Lincoln County became effective November 1, 2019, that funds Lincoln County to provide administrative assistance to LASOC. Lincoln County's services include the responsibilities of coordination of all meetings and materials with DEQ representatives, developing draft agendas, posting public notice, and preparing the annual report. The budget for costs incurred during the term of the agreement has a cap of \$25,000. A sixth amendment to the MOA has been signed between DEQ and Lincoln County to continue Lincoln County's administrative role for LASOC and extends the agreement date through May 31, 2027.

EPA determined the transition date for O&M of Operable Units 4 and 7 to be July 1, 2020, and issued this determination in a June 25, 2020, letter to Montana DEQ. With the O&M transition, Montana DEQ became the lead agency responsible for the residential and commercial areas of Libby and Troy, including site monitoring, institutional controls, and oversight of the long-term protectiveness of the remedies in these areas.

Oversight Committee:

LASOC, in accordance with 75-10-1601 MCA has met once per quarter, as required, over the past year. Current members of the committee include:

- Brent Teske, Lincoln County Commissioner and LASOC Chair
- Sen. Mike Cuffe, Senate District 1
- Rep. Tom Millett, District 2
- George Jamison, Citizen of Lincoln County
- Sonja Nowakowski, Director of the Department of Environmental Quality, Vice Chair

2025 Activities:

Over the past year, DEQ continues to maintain a website for LASOC to communicate with the public regarding LASOC meeting advertisements, agendas, handouts, and meeting minutes. LASOC information can be found at <https://deq.mt.gov/cleanupandrec/Programs/superfundfed> under the LASOC tab.

Quarterly meetings were held in October 2024, December 2024, March 2025, and June 2025. These meetings are captured in this annual report, and activities consisted of LASOC advancing recommendations to DEQ for funding specific property owner costs, focused discussions on activities occurring during O&M for operable units 4 (properties within Libby) and 7 (properties within Troy) and streamlining budget and property owner reporting documents.

Between July 1, 2024, and June 30, 2025, LASOC forwarded two funding recommendations to DEQ. These funding requests included abatement and sampling on properties that previously refused cleanup and based on various circumstances, have come forth for cleanup. As a result of finished sampling and abatement activities, in the same time period, EPA withdrew Notices of Potential Environmental Contamination (NOPEC) from 6 properties and withdrew Notices of Environmental Contamination (NOEC) from 2 properties.

Montana DEQ staff continued to perform important site work at Libby as the lead agency for O&M. DEQ staff and Lincoln County Asbestos Resource Program (ARP) meet bi-weekly and as needed to organize activities to manage operable units 1, 2, 4, 5, and 7. DEQ and ARP continue to provide updates on site management, including the number of hotline responses and scopes of work for investigative sampling and abatement, to LASOC as a standing agenda item.

A quarterly budget report is provided for each quarterly meeting with comprehensive financial details for each of the four funding sources and associated expenditures (all described below under Budget Information).

Budget Information:

There are four funding sources from EPA and the State of Montana available to the State of

Montana for the Operation and Maintenance (O&M) phase at the Site. The EPA funds originate from a prior CERCLA settlement. This settlement resulted in two EPA special accounts, one earmarked for O&M and one for Remedial Action. EPA has committed to providing the remaining remedial action funds as a future funding source. The State of Montana funds are from the bankruptcy settlement with W.R. Grace and legislatively appropriated funds which are governed by the originating legislation, as modified. DEQ will continue working with LASOC for input and discussion on O&M work elements identified by the agencies. LASOC has authority to recommend to DEQ which O&M activities they believe should be funded. It is important to note that as part of the CERCLA statute, the State must cover 100% of O&M costs once the Federal settlement funds are expended.

A summary of the fund types is presented below:

- EPA has \$10.0 million (as of March 2025) in O&M funds for all operable units excluding operable unit 3 (mine site) and operable unit 6 (funded by BNSF). This money was set aside at the time of bankruptcy settlement to assist in paying for O&M costs. This money is held by EPA and is restricted to use for approved O&M activities. DEQ accesses this funding through a Cooperative Agreement grant with EPA and subsequently funds the Lincoln County ARP with these funds through a separate agreement between DEQ and ARP.
- Doug Benevento, a previous EPA Region 8 Regional Administrator, committed in a December 19, 2018, letter to Montana Governor Bullock that the remaining remedial action funds would be held and be available for the State of Montana and Lincoln County to supplement the \$10.0 M O&M fund once the \$10.0 M fund has been expended. These remaining funds are held by EPA and can be spent on activities EPA approves for O&M on the Site. The remedial action special account has a balance of \$30.9 M (as of March 2025)
- The State of Montana, through DEQ, received \$5,167,000 for O&M as part of the bankruptcy settlement. The money is held by the State of Montana per the terms of the bankruptcy settlement, and the state has discretion regarding the activities the money will be used for, as long as they pertain to the Libby Asbestos site. DEQ had used this funding source for OU3 bankruptcy litigation, and full reimbursement to the fund was completed March 30, 2023.
- As authorized in Montana Code Annotated 75-10-743(10)(c) and 75-10-704(4)(j)(I), DEQ has received an annual appropriation of \$600,000 from an Orphan Share account beginning July 1, 2018. Additionally, Montana Code Annotated 75-10-1601 provides a framework for how this money can be used and establishes a permanent Trust fund to pay exclusively for costs to the State of cleanup and long-term O&M. Legislation in the 2025 session extended the annual appropriation of these funds through June 30, 2038.
 - 20% of the funds or \$120,000 are allocated to trust fund
 - 80% of funds or \$480,000 are allocated to the cleanup operation and maintenance account
 - 25% of these funds or \$120,000 used for administrative purposes.
 - Any remaining funds that are not spent each fiscal year are transferred to the

permanent Trust fund.

- Expenditures have been for funding Lincoln County to provide administrative assistance to LASOC.

Future Committee Activities:

- Continue to develop recommendations to DEQ for reimbursement requests between scheduled quarterly meetings.
- LASOC may provide potential funding recommendations to DEQ for review and final approval. LASOC may continue to collaborate with DEQ and Lincoln County ARP to improve the recommendation, approval, and reimbursement process.
- Meeting minutes will continue to be prepared and published to the website, following approval.
- Per MCA 75-10-1601 (5):
 - Monitor activities related to the Libby asbestos superfund site to;
 - Assist in the implementation of final cleanup and long-term operation and maintenance plans for the Libby asbestos superfund site;
 - Review documents and provide comments and recommendations to DEQ and to local governments and appropriate federal agencies regarding the Libby asbestos superfund site, including policies related to O&M;
 - Assist in the preparation and dissemination of reports and other information as necessary;
 - Provide recommendations to DEQ regarding the administration of:
 - Libby asbestos cleanup trust fund provided for in 75-10-1603; and
 - Libby asbestos cleanup operation and maintenance account provided for in 75-10-1604; and
 - Recommendations including specific scenarios and/or categories not funded through EPA O&M Funds.
 - Initiate and strive to maintain negotiations with DEQ, EPA, and any other entity with a goal of reducing the state and federal roles in the long-term operation and maintenance work at the Libby asbestos superfund site while increasing the role of Lincoln County in expending funds and managing and implementing operation and maintenance activities; and
 - Submit a report to the environmental quality council on or before July 1 of each year.

State Fiscal Year 2025 Budget: June 2025 update

Libby Asbestos Settlement (Fund 08230)	Fund Balance (6/30/24)	Expenditures FY19 - 24	Expenditures FY25
Libby Settlement		\$-1,960.79	\$0.00
Libby Mediation Costs		\$1,952,313.87	\$287.91
Total	\$5,195,908.08	\$1,950,353.08	\$237.91

Libby Asbestos Cleanup Trust (Fund 09033)	Fund Balance (06/30/2024)	SFY 2025 Revenue	Current Fund Balance
530025 STIP Participant Earnings	\$303,476.42	\$191,791.01	\$495,267.43
582852 Income Transfers	\$3,658,653.65	\$590,356.18	\$4,249,009.83
TOTAL	\$3,962,130.07	\$782,147.19	\$4,744,277.26

Libby Asbestos Cleanup & Operations Account (Fund 02130)	Allocated Annually	Expenditure FY25	Expenditure FY18 - 24
Personal Services	\$22,400.00	\$962.65	\$34,183.27
Operating Expenses	\$5,376.00	\$2,086.61	\$29,562.52
Transfer to Trust 09033	\$402,224.00	\$470,356.18	\$2,835,035.61
Lincoln County MOA	\$25,000.00	\$19,497.80	\$20,564.26
Fund Reimbursement	\$25,000.00	\$0.00	\$2,100.00
TOTALS	\$480,000.00	\$492,903.24	\$2,921,445.66

Summary through June 30, 2025.