

May 19, 2021

The Lincoln County Board of Commissioners met for a regular session on May 19, 2021 in the Lincoln County Annex, Eureka, Montana. Present were Commissioner Bennett, Commissioner Peck, and Clerk and Recorder Robin Benson. County Administrator Patrick McFadden present Libby via VisionNet. Commissioner Letcher was excused.

Commissioner Bennett opened the meeting with the **Pledge of Allegiance**.

10:00 AM **ARP Update:** Present was ARP Director Virginia Kocieda, Libby via VisionNet.

*Virginia submitted and presented an overview of the following report:*

**Asbestos Resource Program (ARP) Report for Commissioner's**

**May 19th, 2021 10:00-10:30am**

In April 2021, ARP received 28 hotline calls. 21 were from Libby, 7 from Troy. Broken down into the types of responses, ARP responded to:

- 14 DEQ status letter requests,
- 3 general information and property information requests (within the Superfund Boundary),
- 3 call about a property outside of the Superfund Boundary,
- 2 Panoramic View, 1 complaint about comfort letter scaring people away from area, and 5 miscellaneous calls.

ARP also received 124 utility locate tickets from properties within the Superfund site: 88 from Libby, 36 from Troy.

Altogether, ARP performed 32 site visits.

**ABATEMENTS:**

153 Bighorn Way, Troy – planned soil abatement (Refusal)

117 Mineral Avenue, Libby

781 E. 5<sup>th</sup> St, Libby – Emergency and completed

793 E. 5<sup>th</sup> St, Libby – Emergency and completed

**SAMPLING:** 208 S. 4<sup>th</sup> St, Troy – property for sale with NOPEC

**SUBDIVISION:** 2 applications

1 outside of NPL

1 within NPL with ARP recommendations to Commissioner's (Skibba Subdivision)

**FUNDING**

The ARP program is funded through a Memorandum of Agreement with MT Dept of Environmental Quality. This is funding coming from a cooperative agreement between DEQ and EPA. Our agreement is for \$600,000 over two years starting with costs from July 1<sup>st</sup>, 2020 until May 31<sup>st</sup>, 2022. Total costs incurred by ARP & reimbursed by DEQ since July 2020 is \$235,740.87, leaving a remaining balance of \$364,259.13. (Added requests for 2 computers, Elzhon building roof between Conex boxes to protect dust abatement equipment, and graphic designer for PEN regulation)

**PRESENTATIONS**

ARP gave a group presentation to the CARD Clinic describing what the program does, explaining funding for O&M and answering any questions. This led to ARP being invited to the Annual CARD Clinic Rally in June to share information about the program to the public.

ARP will also be participating in the Health Fair event, also held in June

**CITY OF LIBBY WEBSITE**

Suggested updates and changes were made on the City of Libby page. I personally thanked Mr. Samuel Sikes for working with me to get those changes made. There are direct links to the PEN form on the ARP website along with reference changes from the EPA Info Office to ARP.

**OU5 O&M PLAN RE-WRITE & DEQ 2020 INSPECTION**

Tina Oliphant, Brett McCully, Jason Rappe from DEQ, Jenny O'Mara from Weston, and ARP help meetings in April to go through the O&M Plan for OU5. This document was written before the O&M Plan was written for OU4 and OU7. There were complaints made after the document was finalized and a promise was made by EPA to include essential elements into the OU5 O&M Plan. The plan is to write a site-wide O&M Plan based heavily on the OU4 and OU7 O&M Plan.

ARP had a separate meeting with OU5 (Tina and Brett) to talk about comments made in the DEQ 2020 Annual Inspection of all OUs in O&M (OU1, 2, 5, and 8). OU5 expressed interest in potentially removing a large bark pile that contains detectable amount of LA. OU5 is also looking for guidance in replacing the plugs EPA place during remediation that are degrading. Also, they are moving forward with finagling their environmental covenant. I shared those topics with Jason Rappe (DEQ) and he is looking into what can be done with both topics. We also talked about the PEN regulation and how OU5 tenants can use this form in the future before construction and renovations.

**LAND TRANSFERS AND PROPERTY BOUNDARY ADJUSTMENTS**

I had a meeting with Brett McCully to discuss how to access an applicable activity in the PEN Regulation: land transfers and property boundary adjustments. Brett described that he works with the surveyors to get those activities done and can give me the information for those property owners so I can send a letter about the property, as described in the PEN regulation [Section 3(F)5]. I am also supplied a mailing address to send the letter to the property owners. This is a critical step forward to implementing the PEN regulation and would not have been done without Brett's help.

## TROY DUMP SITE LA/VERMICULITE SIGN

ARP has been collaborating with Bryan Alkire from Solid Waste by coordinating with him and contractors to get LA waste into the cell. Together we designed and bought a sign (48" x 24") for the Troy Dump Site to notify residents that disposal of LA waste is complimentary at the Libby Landfill Class IV cell. After the two emergency responses for soil removal, ARP will be adding comments to the Class IV O&M manual, required by DEQ Solid Waste, to add soil as a type of waste going into the cell without having burrito wrapping.

## CONTRACT WITH ER

DEQ is considering making a contract with ARP and ER for responses needed due to the Ziplly fiber optic installation that is going on in Lincoln County. This would enable ARP to contract work to ER quickly to handle emergency responses like the two we already had without waiting for approval at DEQ.

## ASA WOOD

DEQ is planning a meeting with ARP and all involved with the Asa Wood project. Since the brownfield grants got approval, there are plans to phase out the demolition/abatement, first removing the vermiculite and then the regulated asbestos. These are just ideas at this point and we will have firmer plans as all involved are brought together for planning.

## REFUSAL LIST

Sent email to 78 realtor that have sold property within Libby and Troy up to three years ago. Also sent email to title company. Email described contacting ARP for status letters or requests of information on properties sold within the Superfund Site pursuant to the PEN regulation. An updated list of refusal properties was also sent with a short description of what would need to be done on the property to remove Notices.

## COMPUTER REPLACEMENTS

ARP will need to replace at least two computers soon

**10:30 AM Administrative Issues:** Present was Nikki Meyer. Present Libby, via VisionNet were Marty and Sheri Dunbar, Arlene Elletson, Elsie Pitt, Will Langhorne and Derrick Perkins. Ray Stout present via phone.

- Jennifer McCully submitted the annual Immunization Grant through DPHHS for \$10,050. Jennifer said there are no changes. Grant is to reduce the burden of vaccine preventable disease within the county by ensuring the oversight and provision of immunization services for children, adolescents, and adults. **Motion** by Commissioner Peck to sign the DPHHS Immunization Grant as submitted. Second by Commissioner Bennett, motion carried.
- Robin submitted the minutes for May 4 and 11 special session preliminary budget and May 5 regular meeting for approval. **Motion** by Commissioner Peck to approve minutes as submitted. Second by Commissioner Bennett, motion carried.
- **Motion** by Commissioner Peck to approve and sign the Lincoln County/Kootenai National Forest Schedule A Road Revised 2021. Second by Commissioner Bennett, motion carried.

**10:45 AM Public Comment:** Present was Nikki Meyer. Present Libby, via VisionNet were Marty and Sheri Dunbar, Arlene Elletson, Elsie Pitt, Will Langhorne and Derrick Perkins. Ray Stout present via phone.

Arlene Elletson asked about dates for dust abatement in the Panoramic View area.

Commissioner Bennett explained the timeline is weather driven but potentially looking at end of May. Commissioner Bennett clarified that the county has all the materials, but 2 to 3 days of warm weather is needed.

Elsie Pitt said she is here from Florida visiting relatives in the Panoramic View area and has seen the dust issue firsthand.

Elsie commented that she came in quietly and respectfully and voiced offensive behavior by the county administrator.

Marty expressed frustration about rudeness and disrespect of the county administrator.

**11:00 AM Lopez Subdivision Preliminary Approval:** Present was County Planner Jake Mertes, Libby via VisionNet. Jake said the proposed minor subdivision of Lot 1B of the amended plat of Para Mis Amigos Subdivision is located north of the city limits of Eureka east of highway 93 off of Boundary Street. The developers intend to create 2 lots from the 5.034-acre parcel. Planning staff recommends granting preliminary approval to Lopez Subdivision subject to 8 conditions and based on the findings in the staff report. **Motion** by Commissioner Peck to grant preliminary approval of Lopez Subdivision subject to 8 conditions and based on planning staff recommendation. Second by Commissioner Bennett, motion carried.

Jake commented there is a public hearing scheduled for Meadow Peak, 800-acre project and there are upcoming public hearings for subdivision approval. Planning is busy and some big developments are coming up for review.

**11:15 AM Rainey Creek Road Proposal by WR Grace:** Present were Road Supervisor, District 1 Marc McCully.

Marc gave a brief background and history at the mine site and road maintenance. The forest service, WR Grace and county met to discuss easement/access. Marc commented that if WR Grace is willing to maintain the road then we don't put our employees at risk. Marc said he recommends abandoning the county portion of the road on their property and there is no public access currently due to conditions but leaves the road open to the public to get up to Tub Gulch. The agreement needs to focus on going through the public process and the abandoning process, but the county can abandon that portion in lieu of WR Grace maintaining the road. The road is all paved and needs to stay that way.

**11:30 AM Ziplly Fiber / Public Service Discussion:** Present via phone was Jessica Epley representing Ziplly Fiber and Tina Shorten representing the Public Service Commission.

Jessica talked about the Montana Public Service Commission transaction between Frontier and Ziplly and what the process, goals, and future plans are for this region. Jessica gave a brief history of the Ziplly Fiber Company and updated the commissioners on current projects and projects pending countywide Libby, Troy and Eureka.

Commissioner Peck commended and expressed appreciation for the job Ziplly is doing for our communities.

Commissioner Peck talked about the importance of clear contact information, who to contact in emergencies.

Commissioner Bennett asked about remote areas, other alternatives, and subdivisions that might not be close to fiber.

Jessica explained that Ziplly has expanded the depth of fiber reach, but the company is also researching options for those more rural locations. Jessica commented the need for subdivision developers to reach out to Ziplly to provide service to new developments.

There was a brief conversation about backup/generators at remote terminals and locations and some reliance on commercial towers.

12:00 PM **Break**

1:00 PM **Eureka Airport Shoulder Project: Bid opening / Review and approval of engineering fees / Award of project (subject to engineer's review and FAA concurrence):** Present were Tim Orthmeyer via phone.

Tim is requesting permission to attain two quotes since no bids were received. Tim said he would like to visit with contractors again to see if he could get quotes. Contractors were too busy when the bid went out, but that may have eased up; the project is small and should take only a few days to complete. Tim said he would report back to the commissioners with an update. **Motion** by Commissioner Peck to allow Morrison Maierle to reach out, get quotes and return with additional information. Second by Commissioner Bennett, motion carried.

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

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Jerry Bennett, Chairman

**ATTEST:** \_\_\_\_\_  
Robin A. Benson, Clerk of the Board