

Lincoln County
City-County Board of Health Agenda
November 14, 2018 @ 6 PM
Lincoln County Courthouse

- 1. Call to Order**
- 2. Approval of Minutes**
 - 10/10/2018 Minutes
- 3. New Business**
 - Jan Ivers term - recommendation
 - Reorganization discussion
 - BOH public policy discussion
- 4. Program Reports:**
 - **Public Health**
 - General Update
 - **Environmental Health**
 - 2019 Cooperative Agreement
 - Pine Tree Plaza Update
 - **Air**
 - DNRC Management Burn Report
 - **Solid Waste and Recycling**
 - IGBC Recognition
 - **ARP**
 - Grant Settlement
- 5. Focus Area Liaisons:**
 - **Superfund Sites**
 - Asbestos
 - Groundwater
 - Sponsorship of Controlled Groundwater Petition
- 6. Health Officer Report**
- 7. Old Business**
- 8. Public comment**
- 9. Adjourn**

Cooperative Agreement

Between
Montana Department of Public Health and Human Services
And
Board of Health

Identity of Parties and Purpose Statement

This Cooperative Agreement (Agreement) is between the Montana Department of Public Health and Human Services (DPHHS), and the Lincoln County Board of Health (BOH).

The purpose of this Agreement is to establish a payment schedule for maximizing the disbursement of funds to the BOH to support inspections of licensed establishments and to determine which optional programs the BOH will conduct.

A failure to sign this agreement may result in the inability of a local health jurisdiction to maximize funding. Each completed inspection will result in a payment equal to the license fee or the portion of that fee designated in the applicable statute.

Period of Performance and Termination of this Cooperative Agreement

This Cooperative Agreement is effective from **January 1, 2019 through December 31, 2019** and cannot be terminated except by written notification from one of the parties with a minimum of 30-day notice. This agreement may not be extended.

Sole Agreement

This is the only Agreement between the parties with respect to payments for inspections for licensed establishments. This Agreement replaces any previous Cooperative Agreement(s) entered into by the parties with respect to payments and responsibilities for inspections of public establishments as defined in this agreement.

Alterations or Amendments

The parties may amend this Cooperative Agreement by mutual agreement. Any amendment is effective only when in writing and signed by both parties.

Responsibilities of the parties:

The BOH agrees:

1. To inspect the following types of licensed establishments within its jurisdiction on an annual basis:
 - a) inspections required to be performed by local health jurisdictions
 - i. Retail Food Establishments

- ii. Wholesale Food Establishments
- iii. Trailer Courts & Campgrounds
- iv. Public Accommodation (see 2a for exceptions)

b) The BOH agrees to conduct the following activities (please check all that apply):

i. Pools, Spas and Other Water Feature Inspections

- Yes
- No

ii. Body Art Establishment Inspections

- Yes
- No

iii. Body Art Establishment Plan Review

- Yes
- No

iv. Peer to Peer Inspector Training (see Appendix B and Table 3)

- Yes
- No

- c) If the BOH chooses not to perform inspections of pools, spas, and other water features, and body art facilities, they will be conducted by the Department or its designee. A designee may include a neighboring county under contract with the Department.
- d) If the BOH opts out of Pool and Body Art inspections, the BOH gives DPHHS the authority to sign Pool, Spa, and Body Art licenses for the county.
- e) If the BOH opts into Peer to Peer Retail Food Inspector Training, they agree to have Trainers host a trainee, travel to the trainee's county, or a combination of the two, to perform routine inspections of retail food establishments (See Appendix B and Table 3). Only DPHHS-standardized or FDA-standardized inspectors may provide the peer to peer inspections. Opting into this program means that you are only obligated to assist counties as time allows. It does not mean that you are expected to prioritize neighboring county trainings over your own.

2. To inspect public sleeping accommodations within its jurisdiction as follows:

- a) Inspect each hotel, motel, rooming house/boarding house/hostel before initial license validation, upon complaint, and routinely inspect at least once annually;
- b) Inspect each bed & breakfast and tourist/vacation home/condominium before initial license validation and upon complaint;
- c) Complete follow-up inspections as determined necessary by the sanitarian; and
- d) Make a reasonable effort to license all operating establishments, including tourist homes.

3. Inspections of licensed establishments must be performed by the local health

officer, sanitarian, or sanitarian-in-training;

4. To enter inspection dates into the Department's database, within two weeks after the end of each quarter;
5. A minimum of one person in the County will obtain access to the Department's licensing database, receive training, and enter the date and name of person performing each inspection;
6. On a minimum of a quarterly basis, to notify the Department of any status changes to establishment licenses (i.e. out of business; change of ownership);
7. To provide copies of inspection reports to the Department for auditing purposes, upon request;
8. To notify the Department when a sanitarian or the BOH takes enforcement action that may impact a license; and
9. To be eligible for payment from the Local Board Inspection Fund (LBIF), the County must maintain a functioning local board of health as required by Title 50 of the Montana Code Annotated.

The Department agrees:

1. To pay the percentage required by statute of each licensing fee received by the Department into a Local Board Inspection Fund. Fees paid into the fund will be collected from licensees of retail food establishments, wholesale food establishments, public accommodations, trailer courts and campgrounds, and, if applicable, body art establishments (see Table 2), pools, spas, and other water features;
2. To pay the BOH the license fee or fees associated with an establishment from the local board inspection fund, so long as the licensed establishment is inspected or reported as permanently closed and the license fee or fees have been paid by the establishment;
3. If the BOH inspects licensed establishments in program categories covered by this agreement before the end of the licensure year, payment from the Local Board Inspection Fund will be made at the rates according to statute using the payment schedule in Table 1. Payment rules to be applied to the percentages can be found in Appendix A;
4. To provide copies of plan review correspondence to the county sanitarian;
5. The amount available from the local board inspection fund is solely dependent upon fees paid by licensed establishments within the relevant jurisdiction. The percentage paid to the BOH under the schedule is intended to be a percentage of the actual

amount available in that fund based on amounts paid in from licensees. Under no circumstances will the Department be obligated to pay an amount larger than has been paid into the Local Board Inspection Fund. Payment is also dependent on statutory authority available to the State to make payments from the Local Board Inspection Fund;

6. To provide training, education, technical assistance and information to staff of local board of health;
7. To maintain a record of inspections submitted by the staff of the local board of health as required in rule; and
8. To provide analytical support through the Laboratory Services Bureau to the BOH's environmental health program regarding food safety. When necessary, support to environmental health programs may include food and environmental sampling for *Salmonella*, *Listeria*, and Shiga-toxin producing *E.coli*, along with clinical (human) testing for the analytes listed in the [public health laboratory manual](#).

The laboratory maintains and provides sample collection kits and technical support when food or water samples need to be collected and tested for contamination. This includes food sampling kits and drinking water emergency sampling supplies. Examples include assisting with *Listeria* swabbing or collecting and shipping samples of food for *Salmonella* or *E.coli* analysis.

The Laboratory Services Bureau is certified by Region 8 of the EPA and can provide water analysis for pesticides, herbicides, volatile organics, industrial chemicals, nutrients, enteric bacteria, oxygen demand, metals, mercury, as well as lead in paint and dust wipes. The laboratory not only tests drinking water, but also wastewater, groundwater, sediment, solid wastes, and plant and fish tissues.

In an outbreak or emergency where the Department cannot provide laboratory support through the Laboratory Services Bureau, it will work closely with relevant regulatory agencies and their laboratories including the CDC, FDA, and USDA.

Table 1: Payment Schedule- Applies to Retail Food Establishments; Wholesale Food Establishments; Public Accommodations (except Tourist Homes and Bed & Breakfasts *see note) Trailer Courts/Campgrounds; Body Art Establishments; Pools, Spas and Other Water Features (if applicable):

Percent of Licensed Establishments Inspected by the County during the licensure year	LBIF Disbursement by Percentage
90% -100%	100% (of paid licenses)
< 90%	1 Payment per Paid License per Inspection

* Note: All license fees for Tourist Homes and Bed & Breakfast will paid annually to the county and are not subject to Table 1.

Table 2: License fees reimbursed to counties performing inspections of Body Art Establishments:

License type	License fee	Reimbursement per inspection
Tattooing	\$135	\$121.50 (90%)
Body Piercing	\$135	\$121.50 (90%)
Ear lobe piercing only	\$75	\$67.50 (90%)

Table 3: Peer to Peer Retail Food Inspector training: Counties will be reimbursed for mileage, meals and lodging for their employees who may be either trainers or trainees and travel outside of their home counties for the purpose of peer to peer training. Counties who host a trainee will also be given an additional \$50 per training inspection. Please note that opting into this portion of the cooperative agreement does not obligate you to provide this service. Peer to peer trainings will only be done when both counties have time (See Appendix B).

Lodging*	State Rate (Approx \$93/Night)
Meals	\$23.00 Per day
Mileage	\$0.262 Per mile
Additional Inspection Reimbursement	\$50.00 Per Inspection

* Note: Lodging will be reimbursed at the state rate unless preauthorization is granted by DPHHS; every attempt should be made to obtain state rates.

Both parties agree that:

1. The responsibilities of the parties are governed by the Montana Code Annotated and the Administrative Rules of Montana and nothing in this agreement is intended to contradict or supplant relevant provisions of the laws of Montana; and
2. The following process is to be used in the event of a disagreement between the BOH and the Food & Consumer Safety Section (FCSS) about the terms of this agreement.
 - a. If the BOH is unable to resolve their disagreement with FCSS, a written notification from the BOH must be provided to the Communicable Disease Control and Prevention Bureau Chief. The BOH shall provide in writing specific details about the remaining issues that are in dispute. The Bureau Chief shall attempt to resolve the dispute. If unable to resolve the dispute, the reasons for the department's position on the issues in dispute must be presented to the BOH in writing.
 - b. If resolution of the disagreement is not obtained, the BOH may request a review and written determination to be made by the Public Health and Safety Division

Administrator.

- c. The decision of the Division Administrator may be appealed to the Department Director, whose decision is final.

Liaisons:

These persons serve as the primary contacts between the parties regarding the performance of the task order.

1. Ed Evanson is the liaison for DPHHS (phone: 406-444-5309)
2. Liaison for the BOH: Kathi Hooper, RS
(Print name and title)

For: Montana Department of Public Health and Human Services

Signature: _____

Printed name and title: Todd Harwell, Division Administrator

Date: _____

For: _____ County Board of Health

Signature: _____

Printed name and title: _____

Date: _____

Please mail signed Agreement to:

Ed Evanson, Supervisor
DPHHS-Food & Consumer Safety Section
P.O. Box 202951
Helena MT 59620-2951

Appendix A – Payment Rules for Licensed Establishments

The following scenarios describe how credit for an inspection will be applied to the percentage described in Table 1 of this Agreement. Any scenarios not covered by these business rules will be evaluated on a case by case basis.

Scenario	License Fee(s) paid	Inspection(s) completed	Credit(s) toward percentage
1	License fee paid	1 or more inspection(s) completed	1 credit toward percentage
2	License fee paid	0 inspections completed	0 credit toward percentage
3	License fee paid	0 inspection completed due to business closing	1 credit toward percentage
4	0 fees paid	0 inspections completed	0 credit toward percentage
5	2 license fees paid on 1 establishment due to change in ownership	2 inspections performed because of change in ownership	2 credits toward percentage
6	2 license fees paid on 1 establishment due to change in ownership	1 inspection performed	1 credit toward percentage
7	License fee paid for pool or spa operated throughout the year	1 full facility and 1 critical point inspection performed	1 credit toward percentage
8	License fee paid for seasonal pool or spa	1 full facility inspection performed	1 credit toward percentage

Appendix B:

Peer to Peer Inspector Training

One of the tasks of Food and Consumer Safety is to provide or facilitate training to ensure consistent, high quality inspections across the state. Joint inspections with experienced county inspectors are one way to accomplish that. To minimize the impact to county budgets, Food and Consumer Safety will fund peer to peer inspection training up to \$10,000 per year (allocated total for the entire state).

These funds are available on a first-come, first-serve basis for counties with a new inspector, or an inspector needing additional training in a certain type of inspection or inspection components outside of previous training. This may be someone who is a Sanitarian in Training (SIT) or is a sanitarian that is moving into inspection types with which they have limited experience with.

Training will be provided at the discretion of the counties. If a county opts into this program but time and/or resources change the county is not obligated to host training or send a trainer to a neighboring county.

Minimum requirements for trainers:

1. Currently employed by a county and determined by FCS to be qualified to provide training;

The following applies to food inspections:

- a. Trainers must be a FDA or State Standard
- b. Minimum Facility Requirements
 1. Risk Level 2, 3, or 4
- c. Inspections by Risk Level (see Annex 5, Table 1 of the 2013 Food Code)
 1. Risk Level 2 - no more than 3 inspections
 2. Risk Level 3 or 4 - up to 12 inspections
 3. If possible, facilities should include
 - a. retail processing,
 - b. HACCP, and
 - c. Molluscan shellfish sales or service
 4. FCS currently does not have plans to approve more than 15 peer to peer inspections at a time.

Reimbursement:

1. Trainers may host the trainee and/or travel to the trainee's county to perform inspections.
2. Reimbursement to the county for mileage, meals and lodging for either trainers or trainees who travel outside of their jurisdiction.
3. An additional \$50 per inspection for a county hosting a trainee, due to the additional amount of time required for training.

Projected Reimbursement per training:

Lodging	State Rate (Currently \$93/night)	x5 nights	\$465.00
Meals	\$23.00/day	x5 days	\$115.00
Mileage	\$0.262/mile	x400 miles	<u>\$104.80</u>
		Total travel	\$684.80
Additional inspection reimbursement			
	\$50.00/inspection	x15	<u>\$750.00</u>
Total per sanitarian trained			\$1434.80

All peer to peer training must be pre-approved by FCS. To receive pre-approval, send the section the following information:

- 1) The training inspector
- 2) The trainee
- 3) The establishments to be visited with the risk categories
- 4) The number of days and nights spent training
- 5) The projected lodging cost
- 6) The projected mileage cost



Selkirk/Cabinet-Yaak Subcommittee

Interagency Grizzly Bear Committee

S/C-Y CHAIR

Rodney Smoldon
Colville National Forest

S/C-Y VICE-CHAIR

Ben Conard
US Fish & Wildlife Service
Montana Field Office

S/C-Y MEMBERS

Holger Bohm
BC Ministry of Forests,
Lands & Natural Resource
Operations

Linda Clark
Bureau of Land Management

Dan Dinning
County Commissioners

Jeanne Higgins
Idaho Panhandle NFs

Chip Corsi
Idaho Department of Fish & Game

Eric Besaw
Idaho Department of Lands

Ray Entz
Kalispel Tribe of Indians

Chris Savage
Kootenai National Forest

Gary Aitken, Jr.
Kootenai Tribe of Idaho

Vacant (Plains District Ranger)
Lolo National Forest

Neil Anderson
Montana Fish, Wildlife & Parks

Gregg Kurz
US Fish & Wildlife Service
Eastern Washington Field Office

Christy Johnson-Hughes
US Fish & Wildlife Service
Northern Idaho Field Office

Steve Pozzanghera
WA Department of Fish & Wildlife

I&E TASKFORCE CO-CHAIRS

Kim Annis
Montana Fish, Wildlife & Parks

Kirsten Kaiser
Kootenai National Forest

SCIENCE ADVISOR

Wayne Kasworm
US Fish & Wildlife Service

November 8, 2018

Kathi Hooper, Director
Bryan Alkire, Landfill Manager
Lincoln County Health Department
418 Mineral Ave, Libby, MT 59923

On behalf of the members of the Selkirk and Cabinet-Yaak Ecosystems Interagency Grizzly Bear Subcommittee, we would like to thank the Lincoln County Health Department for their dedication to the people and wildlife of Lincoln County. The willingness and commitments of the Director, Kathi Hooper, and the Landfill Manager, Bryan Alkire, has resulted in the securing of all the public waste transfer sites in the Cabinet-Yaak Grizzly Bear Recovery Area.

For the last 2 decades, Lincoln County has worked steadfastly with Montana Fish, Wildlife & Parks, the US Fish and Wildlife Service, and the US Forest Service to relocate and secure the public waste transfer sites throughout the County. Beginning with the site in the community of Yaak, the County has secured over a dozen sites, all while reducing the costs and tackling the challenges of site management.

Kathi, your efforts to find new locations for transfer sites, secure special use permits through the US Forest Service, and organize county resources to clear and level sites prior to fencing have been instrumental in securing these waste transfer sites from bears and other wildlife.

Bryan, you used your unique skill set to create a design that allows remote sites to remain functional and secure without the need for a daily gate keeper.

Kathi and Bryan, you and your employees should take great pride in these accomplishments. The members of the Selkirk and Cabinet-Yaak Interagency Grizzly Bear Subcommittee appreciate and thank you for your hard work and commitment to grizzly bear recovery efforts in northwest Montana.

Sincerely,

Rodney Smoldon
Chair



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1596 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

November 8, 2018

Ref: 8TMS-G

Mr. Mark Peck, Commissioner
City - County Board of Health for Lincoln County
512 California Avenue
Libby, Montana 59923

RE: Superfund Cooperative Agreement V 96803401- Repayment

Dear Mr. Peck:

Pursuant to 2 C.F.R. § 200.338 the U.S. Environmental Protection Agency, Region 8 (EPA), is issuing a final repayment letter for Superfund Cooperative Agreement Number V 96803401 relating to excessive drawdowns by the City-County Board of Health for Lincoln County (CCBH). As explained further below, the CCBH must repay the Agency \$402,687.70

The CCBH visited the EPA on August 31, 2016, and shared information and concerns regarding CCBH's compensation agreement with its attorney. At that point, the issue was referred to the EPA Office of Inspector General (OIG), and the EPA stopped its audit review. Based on information provided by the OIG in its Interim Report of Investigation into this matter and on additional information obtained by Region 8 in reviewing this matter, management practices were found in which the CCBH did not comply with federal standards for financial management of federal cooperative agreement funds and cost principles. 2 C.F.R. § 200.459(a) prohibits grant recipients from using grant funds to pay the cost of professional services when such professional costs are contingent on the grant recipient's recovery of costs from the federal government. The OIG interim report and supporting documentation indicate that CCBH entered into a fee agreement with the law firm of Doney Crowley Bloomquist Payne Uda, P.C. (Law Firm) to pay up to 20 percent of the total funds CCBH received from the EPA, and that such payment was contingent on the amount of funds CCBH received from the EPA. Based on the attorney fee agreement, the Law Firm received payments in the amount of \$331,911.61 or approximately 20 percent of 14 separate quarterly grant drawdowns between April 2012 and July 2015. However, based on a thorough review of the CCBH's general ledgers for this period and further discussions between EPA officials and Lincoln County officials, CCBH made corrective payments to the Law Firm from accounts other than its cooperative agreement account. Consequently, the amount of federal funds paid to the Law Firm under the improper fee agreement, totals \$89,381.99.

The CCBH submitted an itemized "Final Statement" to the EPA on January 11, 2018, which showed fee rates and work performed by the Law Firm for CCBH under the cooperative agreement. I have reviewed the Final Statement and determined that the Law Firm adequately documented work performed to demonstrate that CCBH's payments amounting to \$89,381.99 to the Law Firm were necessary, reasonable and allocable costs under the cooperative agreement. See Attachment A. Despite CCBH's

improper fee agreement contract with the Law Firm and inadequate financial oversight, the EPA is utilizing the cooperative audit resolution techniques pursuant to 2 C.F.R. §§200.25 and 200.513 to resolve this matter and improve Federal program outcomes. The cooperative audit resolution approach allows a federal agency to offer appropriate relief for past noncompliance if prompt corrective action has occurred. The EPA has taken the appropriate actions under 2 C.F.R. § 200.338, *Remedies for Noncompliance*, and 2 C.F.R. §207, *Specific Conditions*, in assisting Lincoln County in updating its policies and procedures to comply with Federal Regulations and through the inclusion of special conditions included in the cooperative agreement with Lincoln County. This cooperative approach was taken due to the strong commitment by the EPA and CCBH and has been entered into through collaboration and a focus on the current conditions and corrective actions.

I also have determined that CCBH made drawdowns of funds exceeding expenditures in an amount of \$386,271.83 from February 2012 through June 2016. CCBH informed the EPA that it kept this excess draw in an interest-bearing account. The interest owed on these improper expenditures is \$16,415.86. The EPA stopped the accrual of interest on August 31, 2016, when CCBH visited the EPA to raise their concerns. CCBH must repay to the EPA this exceedance amount plus the interest gained. This exceedance and failure to expend these funds violates federal award financial management and payment standards set forth at 2 C.F.R. part 200 subpart D, including 2 C.F.R. §§200.302, 200.303, 200.305.

The repayment amount of \$402,687.70 must be sent to:

U.S. Environmental Protection Agency
Las Vegas Finance Center
4220 South Maryland Parkway, Building C, Suite 503
Las Vegas, Nevada 89119

If payment is not received within thirty (30) days of this letter, interest will accrue on the amount due at 1% per annum for each 30-day period the accounting is outstanding. Only full payment of the debt within thirty (30) days of this decision will prevent the EPA from charging interest in accordance with 2 C.F.R. §200.345 and applicable federal claims collection standards. Payment of the debt in full to avoid interest accrual does not affect your right to appeal this decision.

CCBH also has the option of requesting payments by installments; the Administrator or delegated official can determine after review of a debtor's financial statements if a debtor is financially unable to repay an indebtedness in a single payment. Please notify EPA within 30 days of receipt of this letter of the intended repayment option.

Separately, the EPA has reviewed the additional (June 2016 - August 2017) months of general ledgers provided by CCBH. The CCBH has requested reimbursement of \$296,989.77 for work performed. This represents the time period when CCBH identified the potential attorney payment issues and stopped utilizing funds from the cooperative agreement. The EPA reviewed this documentation and determined that the entire requested amount, \$296,989.77 was allocable under the grant. The EPA will reimburse this requested amount pursuant to the process currently employed under the new cooperative agreement.

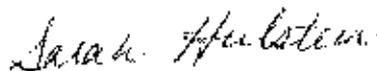
This constitutes the EPA's final agency determination. You may appeal this determination in accordance with the dispute procedures at 2 C.F.R. part 1500, subpart B, and in particular 2 C.F.R. §1500.14. You can do this by submitting an electronic appeal via email to the Region 8 Disputes Decision Official,

Richard Buhl, at Buhl.Rick@epa.gov with a copy to the Action Official at Hulstein.Sarah@epa.gov within 30 calendar days from the date this decision is sent to you electronically. Your appeal must include:

- (1) A copy of this decision letter;
- (2) A detailed statement of the specific legal and factual grounds for the appeal, including copies or any supporting documents;
- (3) The specific remedy or relief sought under the appeal; and
- (4) The name and contact information, including email address, of your designated point of contact for the appeal.

As a final note, EPA appreciates the cooperation and patience of CCBH/Lincoln County in assisting us in resolving this issue. If you have questions regarding this decision, I can be reached at Hulstein.Sarah@epa.gov or (303) 312-6014.

Sincerely,



Sarah Hulstein
Grants Management Officer
Office of Technical and Management Services

cc: Mike Cole, Lincoln County Commissioner
Jerry Bennett, Lincoln County Commissioner
Kathl Hooper, City/County Board of Health for Lincoln County
Noah Pyle, City/County Board of Health for Lincoln County

Art Weiss, EPA
Stanley Christenson, EPA
Cinna Vallejos, EPA
Mike Cirian, EPA
Paul Felz, EPA

Attachment A
Attachment B

Professional Fees		Hours	Rate	Hours	Rate	Total	Approved Costs
Amount							
4/2/2012	RAP	Preparation for and attend kick-off meeting with Ms. Hooper and Trihydro folks; conference with Ms. Hooper regarding same; numerous emails to Libby folks regarding next week's visit and asking for appointments.	4.00	250.00			\$1,000.00
4/3/2012	JLH	Discussion with Mr. Payne and preparation of draft Schedule for Libby Trip; review, profile emails regarding same; preparation of emails regarding same, revise same.	2.00	135.00			\$270.00
4/3/2012	RAP	Preparation of emails to Ms. Hooper, Ms. Smith, Mr. Bischoff, Dr. Black regarding setting up meetings in Libby week of April 9th; review of draft Schedule for same and discussion with Ms. Hoffman.	1.70	250.00			\$425.00
4/4/2012	JLH	Receive, review, reply to email from Mr. Bischoff regarding letter from Marianne Roose; discussion with Mr. Payne and email to same sending First Quarter Invoice (Lincoln County); discussion with Mr. Payne regarding status of grant and signing/funding same; revise schedule (several times) and preparation for Libby trip next week; receive, review email exchange between Mr. Payne and Mr. Smith of Trihydro regarding Libby schedule.	1.20	135.00			\$162.00
4/4/2012	RAP	Discussion with Ms. Hoffman regarding timing of Ms. Roose signing account authorization letter and First Quarter Invoice (Lincoln County); discussion with Ms. Hoffman regarding status of grant and signing/funding same; receive, forward emails regarding confirmed meeting for schedule; preparation for Libby trip next week; email to Mr. Smith of Trihydro sending draft Libby schedule.	3.20	250.00			\$800.00
4/5/2012	JLH	Receive, review email and attached Cooperative Agreement Notice of Award and Affirmation of Award for signature of Marianne Roose; discussion with Mr. Payne regarding same; update contacts as to Project Officer and Grant Specialist; discussion with Mr. Payne and review of email exchange with Mr. Bischoff regarding same; print Notices for signature.	0.30	135.00			\$40.50
4/5/2012	RAP	Receive, review email and attached Cooperative Agreement Notice of Award and Affirmation of Award; email same to Mr. Bischoff; discussion with Ms. Hoffman regarding obtaining signature on same.	1.90	250.00			\$475.00
4/6/2012	JLH	Teleconference with Mr. Switzer (and Mr. Payne) of EPA Las Vegas regarding funding under the City-County Health Board grant; preparation for Mr. Payne's trip to Libby.	0.40	135.00			\$54.00

4/6/2012	RAP	Teleconference with Mr. Switzer of EPA Las Vegas regarding funding under the City-County Health Board grant; preparation for trip to Libby; receive, review, revise draft press release.	1.20	250.00	\$300.00
4/9/2012	JLH	Continue updates to Libby Schedule, email same to Trihydro folks; assist Mr. Payne in preparation for trip to Libby; discussion with Ms. Olsen regarding new trust account for EPA grant funds; review of updated CCR preparation for Libby trip; forward schedule confirmations to Ms. Hoffman; travel to Libby; teleconference with Ms. Hoffman regarding forwarding final schedule to Mr. Smith and Ms. Seitz via email; attend meeting with EPA (Dave Berry), Trihydro folks, Ms. Thomas; attend City County Meeting with Ms. Hooper and Trihydro folks; receive confirmation of CCR updates, forward same to Ms. Hoffman.	0.30	135.00	\$40.50
4/9/2012	RAP	Discussion with Ms. Olsen regarding CCR changes/acceptance; catching up on profiling emails.	10.80	250.00	\$2,700.00
4/10/2012	JLH	Preparation for and attend meeting with Ms. Lauer and Trihydro folks regarding county regulations in place; attend meeting with Mr. Higgins, Ms. Hooper and Trihydro folks; attend Planning Department meeting with Ms. Smith and Trihydro folks; attend TAG/CAG meeting with Ms. Hooper, Trihydro folks.	0.60	135.00	\$81.00
4/10/2012	RAP	Discussion with Mr. Payne regarding funding/payments under EPA grant.	10.80	250.00	\$2,700.00
4/16/2012	JLH	Discussion with Ms. Hoffman regarding EPA grant; draft procedures for same.	0.40	135.00	\$54.00
4/16/2012	RAP	Discussion with Mr. Payne regarding status of EPA Grant funding and Payment Request and fax cover regarding same; discussion with Ms. Olsen regarding same; discussion with Mr. Payne regarding status of invoice from Mr. Bischoff; receive invoice from Mr. Bischoff, assemble and fax request to EPA; assist Mr. Payne with locating documents and preparation of Memorandum regarding receiving and distributing funds under EPA Grant; review, profile email from Mr. Payne to Trihydro folks regarding scheduling a follow-up meeting to discuss Libby trip; docket and prepare for same.	1.50	250.00	\$375.00
4/17/2012	JLH	Discussion with Ms. Hoffman and teleconference with Mr. Switzer regarding status of EPA Grant funding and submission of request for drawdown; review of Payment Request; teleconference (voicemail) with Mr. Bischoff regarding review and submission of invoice; preparation of email to Mr. Smith and Ms. Seitz of Trihydro regarding follow-up	2.40	135.00	\$324.00
4/17/2012	RAP	Discussion with Ms. Hoffman and teleconference with Mr. Switzer regarding status of EPA Grant funding and submission of request for drawdown; review of Payment Request; teleconference (voicemail) with Mr. Bischoff regarding review and submission of invoice; preparation of email to Mr. Smith and Ms. Seitz of Trihydro regarding follow-up	3.30	250.00	\$825.00

4/20/2012	JLH	conference on Libby trip, forward same to Ms. Hooper with inquiry as to whether she wants to attend via teleconference. Receive, review, profile email from Ms. Olsen regarding receipt of EPA grant funds; discussion with Mr. Payne regarding Memorandum as to EPA Grant funds; receive, cursory review, profile Working Notes from EPA O & M Meeting in April; docket next meeting in June; updates to contacts. Receive, review email from Ms. Matheny and also Working Notes from EPA April O & M Meeting; receive, review and analysis of updated project schedule.	0.60	135.00		\$81.00
4/20/2012	RAP	File administration. Receive, review, profile email from Mr. Hooper to Mr. Payne regarding contact information for Mr. Raines; update contacts accordingly. Preparation for and attend telephone conference with Mr. Roll, Mr. Berget and EPA regarding asbestos in gravel pits; telephone conference with Mr. Roll regarding same; telephone message for Jon Podilinsky of DEQ regarding same.	2.20	250.00		\$550.00
4/26/2012	JLH	Telephone message for Jon Podilinsky of DEQ regarding Dept. of Labor and Industry; conference with Ms. Hoffman regarding legal research regarding asbestos exposure regulations for state workers.	0.20	135.00	27.00	\$27.00
4/27/2012	JLH	Discussion with Mr. Payne regarding research related to state and OSHA standards for worker exposure to asbestos.	0.20	135.00	27.00	\$27.00
5/2/2012	RAP	Discussion with Mr. Payne and Internet research regarding standards for asbestos exposure, Department of Labor and Industry, OSHA. Exchange emails with Mr. Tom Smith regarding LUR schedule; continued review and analysis of Trihydro invoice; exchange emails with Mr. Smith regarding same and future invoices.	1.00	135.00	135.00	\$135.00
5/3/2012	RAP	Mr. Smith regarding same and future invoices. Receive, review and analysis of Trihydro invoice; exchange emails with Ms. Hooper and Mr. Bischoff regarding same and future invoices.	2.50	250.00	625.00	\$625.00
5/3/2012	JLH	Receive, review, profile, forward email thread regarding invoice from Trihydro and agreement that same does not need to be paid.	0.90	250.00	225.00	\$225.00
5/4/2012	JLH	Receive, review, reply to email from Ms. Hooper regarding Trihydro invoice for payment; email exchange and teleconference with Mr. Smith regarding same and agreement it does not need to be paid.	0.20	135.00	27.00	\$27.00
5/9/2012	RAP	Update contacts, file administration. Telephone conference with Mr. Nick Raines regarding his new position and priorities for the same; outline same; file research regarding Trihydro contract.	0.50	250.00	125.00	\$125.00
5/10/2012	RAP	Receive, review email from Mr. Raines regarding teleconference with Trihydro and opportunity to attend and public risk perception survey; review, revise same and email reply; teleconference with Mr. Raines	0.20	135.00	27.00	\$27.00
5/11/2012	JLH		3.70	250.00	925.00	\$925.00
5/15/2012	RAP		3.30	250.00	825.00	\$825.00

5/16/2012	JLH	regarding same; receive, review April Invoice from Trihydro, forward to Ms. Hooper sending same; review, revise Memorandum regarding invoicing/payments under the EPA grant funds; teleconference with Mr. Hooper regarding pending matters; email to Mr. Bischoff sending Trihydro invoice for April.	0.50	135.00	67.50	\$67.50
5/18/2012	RAP	Receive, review, profile email exchange regarding Trihydro April Invoice and review/approval of same; receive, review, profile email exchange regarding public risk perception survey and discussion regarding same; review of file for draft Memorandum regarding payment under EPA Grant and Trihydro Agreement (for Mr. Payne); review, profile email and updated schedule for Task 1.	2.10	250.00	525.00	\$525.00
5/25/2012	RAP	Receive, review, final analysis of Trihydro invoice; exchange emails with Ms. Hooper regarding same; exchange emails with Mr. Smith regarding same; telephone conference with Mr. Smith regarding same.	1.30	250.00		\$325.00
5/30/2012	JLH	Review, revise (redline) Trihydro's LUR Report and Table 1 to same; email to Mr. Raines sending and regarding same.	0.40	135.00		\$54.00
6/8/2012	RAP	Receive, review, profile email exchange between Mr. Raines and Mr. Payne regarding June 8th schedule of meetings and general status update; update master regarding same; cursorily review, profile email exchange regarding draft LUR Report and sending to Trihydro for comment.	8.00	250.00		\$2,000.00
6/9/2012	RAP	Preparation for and conferences with Trihydro, Mr. Raines, Ms. Hooper, Ms. Moore, Mr. Surbrug, Mr. Podilinski regarding ARP to prepare for next week.	2.50	250.00		\$625.00
6/13/2012	JLH	Receive, review and analysis of draft LUR report; preparation for Libby trip next week.	0.30	135.00		\$40.50
6/13/2012	RAP	Updates to contacts and schedule.	5.50	250.00		\$1,375.00
6/14/2012	RAP	Attend various EPA meetings; O&M meeting; Board of Health Meeting; travel to and from and attend DEQ's Troy annual public meeting.	5.50	250.00		\$1,375.00
6/15/2012	RAP	Final EPA meeting; conference with Dr. Black regarding EPA's new focus; conference with Mr. Raines and Ms. Hooper regarding next steps in ARP program; outline same.	3.00	250.00		\$750.00
6/19/2012	RAP	Return from Libby.	0.50	250.00		\$125.00
6/21/2012	JLH	Receive, review, reply to email from Mr. Raines regarding meeting with Kootenai Valley Record; continue review and analysis of notes from last week's meeting.	0.10	135.00		\$13.50
6/21/2012	RAP	File administration.	2.50	250.00		\$625.00
		Conference with Ms. Hooper regarding case status and strategy; exchange emails with Mr. Raines regarding same.				

6/25/2012	JLH	Receive, review email from Mr. Payne and docket attendance by phone for City-County Health Board meeting.	0.10	135.00	\$13.50
6/28/2012	JRP	Review Trihydro invoices per Mr. Payne's request.	0.40	175.00	\$70.00
6/28/2012	RAP	Review and analysis of Trihydro's invoice, exchange emails with Jessica regarding same; exchange emails with Ms. Hooper regarding same; preparation for and attend by phone Board of Health meeting.	3.50	250.00	\$875.00
6/29/2012	RAP	Exchange emails with Mr. Raines regarding EPA IC approach, etc; telephone conference with Ms. Hooper regarding same and Board of Health issues.	1.10	250.00	\$275.00
7/2/2012	SSO	Prepare 2nd quarter EPA invoices for submission, update calendar deadlines and templates.	0.80	110.00	\$88.00
7/3/2012	JLH	File administration; review, profile email from Mr. Raines regarding IC Meeting with EPA; receive, review, profile EPA Shift in Removal Approach; cursory review, profile Trihydro's May Invoice and email exchange with Ms. Hooper and Mr. Bischoff regarding same.	0.60	135.00	\$81.00
7/9/2012	JLH	Review, profile Land Use Restrictions Report and appendices from Trihydro.	0.50	135.00	\$67.50
7/9/2012	RAP	Receive and review Land Use Restrictions Report from Trihydro.	2.10	250.00	\$525.00
7/10/2012	RAP	Telephone conference with Mr. Berget regarding wild fire issues; telephone conference with Mr. Raines regarding same and air monitoring; continue review and analysis of draft Land Use Restrictions Report.	1.10	250.00	\$275.00
7/13/2012	RAP	Telephone conference with Mr. Raines regarding conference with Mr. Martin and general program development; review and comment on Draft Activity-Based Exposure Levels Report.	1.80	250.00	\$450.00
7/25/2012	JLH	Receive, review email regarding updated schedule for EPA IC kick-off meeting; update docket regarding same.	0.10	135.00	\$13.50
7/26/2012	JLH	Email administration (profiling emails exchanged with client).	0.20	135.00	\$27.00
7/30/2012	RAP	Telephone conference with Mr. Raines regarding ARP status and strategy; receive and review Trihydro invoice; exchange emails with Ms. Hooper regarding same.	0.70	250.00	\$175.00
7/31/2012	RAP	Receive, review and analysis of Trihydro invoice; exchange emails with Ms. Hooper and Mr. Raines regarding same.	1.00	250.00	\$250.00
8/1/2012	RAP	Review, redline proposed IC meeting agenda; telephone conference with Ms. Hooper and Mr. Raines regarding same.	1.00	250.00	\$250.00
8/3/2012	RAP	Preparation for trip to Libby next week; review and analysis of IC data and options.	8.00	250.00	\$2,000.00
8/6/2012	JRP	Research statutory requirements for deputy board of health officer; draft resolution.	0.60	175.00	\$105.00

8/6/2012	RAP	Travel to Libby; conference with Board members.	10.00	250.00		\$2,500.00
8/7/2012	RAP	Attend various EPA-related meetings and conferences; conference with Kathi Hooper regarding AR program.	10.50	250.00		\$2,625.00
8/8/2012	RAP	Attend various EPA-related meetings; preparation for and attend Board of Health meeting.	8.50	250.00		\$2,125.00
8/9/2012	RAP	Return to Helena.	5.00	250.00		\$1,250.00
8/16/2012	JLH	Cursorily review, profile Trihydro Status Report and June 25, 2012 invoice; email to Ms. Olsen regarding same; discussion with Mr. Payne regarding same; file administration.	0.40	135.00		\$54.00
8/17/2012	RAP	Finish draft of letter to Mr. Evans regarding invitation to City of Troy to join the City-County Board of Health; email to Ms. Hoffmann regarding same; follow-up on IC status with Mr. Raines; telephone conference with same regarding same; research regarding same.	2.50	250.00		\$625.00
8/17/2012	JLH	Receive, review email from Mr. Payne and preparation of partial draft letter to Mr. Evans regarding City of Troy and City-County Board of Health; research file for application for Board member; finalize letter, scan, email and mail same.	1.00	135.00	135.00	\$135.00
8/22/2012	JLH	File administration.	0.20	135.00	27.00	\$27.00
8/24/2012	JLH	Receive, review, profile copy of letter from Ms. Hooper to EPA and DEQ regarding Troy and Libby landfills/request for information and response.	0.20	135.00	27.00	\$27.00
8/24/2012	RAP	Receive, review letter from Ms. Hooper to Keitelapper (EPA) and Podolinsky (DEQ) regarding landfill issues at Troy and Libby.	0.10	250.00	25.00	\$25.00
9/4/2012	RAP	Receive, review and revise draft IC Matrix; comment on same; exchange emails with Mr. Raines regarding same.	2.00	250.00	500.00	\$500.00
9/5/2012	JLH	Receive, review email from Mr. Payne regarding teleconference with Mr. Raines and Ms. Hooper regarding next action; docket same.	0.20	135.00	27.00	\$27.00
9/7/2012	JLH	Teleconference with Mr. Raines and Ms. Hooper regarding next steps.	0.50	135.00	67.50	\$67.50
9/7/2012	RAP	Preparation for and teleconference with Mr. Raines and Ms. Hooper regarding status of program and moving forward/next steps; review and analysis of Matrix again.	1.50	250.00	375.00	\$375.00
9/11/2012	RAP	Receive, review, forward email from Ms. Matherly regarding schedule for O&M Meeting October 10th.	0.30	250.00	75.00	\$75.00
9/12/2012	RAP	Teleconference with Mr. Raines and Ms. Hooper regarding EPA's letter regarding wood waste chipping at landfill; next step on Matrix evaluation; review and analysis of same.	2.00	250.00	500.00	\$500.00
9/14/2012	JLH	Receive, review email regarding schedule for O & M Meeting, Libby, docket same.	0.30	135.00	40.50	\$40.50

9/18/2012	RAP	Receive, review email from Mr. Raines and proposed wood waste letter; review of same and reply to email to same regarding same; telephone conference with same regarding same and Matrix; review and analysis of same.	2.00	250.00	500.00	\$500.00
9/18/2012	JLH	Receive, review, profile TriHydro Project Status Report July 26 -August 25; receive, review, profile email from Mr. Payne to Mr. Bischoff sending same for payment.	0.30	135.00	40.50	\$40.50
9/20/2012	JLH	Receive, review, profile letter from Ms. Hooper to Mr. Ketellapper and Mr. Podolinsky regarding processing wood waste material at Libby and Troy landfill sites; file administration.	0.50	135.00	67.50	\$67.50
9/20/2012	JLH	File administration.	0.10	135.00	13.50	\$13.50
9/24/2012	RAP	Preparation for and telephone conference with Ms. Hooper and Mr. Raines regarding EPA comments on Matrix.	2.00	250.00	500.00	\$500.00
10/3/2012	RAP	Telephone conference with Ms. Hooper and Mr. Rains regarding status and strategy regarding LA issues with landfill and EPA meetings next week; begin preparation for same; review and analysis of matrix regarding same.	2.00	250.00		\$500.00
10/4/2012	JLH	Receive, review emails from Mr. Payne regarding schedule for Libby trip next week.	0.20	135.00		\$27.00
10/4/2012	RAP	Telephone conference with Mr. Nick Rains regarding status and strategy for next week; begin preparation for Libby trip.	2.50	250.00		\$625.00
10/8/2012	RAP	Preparation for and travel to Libby for EPA meetings.	8.00	250.00		\$2,000.00
10/9/2012	RAP	Various EPA and client meetings and conferences.	12.00	250.00		\$3,000.00
10/10/2012	RAP	Continue EPA and client meetings in Libby; return to Helena; review and analysis of DEQ letters regarding burning restrictions.	10.00	250.00		\$2,500.00
10/10/2012	JLH	File administration/reorganization following Mr. Payne's Libby trip.	0.20	135.00		\$27.00
10/11/2012	JLH	Receive, review, profile correspondence from Mr. Homer of DEQ and Mr. Ketellapper of EPA regarding open burning at Libby Superfund Site.	0.50	135.00		\$67.50
10/12/2012	RAP	Draft outline for Board of Health on budget for ARP.	5.50	250.00		\$1,375.00
10/16/2012	JLH	Receive, review of email from Mr. Payne; review, revise, finalize draft letter from Ms. Hooper to Mr. Homer (DEQ regarding burning of asbestos-containing materials); email same to Ms. Hooper for review.	0.40	135.00		\$54.00
10/17/2012	JLH	Receive, review, profile Trihydro Invoice and email to Mr. Bischoff and Ms. Hooper sending same for review; compare invoice rates to contract and email to Mr. Payne regarding same.	0.40	135.00		\$54.00
10/22/2012	RAP	Telephone conference with Ms. Hooper and Mr. Raines; regarding wood waste, legal research regarding same and ACM, exchange emails with Ms. Hooper regarding same.	2.50	250.00		\$625.00

10/23/2012	RAP	Exchange emails with and telephone conference with Ms. Hooper regarding wood wastes and ACM issues with DEQ; legal research regarding same.	2.50	250.00	\$625.00
10/25/2012	RAP	Final comments on wood waster letter to DEQ; receive and review same; continue research regarding allowable scope of ARP.	2.50	250.00	\$625.00
10/30/2012	JLH	File research for documentation to discuss with Mr. Raines/preparation for Libby Trip.	0.20	135.00	\$27.00
10/30/2012	RAP	Discussion with Ms. Hoffman regarding title research and preparation for Libby Trip; exchange emails with Ms. Hooper regarding changes in EPA leadership; conference with Mr. Raines regarding case status and strategy.	3.50	250.00	\$875.00
11/1/2012	RAP	Receive, review and analysis of draft ARP report; conference with Mr. Raines and Ms. Hooper regarding same; begin revisions to same; return from Libby.	5.50	250.00	\$1,375.00
11/2/2012	RAP	Continue review and analysis of draft ARP report.	2.50	250.00	\$625.00
11/5/2012	RAP	Travel to Libby for EPA-related meetings; preparation for same.	6.00	250.00	\$1,500.00
11/5/2012	JLH	Preparation for Mr. Payne's trip to Libby.	1.00	135.00	\$135.00
11/6/2012	RAP	EPA meetings in Libby; conference with Mr. Raines and Ms. Hooper regarding case status and strategy of ARP and Trihydro reports.	10.00	250.00	\$2,500.00
11/7/2012	CAC	Update incoming documents to both research and attorneys notes.	0.10	30.00	\$3.00
11/7/2012	RAP	Return travel to Helena.	5.50	250.00	\$1,375.00
11/11/2012	JLH	File administration.	0.20	135.00	\$27.00
11/13/2012	RAP	Exchange emails with Mr. Raines regarding Trihydro draft report; review and comment on portions of same; telephone conference with same regarding same and procedure for codification of regulations; exchange emails and telephone conference with Ms. Hooper regarding case status and strategy.	4.10	250.00	\$1,025.00
11/14/2012	RAP	Begin budget analysis based on Trihydro draft ARP report.	3.10	250.00	\$775.00
11/15/2012	RAP	Continue review and analysis of budget issues based on Trihydro's draft ARP report.	2.50	250.00	\$625.00
11/19/2012	CAC	Update research documents to file.	0.10	30.00	\$3.00
11/21/2012	RAP	Receive, review and analysis of Port's report on OU-3.	4.00	250.00	\$1,000.00
11/26/2012	CAC	Update Libby papers to file; update attorney notes to file.	0.10	30.00	\$3.00
11/27/2012	JLH	Receive, review, email from Mr. Payne and letter from Ms. Merkel DEQ to Ms. Hooper regarding burning at Libby and Troy Landfills; update to contacts for Mr. Mullen; preparation of draft letter to same regarding same and email to Mr. Payne.	0.40	135.00	\$54.00
11/27/2012	RAP	Research and drafting regarding Asbestos Resource Program; receive letter from DEQ to Ms. Hooper regarding landfill issues.	4.50	250.00	\$1,125.00

11/28/2012	JLH	Receive, cursorily review, profile informational fliers and proposed Initiatives (RAP Redline).	0.60	135.00	\$81.00
11/28/2012	RAP	Review and begin draft of response to DEQ letter regarding "not interfering" with landfill burn; telephone conference with Ms. Hooper regarding same; legal research regarding same.	3.50	250.00	\$875.00
11/29/2012	RAP	Receive, review email from Mr. Raines and Draft Asbestos Resource Program Development Report; forward same; receive and review and approve Trihydro invoice.	3.80	250.00	\$950.00
11/29/2012	JLH	Receive, cursorily review, profile Status Report/Invoice from Trihydro; revise, finalize letter to Mr. Mullen regarding Troy and Libby Landfill burning; research regarding Rock Creek case and forward to Mr. Payne with final letter to Mr. Mullen;	0.80	135.00	\$108.00
11/30/2012	JLH	preparation for Libby Trip and preparation of Daily Schedule for same. Re-review, re-finalize letter to Mr. Mullen; scan and mail same; preparation for Libby Trip.	0.40	135.00	\$54.00
11/30/2012	RAP	Plan and preparation for Libby trip for next week.	3.30	250.00	\$825.00
12/3/2012	JLH	Preparation for trip to Libby.	1.20	135.00	\$162.00
12/4/2012	CAC	File administration, organization.	0.10	30.00	\$3.00
12/5/2012	RAP	Travel to Libby; conference with Ms. Hooper and Mr. Raines regarding Trihydro report and Board meeting; preparation for Board meeting and attend same.	8.70	250.00	\$2,175.00
12/6/2012	RAP	Preparation for and conference with Mr. Raines and Trihydro staff regarding scheduling for public comment period; conference with Mr. Raines regarding budgeting issues.	8.50	250.00	\$2,125.00
12/9/2012	RAP	Return to Helena.	6.00	250.00	\$1,500.00
12/10/2012	RAP	Telephone conference with Mr. Norm Mullen regarding slash piles; exchange emails with Mr. Raines regarding same.	0.50	250.00	\$125.00
12/10/2012	JLH	Receive, review, profile update email from Mr. Payne to Ms. Hooper regarding teleconference with Mr. Mullen of DEQ.	0.10	135.00	\$13.50
12/10/2012	CAC	Scan and profile Mr. Payne letter to Mr. Mullen regarding burning at Libby/Troy landfill; update same to correspondence file.	0.20	30.00	\$6.00
12/11/2012	CAC	Update status report to Trihydro file; update correspondence to Libby/Troy landfill file.	0.10	30.00	\$3.00
12/11/2012	RAP	Receive and review newspaper article regarding ARP; exchange emails with Mr. Raines regarding same; continue budget analysis.	2.40	250.00	\$600.00
1/2/2013	RAP	Receive, review draft ARP County Budget 4/2013 to 12/2016; begin mark-up of same; review and analysis of file regarding same.	5.00	250.00	\$1,250.00
1/4/2013	JLH	Receive, review, profile email exchange with Mr. Bischoff regarding quarterly invoice; discussion with Ms. Olsen regarding submitting same to	2.20	135.00	

1/4/2013	RAP	EPA; finalize documents and submit via facsimile to EPA; conference with Mr. Payne and Ms. Papez regarding preparation for Libby trip and general status/strategy; update calendar with Libby trip commitments; receive, cursorily review, print EPA Schedule regarding same. Receive, review Trihydro quarterly invoice; preparation of email to Mr. Bischoff sending and regarding same; conference with Ms. Papez and Ms. Hoffman regarding preparation for Libby trip and general status/strategy; receive, review EPA Schedule.	0.50	250.00	\$125.00
1/6/2013	RAP	Receive, review, revise resolution to adopt ARP, email to Mr. Raines regarding same and air sample lab costs. Preparation for Libby trip; travel to Libby.	2.00	250.00	\$500.00
1/7/2013	RAP	Preparation for Mr. Payne's trip to Libby; discussion with same regarding ARP Budget analysis; reformat Excel Spreadsheet and revise same; revise Budget Form for submission to EPA; preparation of jump drive of documents needed for trip.	5.70	250.00	\$1,425.00
1/7/2013	JLH	Calculate numbers for Ms. Hoffman's spreadsheet.	3.60	135.00	\$486.00
1/8/2013	JRP	Teleconference with Mr. Payne regarding EPA Excel Budget; recreate portion of same; email to Mr. Bischoff and Mr. Payne.	0.10	175.00	\$17.50
1/8/2013	JLH	Conference with Mr. Raines and Ms. Hooper regarding ARP Budget and related matters; conference with Mr. Bischoff regarding proposed Budget for presentation to Commissioners; attend City Council Meeting regarding OU-1 ICs discussion with EPA.	1.00	135.00	\$135.00
1/8/2013	RAP	Update Libby news to file.	7.50	250.00	\$1,875.00
1/8/2013	CAC	Attend Meeting of Board of Health.	0.10	30.00	\$3.00
1/9/2013	RAP	Update Trihydro asbestos report dated October, 2012 to bucket file.	6.80	250.00	\$1,700.00
1/9/2013	CAC	Return trip from Libby to Helena.	0.10	30.00	\$3.00
1/10/2013	RAP	Review, analysis of budget and exchange emails with Mr. Raines regarding same.	5.50	250.00	\$1,375.00
1/11/2013	RAP	Preparation of letter to Ms. Haque-Hausrath sending letter from Mr. Mullen (DEQ) regarding open burning of slash piles at Troy Landfill; scan and email/mail to same.	3.50	250.00	\$875.00
1/15/2013	JLH	Update attorney notes; Libby news to files; File Payne/Libby presentation binder.	0.50	135.00	\$67.50
1/15/2013	CAC	Receive, review, analysis of Mullen letter; telephone conference with Ms. Hooper and Mr. Raines regarding same and response; review, revise letter to Ms. Haque-Hausrath sending letter from Mr. Mullen (DEQ) regarding open burning of slash piles at Troy Landfill; telephone conference with Ms.	0.10	30.00	\$3.00
1/15/2013	RAP		4.10	250.00	\$1,025.00

1/16/2013	RAP	Hooper regarding same; receive and begin review of other programs from Mr. Raines; begin draft of introduction to ARP budget to Rebecca Thomas. Email from Mr. Bischoff regarding ARP budget approval by the Commissioners; complete draft of introduction to ARP budget proposal; send to Ms. Thomas of EPA.	1.60	250.00	\$400.00
1/24/2013	RAP	Receive, review Trihydro December invoice; exchange emails with Mr. Hooper; Mr. Raines and Mr. Bischoff regarding same.	0.40	250.00	\$100.00
1/25/2013	RAP	Receive, review Trihydro invoice for compliance with contract, send same to Mr. Raines.	0.60	250.00	\$150.00
1/30/2013	CAC	Update correspondence to file.	0.10	30.00	\$3.00
2/4/2013	RAP	Teleconference with Ms. Hooper regarding EPA and the possibility of the ARP taking on the ERS.	0.80	250.00	\$200.00
2/4/2013	JLH	Cursory review, profile emails exchanged between Mr. Payne and Mr. Raines and Mr. Bischoff regarding Trihydro December Invoice.	0.30	135.00	\$40.50
2/12/2013	RAP	Teleconference with Mr. Raines and Trihydro regarding beginning process of codifying Health Board Regulations.	0.50	250.00	\$125.00
2/20/2013	RAP	Preparation for and telephone conference with Ms. Thomas and exchange emails with same regarding ARP budget.	1.50	250.00	\$375.00
2/22/2013	RAP	Receive and review Trihydro invoice for January; approve same and exchange emails with Mr. Bischoff regarding same.	0.50	250.00	\$125.00
2/26/2013	CAC	Update attorney notes to file.	0.10	30.00	\$3.00
2/27/2013	RAP	Preparation for Denver trip; telephone conference with Mr. Raines regarding same and SAP for wood waste.	2.00	250.00	\$500.00
3/1/2013	RAP	Telephone conference with Ms. Hooper and Mr. Raines regarding case status and strategy as to ARP budget and trip to Denver; arrange for same; research medical monitoring costs.	1.00	250.00	\$250.00
3/3/2013	RAP	Final review and revisions to Board of Health's proposed budget to EPA; email to Ms. Thomas regarding same.	1.50	250.00	\$375.00
3/4/2013	JLH	Receive, review email from Mr. Payne requesting documents for trip to Denver and meeting with EPA; review of file and assemble same.	1.40	135.00	\$189.00
3/5/2013	JLH	Continue preparation for Mr. Payne's meeting with EPA in Denver.	0.50	135.00	\$67.50
3/5/2013	CAC	Begin preparation of production of Trihydro documents; travel to Allegra to finalize production of same.	0.70	30.00	\$21.00
3/6/2013	JLH	Discussion with Ms. Cooper regarding scanning of Trihydro ARP document; receive, review, profile email to Ms. Hooper and Mr. Raines with Notice to EPA Assistance Agreement and Fellowship Recipients; receive, reply to text message from Mr. Payne regarding addresses and telephone numbers for Denver contacts.	0.30	135.00	\$40.50

3/6/2013	RAP	Travel to Denver, preparation for and attend conference with Ms. Thomas and Mr. Raines (he by phone); telephone conferences with Mr. Raines and Ms. Hooper regarding same; review and analysis of ARP budget regarding same.	8.40	250.00	\$2,100.00
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*Total approved transactions totals \$90,859; this covers the \$89,381.99 of legal fees paid from V 96803401

**Attachment B
City-County BoH for Lincoln County
Draws vs. Expenditures
February, 2012 thru June, 2016**

Draw #	Month	Cumulative Allowable Expenditures As of Draw Date	Draw from EPA	Cumulative Draws	Cumulative Excess Draw over Allowable Expenditures	Cumulative Interest as of Date of EPA Draw	Attorney Fees (not on G/L - but paid from grant)
1	April-12	\$ 11,288.97	\$ 141,250.00	\$ 141,250.00	\$ 129,961.03	\$ 14.24	\$ 28,250.00
2	Jul-12	100,426.37	141,250.00	282,500.00	182,073.63	222.19	28,250.00
3	Oct-12	221,423.27	141,250.00	423,750.00	202,326.73	542.77	28,250.00
4	Jan-13	373,202.21	141,250.00	565,000.00	191,797.79	884.32	28,062.34
5	May-13	440,293.41	141,250.00	706,250.00	265,956.59	1,419.07	28,250.00
6	Aug-13	470,468.38	101,886.66	808,136.66	337,608.28	2,173.07	20,377.33
7	Sep-13	478,863.02	101,886.66	910,023.32	431,160.30	2,322.60	20,377.33
Adjusting Journal Entry labeled 13/13 on ledger received on 12/18/17							
8	Jan-14	559,409.37	101,886.66	1,011,909.98	452,500.61	3,643.08	
9	Jul-14	696,160.74	109,402.50	1,121,312.48	425,151.74	5,592.30	
10	Aug-14	740,378.77	109,402.50	1,230,714.98	490,336.21	5,938.32	
11	Oct-14	828,698.54	109,402.50	1,340,117.48	511,418.94	6,633.56	
Adjusting Journal Entry in January, 2015							
12	Jan-15	907,495.99	109,402.50	1,449,519.98	542,023.99	7,825.38	
13 & 14	Jul-15	1,003,873.32	210,976.40	1,660,496.38	656,623.06	10,509.04	
	Jun-16	1,274,224.55		1,660,496.38	386,271.83	16,415.86	
							\$ 89,381.99

Payment Due:
Excess draws thru date reported (8-31-2016) \$ 386,271.83
Interest thru date reported 16,415.86
Total: \$ 402,687.70

Summary of Lincoln County Additional Expenditures
 July, 2016 thru August, 2017

110	Salaries and Wages	\$ 191,864.24	\$ 7,998.17
140	Employer Contributions	32,583.27	4,414.65
148	EBMS Insurance	53,639.60	1,267.22
200	Supplies	1,888.19	
210	Office Supplies and Materials	1,376.43	
215	Technology Supplies & Materials	1,301.59	25.15
228	Educational Supplies	663.48	
320	Printing, Duplicating, Typing & Binding	2,332.92	
340	Utility Services	3,213.42	
350	Professional Services	15,838.60	
360	Repairs & Maintenance Services	702.40	
370	Travel	4,550.82	
380	Training Services	639.00	
		<u>\$ 310,694.96</u>	<u>\$ 13,705.19</u>
	Net Total	<u>\$ 296,989.77</u>	



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
Denver, Colorado 80202-1128
Phone 800-227-8917
www.epa.gov/region8

October 16, 2018

Ref: 8EPR-SR

Mr. George Jamison
Vice Chair
City-County Board of Health for Lincoln County
418 Mineral Ave
Libby, MT 59923

Re: Agency Responses to Comments on Draft Controlled Groundwater Area Petition Supporting Information, dated July 9, 2018

Dear Mr. Jamison:

The following are the U.S. Environmental Protection Agency (EPA), Montana Department of Environmental Quality (MDEQ) and International Paper (IP) responses to the City-County Board of Health for Lincoln County (BOH) comments on the *Draft Controlled Groundwater Area Petition Supporting Information, Libby Groundwater Site, Revision 2*, dated June 26, 2018 (draft CGA Petition). If you have any questions, or require further clarification, please do not hesitate to contact me.

The Agencies will now finalize the draft CGA Petition in preparation for submission to the Montana Department of Natural Resources and Conservation (DNRC). The Agencies appreciate the City-County Board of Health's (BOH) support in creating the draft CGA Petition and in protecting human health in Lincoln County. As discussed previously, the Agencies would like the BOH to be the petitioner for the proposed CGA. The Agencies request an official response regarding the BOH's willingness to sponsor the proposed CGA by November 13, 2018.

BOH Comment No. 1:

MCA 85-2-506 (7) (a) allows for "a provision closing the controlled ground water area to further appropriation of ground water". Can this be interpreted to apply to future withdrawals of groundwater from existing wells, not just a prohibition on new wells?

The Agencies and IP Response to BOH Comment No. 1:

A person or entity holding a valid certificate of groundwater right for beneficial use (by adjudication prior to July 1, 1973 and by permit or Form 602 on or after July 1, 1973) is allowed to withdraw groundwater appropriated under the conditions of their water right and Montana water law. The Libby CGA will restrict new wells and appropriations of groundwater and increased appropriations from existing wells but will not revoke valid existing groundwater rights.

BOH Comment No. 2:

Neither the existing City Ordinance prohibiting new wells (for human consumption or irrigation) nor the proposed CGA would prohibit use of wells existing prior to the ordinance or the CGA. How will these existing wells be identified and addressed?

The Agencies and IP Response to BOH Comment No. 2:

The majority of existing private wells in Libby were identified during the extensive well inventory that was conducted from 1981 through 1985 as part of early Libby Groundwater Site ("Site") investigations. The well inventory focused on the area that is now within the proposed CGA boundary because it is the area that groundwater was most likely to be impacted. Each well identified was given a unique well identification number that begins with 1000 (e.g., well 1012). Since 1981, a total of approximately 100 wells have been identified in the proposed CGA area, and 46 of these wells were plugged and abandoned as part of the Site Buy Water/Well Programs from 1985 to date. Therefore, the Agencies and IP estimate that approximately 50 wells still exist in the proposed CGA area, located mostly outside the current extent of groundwater impacts, as shown in Figure 2 of the document. Not all these wells are confirmed to be actively used or associated with valid water rights.

Very few wells have been installed in Libby since the City ordinance restricting domestic/irrigation well installation was enacted in October 1986. Through State well and water rights records and anecdotal information, the Agencies and IP are aware of less than a dozen wells that have been installed in the proposed CGA since October 1986. These wells were installed primarily for landscape irrigation or heat pumps. A few domestic wells have been installed within the proposed CGA boundary since 1986, potentially for potable use. These wells are outside the City limits and were not subject to the well drilling restriction ordinance.

IP intends to reach out to the owners of the approximately 50 plus a dozen or less wells described above, through communication efforts that will be developed by IP and approved by the Agencies (e.g., mailings, public meetings, newspaper notices, etc.). IP will encourage residents with existing wells to use City water instead of water from their well (if the wells are associated with valid water rights and they are not already using City water) so that IP can plug and abandon their well similar to prior campaigns to limit domestic well use in Libby (see Section 2.1 of the Document). This outreach effort will also include existing well users that have not acquired water rights for their wells and wells associated with abandoned water rights.

The discussion above pertains to domestic and irrigation wells and excludes existing monitoring and remediation wells that were installed with approval by an appropriate regulatory agency.

BOH Comment No. 3:

What is the enforcement role to be provided by EPA and DEQ (page 2)?

The Agencies and IP Response to BOH Comment No. 3:

The Libby CGA will prohibit new groundwater appropriations for beneficial use through restrictions on permits or approvals before drilling occurs, or notifications of restrictions to drillers and restrictions on certification of appropriations of water after drilling has occurred.

Several procedures and processes will be in place that will encourage compliance with the proposed CGA well drilling restrictions and provide enforcement as described below:

- 1) In Montana, a person may only appropriate water for beneficial use and they must be granted a water right by DNRC to use the water, in accordance with requirements in MCA 85-2-301 to 306. A water right is obtained for a groundwater well by either applying for a permit prior to constructing the well (such as the case of withdrawals more than 35 gpm or 10 acre-feet a year), or by submitting a "Notice of Completion of Groundwater Development" (Form 602) and filing fee to DNRC within 60 days of installing and using the well (such as the case of withdrawals 35 gpm or less and not exceeding 10 acre-feet a year). DNRC would deny permits within the CGA,

or contact the well owner and inform him or her of the CGA use prohibition upon receipt of the notice.

In Montana, water wells must be drilled by a licensed water well contractor under the standards set forth in MCA Title 37, Chapter 43. This requirement is to protect the health and general welfare by providing a means for the development of groundwater in an orderly, sanitary, and reasonable manner. Drilling wells without a license is a violation of Montana law and is subject to enforcement through District Court proceedings.

Montana-licensed water well drillers in Lincoln County (and select surrounding counties) will be notified of the CGA boundaries and the prohibition to install wells for beneficial uses within the CGA. If a well is installed within an active CGA, the State may revoke the well driller's license to work in Montana. DNRC will not grant a water right for an unauthorized well.

- 2) Anyone who anticipates using more than 35 gallons a minute (gpm) or 10 acre-feet a year of groundwater is required to obtain a permit from DNRC to appropriate water before any development begins or water is used. DNRC would deny the permit before the well would be drilled if the well is within the boundaries of a CGA.
- 3) A person is not required to apply for a permit from DNRC to install a well with an anticipated use of 35 gallons a minute or less, not to exceed 10 acre-feet a year. In this case, licensed well drillers in the area will have been notified that they are not authorized to install the well in the CGA. Additionally, smaller appropriations that do not require approval before drilling must be documented in Form 602 "Notice of Completion of Groundwater Development" submitted to DNRC. A valid water right does not exist without this step. The CGA will prevent DNRC from certifying new appropriations in the CGA area.
- 4) The Agencies will be conducting a comprehensive review of the performance of the Site remedy (including the effectiveness of the CGA as an institutional control) at least every five years as part of the Five-Year Review process. These Five-Year Reviews will continue as long as there is Site-impacted media at the Site. If it becomes apparent that someone is using an unauthorized well inside the CGA, the Agencies will first encourage the well owner to use City water instead of their well. If the well owner refuses and causes an unacceptable risk to groundwater consumers or causes unacceptable contaminant plume movement, then the Agencies may initiate administrative or judicial enforcement proceedings to terminate use of the well.

BOH Comment No. 4:

If the CGA is implemented, does the City have an obligation to continue the well ban in Ordinance 1353?

The Agencies and IP Response to BOH Comment No. 4:

The City of Libby has an obligation to continue the well ban in Ordinance No. 1353 because it is part of the CERCLA remedy for OU1 of the Libby Groundwater Superfund Site. The City ordinance is independent of the CGA. If the CGA proves to be less successful than expected, then the City ordinance provides an independent line of protection against use of impacted groundwater.

BOH Comment No. 5:

The details of the role of the BOH are not in this Support Information document, and need to be thoroughly understood.

The Agencies and IP Response to BOH Comment No. 5:

The role of Lincoln County BOH is to sponsor the CGA (Section 1.2 of Document). By sponsoring the CGA, BOH demonstrates to the public that they view the CGA as important to protect their health and environment, in cooperation with efforts of State and federal regulatory agencies. The BOH would be involved in meetings with the Agencies at least every five years to discuss the performance of the CGA, implementation challenges/successes, or other issues identified (Section 5.5 of the Document). Also, BOH may direct questions from residents regarding groundwater restrictions to the appropriate agency representatives.

BOH Comment No. 6:

Reasonable expectations for enforcing a ban on new wells assumes there is a detailed understanding of the presence and use of existing wells. Not comfortable with that understanding at this point.

The Agencies and IP Response to BOH Comment No. 6:

The Agencies and IP have a good understanding of the number and location of existing and potentially active wells in the proposed CGA (see response to BOH Comment No. 2). For those wells with water rights and/or well records, the use of these wells is documented in State files; however, the Agencies and IP cannot always be certain if the well owner continues to use the well. Further identification of these potential well users and encouragement to transition to City water will continue as part of IP's public communications efforts, as approved by the Agencies. Reutilization of abandoned water rights or expansion of existing water rights will be prohibited by DNRC.

It is possible that not every single person using a well inside the CGA will discontinue well use and transition to City water, even after being informed of the potential risks. As in the past, the Agencies and IP will continue to work with these residents to encourage them to transition to City water. To provide another layer of protection, BOH could record a deed notice on properties inside the CGA to inform future property owners of the well use restrictions in the CGA and the City.

BOH Comment No. 7:

It seems contradictory to conclude in the EPA five year reviews that the remedy is protective, but to be protective long-term there is a need to prohibit groundwater use in areas outside the City. This seems to fall silent on the potential existing well users, both now and in the future.

The Agencies and IP Response to BOH Comment No. 7:

EPA Five-Year Review reports list remedies as protective in the short term if the remedy is functioning as intended and all human and ecological risks are currently under control and are anticipated to be under control in the future. However, long-term protectiveness requires implementation of and compliance with more comprehensive institutional controls for land and groundwater activity use restrictions at the Site.

Currently, the City ordinance in conjunction with the Buy Water/Well Plans has been effective in minimizing or eliminating the use of Site impacted groundwater (within the currently mapped groundwater plumes) for human consumption and irrigation. In addition, there were no known uses of Site impacted groundwater outside the City limits where groundwater use is not subject to the ordinance restrictions when the last (2015) Five-Year Review Report was prepared. Therefore, it was reasonable to conclude in the 2015 Five-Year Review that the remedy is currently protective. But for the remedy to be protective in the long-term, groundwater use restrictions are needed in portions of Lincoln County that are not subject to the City ordinance, as Site related impacts exist outside the City limits, in particular on the former mill property.

During preparation of the CGA petition, a domestic well impacted by low levels of Site chemicals of concern (COCs) was discovered. Also, we found that the City permitted a few irrigation wells inside the City limits (but outside the mapped extent of groundwater impacts) since the October 1986 ordinance went into effect. These occurrences corroborate the need for a CGA for long-term protection of human health and the environment, both outside the City limits and inside the City limits as an additional layer of protection beyond the City ordinance to provide reinforced and expanded institutional control coverage to limit human exposure risks.

BOH Comment No. 8:

The Focused Feasibility Study should be considered as part of review of the proposed CGA implementation.

The Agencies and IP Response to BOH Comment No. 8:

Per your request, EPA uploaded the *Final Report: Focused Feasibility Study for the Upper Aquifer*, April 25, 2018 to TriHydro Corporation's secure folder.

BOH Comment No. 9:

Statement on page 9 claiming limited groundwater withdrawal in the vicinity of the Site does not acknowledge the possible presence of unknown existing wells.

The Agencies and IP Response to BOH Comment No. 9:

The last bullet on page 9 of the Document, in Section 3.5 (Groundwater Recharge and Discharge) states the following:

- Limited pumping may occur from private wells in Libby. These wells are typically permitted at a continuous average rate of 0.5 gpm.

The statement above applies to the approximately 60 wells identified to date (shown on Figure 10 of the Document) that may or may not be in use, as well as to unknown existing wells. As discussed in the response to BOH Comment Nos. 2 and 7, the majority of existing wells within the proposed CGA have been identified, including wells that were not registered with the State, and additional public communication efforts are planned to identify if additional wells exist. Some wells may no longer be associated with a valid water right and could not be lawfully used to withdraw groundwater. If additional wells exist that are not shown on Figure 10, they were either incorrectly registered with the State or the State databases provide incorrect coordinates for those wells.

Regardless of the exact number of existing wells, the total average annual groundwater withdrawal rate would be on the order of 30 gpm (60 wells times 0.5 gpm), which is a limited groundwater withdrawal given the permeability of the Libby Upper Aquifer.

BOH Comment No. 10:

Report claims that the criterion for establishing a CGA based on the groundwater not being suitable for beneficial use is true in its untreated state. However, a TI determination has not been made about the upper aquifer.

The Agencies and IP Response to BOH Comment No. 10:

It is correct that the Agencies have not determined that remediation of the Upper Aquifer is technically impracticable (TI). The Agencies believe that there are other remediation approaches that will promote more expedient cleanup of the Upper Aquifer than is currently occurring. Thus, the Upper Aquifer Focused Feasibility Study was performed to identify such remediation approaches. However, as stated in Section 5.5 of the Document, even with active remediation (i.e., treatment) of the Upper Aquifer, it may

still take several decades to reach cleanup levels. The Upper Aquifer is not suitable for beneficial use until cleanup levels have been met; until such time that cleanup levels are met, the CGA is necessary to protect human health and the environment, as well as the remedy.

The Agencies have determined that remediation of the Lower Aquifer is technically impracticable, based on the demonstration that no existing remedial technology could reliably or feasibly attain the cleanup levels in the Lower Aquifer within a reasonable timeframe.

Therefore, neither the Upper or Lower Aquifer is currently suitable for beneficial use until groundwater cleanup levels established in the CERCLA decision documents are met (via active treatment for the Upper Aquifer and natural attenuation and flushing for the Lower Aquifer).

BOH Comment No. 11:

What is the basis for claiming that the existing Libby supply is adequate for future needs, especially with the possibility of heavy industrial users in the future?

The Agencies and IP Response to BOH Comment No. 11:

The statement that the existing Libby water supply is adequate for future needs is based on the Beneficial Water Use Permit issued December 28, 2012 and studies done in conjunction with that permit to ensure that the City of Libby had adequate water for future needs. As part of the permitting process, future needs were calculated for 2040 based on current use and assuming an average growth rate of 0.5% per year. The study determined that accounting for anticipated future usage, the City's Beneficial Water Use Permit still allowed for an additional 879 Acre-Feet of water use for municipal growth. In the Water Use Permit, the term "municipal" means that the water can be used for a variety of uses, including domestic, commercial, industrial and lawn and garden. In addition, the flow rate needed to supply anticipated use in 2040 was calculated for the existing pipeline to ensure the current system could handle projected future loads. Using the existing pipeline, a flow rate of 5.7 cubic feet per second would be needed to sustain the predicted future use. Given the design flow rate of 13.9 cubic feet per second, the distribution system is also well equipped to handle future loads. As a result, the current water right and the distribution system should be more than adequate to handle future development needs.

BOH Comment No. 12:

Does the modeling account for a scenario for withdrawal of surface water from Libby Creek at the maximum permitted water rights rate?

The Agencies and IP Response to BOH Comment No. 12:

No, the numerical groundwater flow model is not set up to account for surface water removal from Libby Creek because this scenario is not anticipated to have a measurable effect on groundwater flow. The surface water removed from Libby Creek will primarily reduce the flow that discharges to Kootenai River, and it will have a negligible effect on the stream-aquifer interaction.

The model estimates flow into the stream from the aquifer (for gaining stream reaches) and flow out of the stream into the aquifer (for losing stream reaches) based on several model parameter values: the hydraulic head in the stream (assumed to be the topographic surface elevation), the head in the Upper Aquifer (calculated in the model), and the riverbed conductance (selected based on material type and thickness of streambed deposits). A water rights diversion from the surface water will have negligible effect on the hydraulic head in the river, which influences the stream-aquifer interaction.

BOH Comment No. 13:

The last paragraph on page 15 states that "If the CGA is approved, other actions will be taken by IP to enhance the success of the CGA." It will be important to understand and memorialize these "other actions" in advance of approving the CGA.

The Agencies and IP Response to BOH Comment No. 13:

The last sentence of the paragraph on page 15 was intended to provide the other actions to be taken by IP to enhance the success of the CGA, as follows:

"Also, IP will offer to plug and abandon existing wells inside the CGA, similar to the Buy Well Program described in Section 2.1 to provide incentive to current potential groundwater users to discontinue use of their well."

IP will remove "Also" from the sentence above for clarification. The details of agreements that IP may reach with owners of existing groundwater rights are legal in nature and will be developed outside the CGA petition process.

BOH Comment No. 14:

The concerns identified by the BOH in November 2017 included four elements: technical, the groundwater resource, separability of the Superfund Sites, and enforcement issues. It appears that the separability issue has recently been resolved, and good progress continues on technical matters. The remaining two areas of concern (reference earlier document) will need resolution.

The Agencies and IP Response to BOH Comment No. 14:

The two remaining areas of concern (related to groundwater resources and enforcement) from the BOH November 2017 correspondence are provided below in boldface type, followed by the Agencies and IP response.

BOH Concern: The Groundwater Resource

The CGA will eliminate the use of groundwater within its limits. While this prohibition is already largely addressed, a CGA is a more permanent and final action. As mentioned in the Spring of this year when the BOH role in a CGA was proposed by EPA, the BOH will be sensitive to questions related to the consequences of loss of the resource, especially related to water supply issues for the Port Authority and City of Libby.

BOH Suggestion: The Groundwater Resource

The BOH objective should be to have assurances that the imposition of the CGA will not adversely effect the resolution of this issue, i.e., the consequences of loss of the resource, especially related to water supply issues for the Port Authority and City of Libby. Those assurances would likely be expected from the Port Authority and the City of Libby.

The Agencies and IP Response to the Groundwater Resource Concern/Suggestion:

BOH's prior comment that "a CGA is a more permanent and final action" was addressed in the Document, Section 5.1. The Document states that "The boundaries or conditions of a permanent CGA may be modified or cancelled over time as deemed appropriate by the oversight Agencies and with the support of the CGA sponsor and approval of the MDNRC."

The City of Libby utilizes Flower Creek for its municipal water supply. The CGA has no effect on the City's use of surface water from Flower Creek. As noted in the response to BOH Comment No. 11, the City also has adequate capacity in its system to accommodate future growth of the City and also provide substantial water service to the former mill property now owned by the Port Authority. The Port Authority mill property is part of the Libby Groundwater Site and subject to existing deed restrictions

requiring accommodation of remediation efforts and cooperation with institutional controls such as the CGA. To the extent additional water supplies are required for Port Authority redevelopment, it can be obtained from the City of Libby municipal water system along the western boundary of the mill property. Additional water may also be available through appropriations from Libby Creek.

BOH Concern: Enforcement Issues

The BOH will be concerned about the County's responsibilities for enforcement. We recognize the need for effective monitoring of compliance and enforcement, but need to be assured that we have the resources to meet our obligations. A shared responsibility with DNR should be explored. There is also concern that in the absence of a well user inventory, the extent of illegal wells within currently regulated areas (City) is unknown. It would seem prudent to "be current" on existing prohibitions and enforcement within the proposed CGA prior to implementing a new restriction.

BOH Suggestion: Enforcement Issues

Consider a user inventory, and develop options for shared enforcement.

The Agencies and IP's Response to the Enforcement Concern/Suggestion:

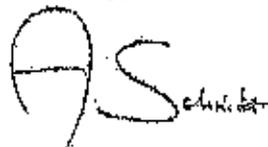
BOH will have no enforcement responsibility for the CGA. BOH's responsibilities related to the CGA are provided in the response to BOM comment no. 5.

The Agencies prefer to encourage compliance of the CGA well use restrictions through effective public communication and incentives provided by IP, rather than to rely on enforcement. The response to BOH Comment No. 3 provides procedures and processes that will encourage compliance with the proposed CGA. In Montana, compliance with water law is enforced through District Court proceedings. If needed, enforcement will be initiated by the Agencies.

The Agencies and IP have a good understanding on the number and location of potential private wells existing in the proposed CGA, as discussed in responses to BOH Comment Nos. 2 and 6. Public communication related to the CGA will be an ongoing and continual process that will be led by the Agencies and supported by IP. The BOH can support the CGA, too, by offering their sponsorship and providing a message to the public that they view the CGA as important to protect their health and environment.

Again, if you have any questions about our responses to comments or the CGA process, please do not hesitate to contact me at schmidt.andrew@epa.gov or (303) 312-6283.

Sincerely,

A handwritten signature in black ink that reads "ASchmidt". The letters "A" and "S" are large and stylized, with the "S" having a long, sweeping tail that extends to the right. The name "Schmidt" is written in a smaller, cursive script to the right of the "S".

Andrew Schmidt, P.G.
Remedial Project Manager
Superfund Remedial Program

cc: Henry Elsen, EPA
Stan Christensen, EPA
Lisa DeWitt, MDEQ
Jon Morgan, MDEQ
Kathy Olsen, DNRC
Richard Angell, counsel for IP
Steve Ginski, IP
Mary Stauffer, AECOM
David Cosgriff, Arrowhead
Rebecca Rewey, CH2M