

# memorandum

**To:** Dania Zinner (EPA)  
**From:** Virginia Kocieda (ARP) and George Jamison (BOH)  
**cc:** Lincoln County Commissioners  
**Date:** December 31, 2019  
**Re:** Comments to the October 2019 Draft Final Institutional Control Implementation and Assurance Plan (ICIAP) for Operable Units 4 and 7 of the Libby Asbestos Superfund Site

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## INTRODUCTION

The City/County Board of Health for Lincoln County (BOH), their Institutional Control Steering Committee (ICSC), the Lincoln County Asbestos Resource Program (ARP), and their consultant (Trihydro) have been working in collaboration with an O&M Workgroup formed by the United States Environmental Protection Agency (EPA) that includes Lincoln County (represented by the ARP and BOH), and the Montana Department of Environmental Quality (DEQ). On October 31, 2019, EPA released for public comment a Draft Final Institutional Control Implementation and Assurance Plan (ICIAP) for Operable Units (OUs) 4 and 7 of the Site for the forthcoming Operation and Maintenance (O&M) period. Lincoln County appreciates the opportunity over the last two years to have input into the planning of the O&M phase.

This comment document includes comments from the reviews performed by Trihydro on behalf of ARP, the BOH, ARP, and the ICSC relative to the October 2019 Draft Final ICIAP. Please consider these comments as an overall collection of comments from the BOH<sup>1</sup>. The comments are divided into General comments on the document and specific comments associated with language and discussion in the appropriate document sections or accompanying figures/appendices of the Draft Final ICIAP for OUs 4 and 7. The BOH are requesting a response to these comments, both general and specific.

A number of the comments are well known to the O&M workgroup, but are repeated herein as a matter of memorializing concerns and to add context to the public comments now that the ICIAP document is open to comment outside EPA's deliberative consideration process. To some degree, inconsistencies among comments, or divergence from prior Workgroup efforts may exist, owing to a broad solicitation of input from the several identified entities now having the opportunity to review the draft final ICIAP outside of the deliberative process constraints. We recognize that many of these comments will and should be addressed in the O&M Plan and/or the O&M Manual documents. The review of the ICIAP raised these

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<sup>1</sup> As part of encouraging public comment, the BOH and ARP advertised several one-hour periods for public availability to assist in their review of the ICIAP or to answer questions, and to encourage public comment. The response was minimal. The ARP/BOH outreach was not an effort to collect or intercept formal public comment. However, distinct from this period of formal review comments, the various County entities have received informal public comment since commencing the O&M planning efforts, which we have attempted to capture in the this ICIAP comment period.

questions and this document can serve as a placeholder for concerns that should be addressed in other documents. Comments are divided by general considerations and specific comments. Many of the comments are editorial in nature.

It is also noted that the companion O&M documents, the O&M Plan (EPA) and the O&M Manual (DEQ), necessary to round out the O&M program, are not yet available for public review in conjunction with this ICIAP.

## COMMENTS

The following are general comments or potential information gaps that are not addressed in the ICIAP or need more information provided prior to O&M for the Site:

### General Comments to the Draft Final ICIAP

1. Review of this Draft Final ICIAP without a concurrent review of the Draft Final O&M Plan is very difficult. These documents, along with DEQ's more-detailed Draft Final O&M Manual, provide a complete view of the specifics of O&M including questions on funding, responsibility of property owners, anticipated roles of the community with DEQ, actions for future encounters with LA asbestos, and overall evaluation and monitoring of protectiveness. Please extend the comment period for the Draft Final ICIAP through the Draft Final O&M Plan and O&M Manual in order for concurrent plan/manual review and a better understanding of the big picture of O&M for the public<sup>2</sup>.
2. This document is difficult to read for the public, and especially without concurrent review of the O&M Plan and O&M Manual associated with O&M for the Site. This review process should be extended to allow for concurrent review with other O&M documents and public/open-house meetings with DEQ, EPA, and BOH/ARP personnel present to explain the details, as requested.
3. This Draft Final ICIAP document does not discuss the details and process for how a property owner can get additional monitoring/investigation or potential post-remedy response actions completed. This ICIAP, and/or the associated O&M Plan and a publicly available O&M Manual, needs discussion of potential roles/responsibilities of the property owner if there is additional post-remedy investigation, monitoring, or response required. It should not be up to the property owner to have to incur added time and expense to procure an appropriate inspector or response contractor for post-remedy O&M activities. Potential liability issues between the property owner and contractor in cases where there is documented damage done on the property are not addressed. Placing the burden of hiring a contractor either for sampling and/or cleanup on the property owner is wholly inconsistent with the practice during the remedial phase and will discourage participation. These type of liability aspects are best managed by an experienced

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<sup>2</sup> At the November 2019 meeting of the BOH, a formal motion was made to support this position, and was forwarded shortly thereafter to both EPA and DEQ with a request for a formal, written response. The motion stated: *The BOH requests that DEQ and EPA provide public comment periods for the ICIAP, the O&M Plan and the O&M Manual, and not finalize them until a public informational meeting has been conducted and input related to all documents can be considered.*

entity, such as DEQ, with ARP support. Details are needed to state who is responsible for handling liability when damage is incurred.

4. This document does not go into funding or the potential O&M investigation/response reimbursement<sup>3</sup> program. The BOH/ARP understands that funding/reimbursement details are in the O&M Plan with cost analysis/discussion in the O&M Manual, but reassurance of where the funding discussion and any property owner responsibility with respect to funding should be referenced in all O&M plans.
5. A common comment or question from the BOH entities and from citizens in informal community contact has been whether the property owner will be “stuck” with LA related costs or whether the promises made to the community will be honored, i.e., no cost to the property owners. Aside from the commitment made to the community and sound rationales for that policy to protect the remedy and public health, the IC program is based on encouraging property owner involvement on LA related issues. It is perceived that the public expects the promises on “no LA related costs to the property owners” to be fulfilled, and that anything less than full support of this promise will rapidly erode O&M credibility and the ability to implement the ICs.
6. Section 12.3.4 of ROD notes the following: “Because of the potential for LA contamination to remain in soil and structures after the remedial action is concluded, there may be a need to implement a response action during O&M. The O&M Plan, which will be prepared prior to the start of O&M, will detail response actions to be taken when LA contamination is encountered during O&M. If the material encountered was not reasonably anticipated prior to the start of O&M, EPA and DEQ will evaluate whether the material represents a changed condition and determine how the response action will be funded.”  
Please address this in the ICIAP; however, there is no need to include this statement in ICIAP as long as a changed condition and clear understanding of funding of changed conditions is addressed in O&M Plan.
7. The BOH and Commissioners were previously advised by EPA that the problematic property owner cost burden language in the ROD would be clarified in the ICIAP, but it is not included. Please indicate where it will be included in an EPA approved document.
8. There are several ICs that may be omitted that have been discussed as potential public health concerns during O&M. Please include a discussion and ICs to address these public health concerns:
  - a. ICIAP IC Controls – Omission of Wildfire Risk
    - i. ICIAP applies to OU4 and OU7. The air in OU4 and OU7 comes from both the air above OU4 and OU7 and from areas outside of OU4 and OU7. There is a very real concern of a large wildfire in or around OU3. Notably, OU4 borders and almost completely surrounds OU3. The ICIAP does not include any O&M air monitoring. If the ICs are to protect from exposures in OU4 and OU7, avoiding monitoring and response to wildfire risk may be a potential major public health exposure (see Appendix A, Table 5-2 which states wildfires in OU4 would impact all 6 exposure populations).
    - ii. Please include air monitoring and coordination for any wildfires in OU4, OU7, and OU3 (or nearby) with details on the timing and need for monitoring based on fire size or proximity to the ICIAP. That risk applies to OU4, even those who have fully remediated all asbestos in their homes and gardens, potentially leaving the population of OU4 unprotected from this risk.

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<sup>3</sup> Note prior stated concern regarding reimbursement approach. Significant comments have arisen regarding this approach for sampling and/or cleanup.

- iii. Note, current air monitoring of wildfires is like comparing apples and oranges. There is no air sampling data from air pollution caused by a large all-consuming fire plume. That is the concern that air monitoring can address and be used to warn the public to take precautions, etc.
  - b. ICIAP IC Controls – Omission of Structural Fire Risk
    - i. Please include an IC for structural fire risks. There are no IC's related to structural firefighting. A risk remains of exposure if a property had not been remediated or has asbestos sealed in place during fire. These IC's are aimed at mitigating risk due to structure bound asbestos, but completely overlooks the risk of what happens when that structure catches fire.
    - ii. There may need to be ARP coordination, monitoring, and involvement for any firefighting of structures in addition to the post-fire remediation activities if they involve drying/fan activities or waste removal.
  - c. If the ICIAP is not going to include air monitoring roles and responsibilities for catastrophic or public health events, such a structure or wildfires, then it needs to explicitly state that in the roles and responsibilities section of the document. The BOH is concerned about the exodus of EPA from any support role for air monitoring during major structure fires or wildfires. While the EPA studies are instructive and perhaps are reliable risk assessments for small scale fire incidents, they do not address appropriate preparations for larger scale events. EPA, and DEQ as the custodians of all future O&M, have not identified a program that provides support for emergency response (air monitoring and other activities) in the event of such occurrences. The BOH is concerned with the possible scenario of a public health emergency without sufficient data to support decision making. While the O&M planning has been focused primarily on normal property activities and occurrences aside for major structural or wildfires, attention to these topics is nil.
- 9. IC Additions: Please add language about potential new ICs, especially in Section 1 that talks about roles, responsibilities and development of ICs. There is a lot of discussion about evaluating and monitoring current ICs, but nothing about potentially creating new ones.
- 10. For properties owned by those residents that refused cleanup by the EPA, what are the ramifications on potential future buyers of the property? Will they be responsible for cleanup should they buy the property with full disclosure? Are these details included in the ICIAP or elsewhere?
- 11. It appears that OU8 is the Highway 2 corridor; does this extend to other roadways, for example Highway 37? It's understood that the ICIAP is primarily focused on OU4 and OU7 but there is concern about condemning roads (example, Old Haul Road south of town). Would the road be considered in OU4 and OU7 if condemned and purchased by residents?
- 12. How does BSNF property fit in with this ICIAP? They occasionally sell property. How would those properties fit into this ICIAP?

### **Specific Comments to the Draft Final ICIAP**

1. Signature Page for the Draft Final ICIAP: Is DEQ approval required for this document since DEQ will be administering O&M activities? Does DEQ anticipate providing a separate publicly available agreement with the information in this Draft Final ICIAP?

2. Acronyms and Abbreviations – ARP: Please change throughout document to “Lincoln County Asbestos Resource Program”
3. Page 6 Page 6 Acronyms and Abbreviations – BOH: Please change throughout document to “City-County Board of Health for Lincoln County”
4. Page 1-1, Section 1 Introduction, first paragraph, 2<sup>nd</sup> to last sentence: Please see acronym comment to BOH to update throughout document (comment #3).
5. Page 1-1, Section 1, Introduction, first paragraph last sentence: Please describe who can propose changes to the ICIAP, when, and how changes are made and approved. Please include a discussion of how public involvement will be included in future changes.
6. Page 1-2, Section 1 Introduction, first paragraph, first full sentence about “largely mitigated”: Language about the Libby Amphibole Asbestos (LA) being “largely mitigated” was included in the BOH Draft Property Evaluation Notification (PEN) document and DEQ was not comfortable with that language. This phrase will likely be retained in the PEN and we support retaining this language in the ICIAP since some LA still remains in OUs 4 and 7.
7. Page 1-2, Section 1 Introduction, last paragraph on the *Working Draft Operations and Maintenance Plan* for OUs 4 and 7: When are these associated documents available for review? Comments on the Draft Final O&M Plan could justify changes in ICIAP, and vice versa. Additionally, the O&M Manual will likely include most of the details of O&M, so, please add a brief discussion of the outline of the O&M Manual and provide a discussion period and timeline for public review for the Draft Final O&M Manual.
8. Page 1-2, Section 1.1, Roles, first paragraph, reference to O&M Manual: See comment above (comment #7) on O&M Manual review period for public and need for concurrent review for relational understanding of O&M.
9. Page 1-2, Section 1.1.1: Please update ARP to “Lincoln County Asbestos Resource Program” throughout document where it is not the ARP acronym alone.
10. Page 1-2, Section 1.1.2 DEQ Roles: Please add the following language to the roles, “... and tracking of IC effectiveness (statistics and metrics) during their annual and 5-year reviews, but the ICIAP can be updated at any time.”
11. Page 1-2, Section 1.1.3, Oversight Committee, second sentence on HB30: the “Libby asbestos superfund laws” refers to prior legislation. Please update this section with discussion and references to HB30, SB20, and SB315.
12. Page 1-2, Section 1.1.3, Oversight Committee, third sentence on LASOC “advise”: Please replace “advise DEQ” to more specifics of “to provide oversight and recommendations to DEQ on matters related to the Site, including administration of the Libby Asbestos Cleanup Trust Fund....”
13. Page 1-3, Section 1.1.4, ARP Roles, second sentence: Please revise to “ARP is an IC program established by EPA in 2012 via a cooperative agreement with Lincoln County, and implemented by the BOH. The ARP will continue into O&M and is dedicated...”
14. Page 1-3, Section 1.1.4, ARP Roles, last sentence: Please add a statement at the end of the paragraph that states, “The ARP is expected to continue as a lead IC program when the O&M period begins.”
15. Page 1-3, Section 1.1.5, Steering Committee Roles, first sentence: Please revise to “The ICSC is responsible to the BOH for assisting....”
16. Page 1-3, Section 1.1.5, Steering Committee Roles, last sentence: Please add a citation and reference to the ICSC Report of Recommendations.

17. Page 1-3, Section 1.1.6, Municipal Government Roles: There are not clearly “detailed [roles for municipal governments] in this ICIAP.” Please add details on the roles in this Section or reference to the other Sections of the ICIAP that detail the roles for municipalities in OUs 4 and 7.
18. Page 1-3, Section 1.1.6, Municipal Government Roles, last sentence: Please add an additional sentence that states, “During O&M the ARP coordinates and provides guidance to municipal governments in OUs 4 and 7 with respect to local government procedures, maintenance of remedies, and potential LA exposure, or applicable ICs implemented to protect the public.”
19. Page 1-3, Section 1.1.7, Community Roles: This section is not clearly defined. There are no details on “procedures” (first sentence), or information on how the public can provide “feedback and comments” during O&M and with a full understanding of the ICIAP in addition to the O&M Manual and O&M Plan. Please provide details and references to the other documents and if there are specific roles or responsibilities. This is critical to the IC plan for the public to be fully informed as to potential roles, cleanup responsibilities, maintenance responsibilities, and financial burden. Please revise Section 1.1.7 with more detail and opportunities for public feedback more often than an EPA 5-year review period.
20. Page 2-1, Section 2, Site Details, first sentence, Figure 1-1: Please add a cropped/enlarged area or an additional figure to give more detail on OU4 and OU7. The area is too small for the public to view the area of interest.
21. Page 2-1, Section 2, Site Details, first sentence, Figure 2-1 reference: The figure is labeled as Figure 1-2 on the drawing and Figure 2-1 in the text. Please update to Figure 1-2 in text.
22. Page 2-2, Section 2.1, second full paragraph: Please add a reference and mention of the public health emergency declaration to the narrative description of the background.
23. Page 2-2, Section 2.1, fourth full paragraph: Please change, “Workers at the mine lived in Libby or Troy...” to “Workers at the mine primarily lived in Libby or Troy....”
24. Page 2-2, Section 2.1, fifth full paragraph: The sentence starting with “Waste Vermiculite was used...” is long winded. Consider adjusting.
25. Page 2-3, Section 2.1, first paragraph: The phrase “can reasonably be expected to cause disease” is not consistent with the phrase in the second paragraph read as “which is known to cause human health effects”. Consider adjusting.
26. Page 2-3, Section 2.1, last paragraph: Sentence starting with “While these studies were used to...” is long winded. Consider adjusting.
27. Page 2-4, Section 2.1.2 Impacted Media, second to last paragraph on page: Please change “Specific location of response action and any LA-containing...” to “Specific location of response action and known LA-containing....”
28. Page 2-4, Section 2.1.2 Impacted Media, second to last paragraph on page, last sentence: Please add the following sentence after “...Denver, Colorado,” “Sampling locations and associated evaluations regarding needed response actions were based on site conditions and property uses at the time of the investigation and/or response.”
29. Page 2-5, Section 2.1.4, first sentence on page: Please add “...property and determine the appropriate level of response *based on conditions and property use at that time.*”
30. Page 2-5, Section 2.1.6 Institutional Control Objectives, Bullet #3 Land Use: Please revise the bullet to as follows, “Track changes in last use and develop a notification system (e.g. the Property Evaluation Notification [PEN] regulation is essential for preventing LA migration and public health exposure, a real estate disclosure system) for property owners, prospective property

owners, and workers to be aware of remaining or potential LA, which could become a future source of unacceptable exposure.”

Note – please also change any reference for the PEN “ordinance” to a PEN “regulation” throughout the document.

31. Page 2-5, Section 2.1.6 Institutional Control Objectives, first paragraph after bullets, first sentence: Please note that the IC objectives follow the ROD objectives, “These IC objectives are consistent with the ROD objectives, and will be implemented...”
32. Page 2-7, Section 2.1.7 Current and Reasonably Anticipated Future Land Use: What about any potential future industrial land use in OUs 4 or OUs7, and if other OUs are eventually under this IC plan? Would a future hemp processing industrial operation or lumber mill, etc. be reasonable anticipated in future use? Please add discussion that this is possible in OUs 4 and 7 in the future.
33. Page 2-8, Section 2.1.10 Responsible Parties and Stakeholders: This section does not discuss how the public can access these data sources or how they will know of ICs they are responsible for. Please expand this section with references and better understanding of how the public will be informed.
34. Page 2-8, Section 2.1.11 Local Government Information, second sentence: Please change the e.g. after local agencies to “... “local agencies (e.g. BOH for administering through the ARP, as necessary, to assist with implementing....” Agreements are with Lincoln County, not ARP directly.
35. Page 2-8, Section 2.1.11 Local Government Information, last sentence: Please remove the statement “BOH assisted in developing the ICs (Section 3),” and add a discussion of how the funding is from multiple sources – state, federal, HB/SB and can be accessed for O&M by the ARP to administer ICs, but also directly to property owners to ensure no additional burden for LA contamination. ARP/BOH previously suggested language along the lines of, “Funding sources and associated guidance are presented in the OU4 and OU7 O&M Plan (EPA, 2020) and O&M Manual (EPA/DEQ, 2020). However, state-controlled O&M funds from the Libby Asbestos Cleanup Trust Fund are available directly from the EPA settlement, and are administered by DEQ with oversight from the Libby Asbestos Superfund Oversight Committee (LASOC). Legislative funds from Senate Bill 20/House Bill 315 are also available for O&M activities and are administered by the LASOC in conjunction with DEQ.”
36. Page 2-8, Section 2.2. Site Operable Units, last paragraph on page for OU4: Please add “roadways not in OU8” to this description of OU4.
37. Page 2-8, Section 2.2. Site Operable Units, last paragraph on page for OU4: Please add “in and around” to Figure 1-2 in the description of OU4.
38. Page 2-9, Section 2.2. Site Operable Units, description for OU7: Please add “roadways not in OU8” to this description of OU7.
39. Page 2-9, Section 2.2. Site Operable Units, description for OU7: Please add “in and around” to Figure 1-2 in the description of OU7.
40. Page 3-1, Section 3.1 Institutional Control Elements: When referring to “remedial alternatives”, what does this mean specifically? Which ICs speak directly to each remedial alternative?
41. Page 3-1, Section 3.1 Institutional Controls, first bullet on Government Controls: Please change “ordinance” to “regulation.” Also add after PEN “PEN regulation including property development and transaction coordination and information – BOH.”
42. Page 3-1, Section 3.1 Institutional Controls, first bullet for Informational Devices: While the PEN is a government control, solely because of the mandatory notification for applicable activities, it is more importantly a major informational device and critical for IC information dissemination.

Information and other supports are the most effective means of identifying potential exposures, mitigating risk, and supporting the ROD objective. Please add PEN to "Informational Devices" also because of its dual role.

43. Page 3-1, Section 3.1 Institutional Controls, first bullet for Informational Devices: For the PEN as an informational device, please add the sub-bullets to the PEN as follows,
  - a. PEN Regulation as an Informational Device includes information dissemination for the public including, but not limited to the following:
    - i. Guidance on past inspection, monitoring/sampling results, and any response action
    - ii. Guidance on land use during past LA-based investigations and activities
    - iii. Guidance on potential land use changes or frequency of land use changes
    - iv. Evaluation of potential dig sites through the utility locate program (Montana811)
    - v. Guidance and information dissemination on BMPs for those who are looking at property changes or purchases
    - vi. General information on property status with respect to LA
44. Page 3-1, Section 3.1 Institutional Controls, third bullet for Informational Devices under utility service locate: Please remove "UDIG" from the document throughout/globally and replaced with "Montana811" as one word.
45. Page 3-1, Section 3.1 Institutional Controls, fourth bullet for ARP program under City of Libby and Troy coordination: Please remove italics for sub-bullets.
46. Page 3-2, Section 3.1 Institutional Controls, fifth bullet carry over from previous page for Lincoln County Review: Please remove italics for sub-bullets
47. Page 3-2, Section 3.1 Institutional Controls, after last bullet, new bullet for O&M Manual: Please add the O&M Manual as an Institutional Control Element. The O&M Manual should be listed here with subtopics to let the reader know what is in it and how it addresses the informational and procedural aspect of IC implementation during O&M.
48. Page 3-2, Section 3.2 Instrument Duration, add first sentence: Please included upfront a reiteration of the third sentence as the first sentence that, "The instrument duration is expected to be in perpetuity."
49. Page 3-3, Section 3.3.2 Government Controls: In this section, under the description of MDT Encroachment Permit Application and Addendum, there is a description of no specific enforcements or penalty's existing to the encroachment permit. Should the same be said for the PEN Ordinance, under this section?
50. Page 3-3, Section 3.3.2 Government Controls, PEN Ordinance, first sentence: Please add applicable before activities, "...to LA as a result of applicable activities..." and replace "...(1)" through "real estate transactions." with the following from the PEN, "... applicable activities defined as activities related to real property to include: a. Excavation, grading, and landscaping; b. Interior or exterior demolition, repair, modification, disturbance of material, or remodeling to permanent or temporary structures; c. Transfer of real property regardless of whether any comfort letter has been issued by USEPA or any other agency; d. Change in Land Use Category or Property Use Area; and e. Any dividing of land, including through subdivision, family transfer, Court-ordered division, or other division of land. In addition to the applicable activities, other activities that require a PEN are include in the regulation."
51. Page 3-3, Section 3.3.2 Government Controls, PEN Ordinance (note change to "PEN Regulation"), second sentence: Please replace later references to "PEN-applicable activities" to "PEN-required activities," twice in this sentence.

52. Page 3-4, Section 3.3.2 Informational Devices, NOECs and NOPECs, first sentence: Please replace “NOECs and NOPECs are filed by EPA...” to “...were filed by EPA....”
53. Page 3-4, Section 3.3.2 Informational Devices, NOECs and NOPECs, add last sentence at end of paragraph: Please add, “ARP, in coordination with DEQ, will assist NOEC and NOPEC property owners in understanding the process and evaluation of the data/report/response quality and applicability of the request for a withdrawal notice, as necessary.”
54. Page 3-4, Section 3.3.2 Informational Devices, NOECs and NOPECs: Please add a sample NOEC/NOPEC and sample Withdrawal Notice as an appendix to the document for public to view.
55. Page 3-4, Section 3.3.2 Informational Devices, UDIG/Montana 811: Please update as previously noted to “Montana811,” and remove UDIG references. Please also add etc. to parenthesis for “... (e.g. excavation, fence installation, etc.)”
56. Page 3-4, Section 3.3.2 Informational Devices, UDIG/Montana 811: Please add a reference to other OUs (i.e. OU1, OU2, OU5, and OU8) also requiring utility locate services based on state requirements.
57. Page 3-4, Section 3.3.2 Informational Devices, ARP section, second to last sentence on ARP with “ARP was funded..., as necessary”: Please strike “as necessary.” ARP is providing the majority of the ICs noted in this ICIAP, there needs to be concrete language that ensures that BOH will have adequate funding for the ICs to have ARP administer these locally. Please include references to secure funding for BOH/ARP in the O&M Plan and this ICIAP Plan.
58. Page 3-4, Section 3.3.2 Informational Devices, ARP section, second to last sentence on ARP with “ARP was funded..., as necessary”: Please strike that entire sentence and replace with “ARP is funded by a cooperative agreement between Lincoln County and the EPA through O&F. During O&M, ARP will be funded by a cooperative agreement with DEQ.”
59. Page 3-4, Section 3.3.2 Informational Devices, ARP section, PEN Regulation added as Informational Device: Please note the PEN Regulation as an information device IC under ARP, as well as a government control. Refer back to governmental control above for details.
60. Page 3-5, Section 3.3.2 Informational Devices, Property Transaction Awareness: Please specify that, “As part of the PEN regulation and as an informational device, ARP provides printed packets of LA and ....” Also please add a few sentences of discussion about EPA’s outreach to real estate and mortgage community members during O&F that will help provide them with guidance as to the O&M property transaction process. Please also include a reference to the details in the O&M Manual and provide that manual for public review.
61. Page 3-5, Section 3.3.2 Informational Devices, ARP section, Subdivision Planning/Septic Review and Coordination, first sentence: Please revise to “Most activities falling under this category will need to request a utility locate/Montana811 request and are PEN-required activities; however, ...”
62. Page 3-6, Section 3.3.2 Informational Devices, Asbestos Disposal Program Coordination: Please clarify where the costs for disposal and coordination of disposal are covered. For example, the cost for coordinating and guiding property/response action disposal costs are with ARP, but DEQ will have a separate agreement with the Lincoln County Solid Waste Division to cover the administration of the landfill and any disposal costs for LA contaminated waste discovered or removed during O&M. This could be a general discussion with details referenced in the O&M Manual, as long as the manual is also out for public comment.
63. Page 3-7 and 3-8, Section 3.3.2 Informational Devices, Data and Administrative Record: These should be publicly available, similar to Montana’s Cadastral. Please indicate how and when these

- will be migrated to public access. Is there funding to continue to make these databases read-only available for the public to see status, investigation information, and responses?
64. Page 3-7 and 3-8, Section 3.3.2 Informational Devices, Data and Administrative Record: Please indicate where the DEQ Response Manage and Integrated GIS Database along with the next bullet for Property Information Hard Drives, and Libby Asbestos Superfund Site Administrative Record are available to the public. The Draft Final ICIAP Factsheet notes these are located in the Troy and Libby Libraries, but additional details to other sources and information on how to contact EPA for the Superfund information without web-access is also needed.
  65. Page 3-7 and 3-8, Section 3.3.2 Informational Devices, Data and Administrative Record: Is there a process or plan to integrate all of these databases into one system and one access point? Please explain why that is not available and cannot be accomplished or funded by EPA as part of the O&F transition of the data to O&M. Is cost the main prohibitive element?
  66. Page 3-8, Section 3.3.2 Informational Devices, O&M Manual: Please add a bullet after “BMP Manual” with a discussion of the details of the O&M Manual if not already included previously in the document.
  67. Page 3-9, Table 3-1, Status of Institutional Control Implementation: Under first column for PEN Regulation (changed from ordinance): Please include both “Governmental Control and Informational Device” under “Instrument Category.”
  68. Page 3-9, Table 3-1, Status of Institutional Control Implementation: Remove UDIG and call it “Montana811”
  69. Page 3-9, Table 3-1, Status of Institutional Control Implementation: Please add the O&M Manual as an Informational Device IC in its own column. The status can be set to “In Development.”
  70. Page 4-2, Section 4 Institutional Control Maintenance, first paragraph on public education as a critical tool for IC maintenance: Please include a reference back to Section 3 for contact information for ARP and DEQ for the public.
  71. Page 4-2, Section 4 Institutional Control Maintenance, first paragraph on public education as a critical tool for IC maintenance: Please revise the second sentence starting at the comma to “..., ARP is locally available to the community to respond to such concerns and provide information, monitoring/inspections, and guidance.”
  72. Page 5-1, Section 5 Institutional Control Enforcement, first paragraph, second sentence: Please revise to, “... such as ordinances and regulations, may have their own...”
  73. Page 5-1, Section 5 Institutional Control Enforcement, second paragraph, second sentence: Please revise to include ROD reference as follows, “This can include site visits and issuing letters or notices to provide documentation of the problem, and information or resources to help the public address those issues. As stated in the ROD, “If people adhere to the ICs established for the Site to mitigate these contributions to risk and the comprehensive cleanups are performed for both contaminated media, then adequate protection of human health from exposure to LA contamination can be achieved (EPA, 2016).”
  74. Section 7 References: Please see additional comments about adding reference to the ICSC Report of Recommendations and the Draft Final O&M Manual.
  75. Figure 1-1: See previous comment about Figure 1-1 - Please add a cropped/enlarged area or an additional figure to give more detail on OU4 and OU7. The area is too small for the public to view the area of interest.
  76. Figure 1-2: See previous comment on numbering error in text and also to add additional “in and around” text to descriptions for OU4 and OU7.
  77. Note: Page 43 of the pdf, after Figure 1-2, is blank.

78. Appendix B: Board of Health Property Evaluation Notification Regulation:
- a. Please see global comment on change from ordinance to “regulation”.
  - b. Feel free to reference applicable activities from the text in Section 3 into this appendix as (Appendix B, PEN Regulation, Section II, F Definitions, 2. Applicable Activities”)
  - c. The numbering is off on pages 9-10 of the PEN Regulation, F on page 9 should be G and that changes subsequent numbering, so F-J becomes G-K.
79. Appendix D Libby Asbestos Superfund Site – OU 4 and 7 BMP Manual:
- a. Please revise the introduction to indicate who authored the document and that it is a living document that will be updated routinely or periodically and the most recent version during O&M can be access through ARP.
  - b. Page 1-1 Section 1, second paragraph, first sentence: Please add reference to Troy in this paragraph.
  - c. Page 1-1 Section 1, second paragraph, second sentence: Formatting cuts off “by WR Grace” onto another line. Please also not that COC is not defined and should be “contaminant of concern (e.g. LA)”
  - d. Page 2-1, Section 2 BMPs, BMP Guidance Indoors, bullet #1: Recourse needs to be changed to “Resource”
  - e. Page 2-1, Section 2 BMPs, BMP Guidance Outdoors, bullet #1: Recourse needs to be changed to “Resource”
  - f. Page 2-2, Section 2.2 Building Renovation, BMP Guidance: Should reference to other ICs, especially the PEN be included? Please include reference to the PEN regulation when discussing BMPs for building or soil disturbances throughout the BMP Manual.
  - g. Page 2-3, Section 2.3 Building Demolition, BMP Guidance: Please include reference to the PEN regulation when discussing BMPs for building or soil disturbances throughout the BMP Manual.
  - h. Page 2-4, Section 2.4 Excavation, BMP Guidance: Please include reference to the PEN regulation when discussing BMPs for building or soil disturbances throughout the BMP Manual. Please remove language on UDIG and replace with Montana811.
  - i. Page 2-5, Section 2.5 New Construction, BMP Guidance: Please include reference to the PEN regulation when discussing BMPs for building or soil disturbances, or new construction, throughout the BMP Manual.
  - j. Page 2-6 ad 2-7, Sections 2.6 and 2.7 – Materials importing and landfill disposal should reference the O&M Manual or Landfill operations guidelines with references to people to contact at ARP for materials importation and ARP/Lincoln County Solid Waste for landfill acceptance and operation for LA.
  - k. Page 3-1, Section 3 Additional Information and Resources: Please include “Lincoln County Asbestos Resource Program” in front of ARP’s contact information.
  - l. Page 3-1, Section 3 Additional Information and Resources: Please include the O&M Manual as a reference for the BMPs along with noting that these BMPs will be updated routinely by ARP during O&M.
  - m. Page 3-1, Section 3 Additional Information and Resources: Should there be a reference to the Asbestos Control Program at DEQ for other asbestos related questions?
  - n. Page 4-1, Section 4 References: Please include a reference to the Pending BOH PEN Regulation.

## **SUMMARY**

In summary, although it is obvious that a significant amount of work and collaboration has brought this Draft Final ICIAP for OUs 4 and 7 for the Libby Asbestos Superfund Site to fruition, there are additional considerations and a strong need for all of the O&M documents (especially the O&M Plan and O&M Manual) to be reviewed in conjunction with this Draft Final ICIAP to evaluate if the O&M documents include applicable information and objectives as promised in the ROD. There is also a BOH request for public informational meetings where EPA and DEQ are available to discuss and evaluate all of the Draft Final O&M documents.

Overall, despite the numerous detailed comments above, the central concerns focus on burdens on the property owners: LA-related costs overall, and burdens associated with procuring and implementing sampling and clean-ups. It is recognized that these topics will require input and action by the LASOC and DEQ for resolution. By reference we also add as formal comment the Lincoln County (BOH and Commissioners) Policy Statement dated January 10, 2018.