

January 11, 2023

The Lincoln County Board of Commissioners met for a regular session on January 11, 2023 in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Teske, Commissioner Letcher, Commissioner Hammons, and Clerk and Recorder Robin Benson.

Meeting allows for teleconferencing and VisionNet availability.

Commissioner Letcher opened the meeting with the **Pledge of Allegiance and Prayer**.

9:30 AM DEQ, Natural Recourses Damage Program: Present were Arley Harris, Jason Rappe, Jessica Wilkerson, Katherine Hausrath, Solomon Alcain, Nick Raines, Bruce Vincent, Mark Peck, Veronica Bovee-Anderson, Caroline Ballieau, L Duff, Tony Penfold, Steve Story, Ray Stout, and Rebecca Nelson.

Jessica Wilkerson gave a brief overview and history about OU3, litigation, and the WR Grace bankruptcy claim. This has been in mitigation since 2019 and we are here to discuss the settlement agreement.

Press Release from the Office of Governor Gianforte:

Governor Gianforte Announces \$18.5 Million Settlement for Libby Asbestos Site

HELENA, Mont. – Governor Greg Gianforte today announced a proposed \$18.5 million settlement agreement that resolves the remainder of the Montana Department of Environmental Quality’s claims in W.R. Grace & Co.’s Chapter 11 bankruptcy case for the Libby Asbestos Superfund Site in Lincoln County.

“After years of negotiation following Grace’s historic damage, Libby and communities in Lincoln County can more fully recover,” Governor Gianforte said. “I look forward to the positive impact this settlement can bring to the people of Libby and Lincoln County.”

Filed today in the U.S. Bankruptcy Court for the District of Delaware, the proposed settlement would require Grace to pay \$18.5 million to resolve the State’s natural resource damage claims.

The Montana Natural Resource Damage Program, on behalf of the Governor, would receive the \$18.5 million plus interest over ten years, with the first \$5 million due within six months of entry of the settlement agreement. The funds would be used to restore, replace, or rehabilitate injured natural resources in the Lincoln County area, and related costs.

“On behalf of the Governor, the Natural Resource Damage Program looks forward to engaging with the local community to identify and implement restoration projects that address the injuries left by Grace’s activities. These projects will provide tangible environmental benefits and be a meaningful investment into the future of Libby and Lincoln County”, said Harley Harris, Program Manager for the Natural Resource Damage Program.

The proposed settlement would resolve the natural resource damage liability of Grace and other affiliated companies to the State of Montana for the Libby Asbestos Superfund Site.

The settlement would also resolve Grace’s liabilities to the Department of Environmental Quality (DEQ) regarding hazardous or harmful substances, with certain limited exceptions.

The site was added to the Environmental Protection Agency’s National Priorities (superfund) list in 2002 due to asbestos contamination that resulted from the vermiculite mine and mill operated by Grace.

This settlement would not affect Grace’s requirements to continue to perform superfund work, subject to EPA oversight with DEQ consultation, nor would it affect Grace’s obligations under the Montana Dam Safety Act or the Montana Department of Natural Resources and Conservation’s regulatory powers.

Under the settlement, Grace would additionally provide the State of Montana with financial assurance for the operation and maintenance of the Kootenai Development Impoundment Dam for the next 100 years.

The State of Montana is accepting comments on the proposed settlement until February 13, 2023. The State has reserved the right to withdraw or withhold its consent to the Settlement Agreement if comments received disclose facts or considerations that indicate the Settlement Agreement is inappropriate, improper, or inadequate. Comments can be submitted electronically or by mail. To view the settlement agreement or to learn more about how to submit comments please visit: <https://dojmt.gov/lands/notices-of-public-comment>.

Katherine Hausrath talked about the Natural Resource Damage Program and explained that a very robust public process on restoration ideas, and restoration plan will go out for public comment. We work in communities by building cooperative public relationship.

Bruce Vincent suggested a Trust set up specific to watershed improvement projects, WUI, expressing that landowners are behind best management for roadways so we can move forward. The Natural Resource Damage Program will gather data for implementing projects, so reaching out to the damage program with specific ideas, comments and requests would be beneficial.

Mark Peck suggested a letter to the governor from commissioners to create a local advisory board.

9:45 AM **Board of Health Appointment:** Present were Veronica Bovee-Anderson, Dorey Rowland, and Bryan Alkire. Robin said two applications were received, but one applicant did request to not be considered. Commissioner Letcher said he attended the BOH meeting and they recommended commissioners to reappoint Patty Kincheloe. No other applications were received.

Motion by Commissioner Hammons to reappoint Patty Kincheloe to serve on the Board of Health. Second by Commissioner Teske, motion was unanimous.

10:00 AM **Health Department:** Present were Kathi Hooper, Dorey Rowland, Bryan Alkire, and Veronica Bovee-Anderson.

Kathi explained that the Health Department contracts out with Tobacco Valley Animal Shelter in Eureka. The animal shelters in Lincoln County provided for 625 animals in 2022, and 429 animals in 2021. This is a 30% increase. Kathi said that local animal shelters used to take in animals from other areas, but we can no longer do that since we are at full capacity with animals that come within the county.

Commissioner Teske submitted an update flier from the Tobacco Valley Animal Shelter. Kathi expressed they do a great job and we are fortunate for their help in North Lincoln County.

Dorey gave an update on the Zero to Five Program, bringing opportunities to children and families countywide. It is a collaborative effort, grant funded, and we are working for sustainability to continue long term. The program offers learning for children and adults, engagement skills, with many local partners who attend and offer resources for parents and caregivers.

Dorey talked about the services and opportunities that provide help and assistance. Attendance and enthusiasm are well received throughout Lincoln County. The mobile resource van is used for outreach countywide and in rural areas. Dorey said she is requesting approval to rehire a project coordinator that has been vacated; totally grant funded.

Commissioners expressed approval replacing the grant funded position as requested.

Commissioner Teske expressed appreciation for their work and interacting with parents as well as children.

Bryan talked about alternatives and options to help develop wells for the landfill expansion.

Kathi submitted a historical influenza report and public health statistics in Lincoln County about immunizations and communicable disease for commissioner review.

10:30 AM **Administrative Issues-Old Business / Adoption of Flower Creek Snowshoe Recreation Plan / Interlocal Agreement, Opioid Settlement:** Present were Tony Petrusa, DC Orr, City of Libby Mayor Peggy Williams, Jerry Regh, and Veronica Bovee-Anderson.

- Robin submitted the minutes for January 4, 2023 regular meeting for approval. **Motion** by Commissioner Teske to approve minutes as submitted. Second by Commissioner Hammons, motion was unanimous.
- Commissioner Teske said that all 56 counties have signed on to the interlocal agreement for opioid remediation funds. Region 5 is Mineral, Sanders and Lincoln Counties. Mineral county has approved and signed. Commissioner Teske said Lincoln County's part of the settlement is \$27,000. Funds have been received and will be used for opioid prevention programs and those funds will be distributed within the county per guidelines, mainly public health, and sheriff's office. **Motion** by Commissioner Teske to approve and sign the Interlocal Agreement Formation, Authority and Administration of Abatement Region 5 for the Opioid Settlement. Second by Commissioner Hammons, motion was unanimous.
- Commissioner Letcher submitted the 2023/2024 PCT Renewal Scheduled Property for the MACo Property & Casualty Trust. **Motion** by Commissioner Teske to approve and sign the 2023/2024 PCT Renewal Scheduled Property as submitted. Second by Commissioner Hammons, motion was unanimous.
- Commissioner Letcher submitted the annual contract with Fraser Management & Consulting. **Motion** by Commissioner Hammons to approve contract as submitted. Second by Commissioner Teske, motion was unanimous. DC Orr asked for dollar amount and commented he has known Mike Fraser for a long time; county is well served. Commissioner Teske said the retainer is \$250/mo. with additional services at \$225/hr.
- Tony talked about the Flower Creek Snowshoe Recreation Plan ready to be adopted, but commented there are a couple concerns with the City of Libby to be addressed, but those issues will be removed or resolved. Peggy said there is some language to be revised. Commissioner Teske suggested to wait for the final document before commissioner approval. **Motion** by Commissioner Teske to table discussion until final document is presented. Second by Commissioner Hammons, motion was unanimous.

10:45 AM **Public Comment Time:** Present were Jerry Regh, DC Orr, Rebecca Nelson, Jesse Haag, Ray Stout and Solomon Alcain.

Commissioner Letcher asked for public comment.

DC talked about a newspaper article regarding the City of Libby having a defense lawyer, Miss Breck to investigate allegations against the Chief of Police by the police officers who resigned. DC said he did contact Miss Breck requesting concerns to have state attorney general involvement. DC discussed how the city went on his property, destroyed property and stole personal possessions, including campaign signs, all criminal activity. DC said he is requesting Miss Breck to interview him and he will go as far as he can to have these criminal actions acknowledged and someone put in jail. DC said the county attorney had no probable cause to move forward with prosecution and had exculpatory evidence in his recent trial. His camper was destroyed in county impound which is a serious offense. DC expressed that he feels Sheriff

Short should run an investigation into the city criminal activities, unless he has a conflict of interest. DC said he expects the commissioners to do their job and thanked commissioners for their help.

11:00 AM **Resolution 2023-06 FY 21/22 Budget Amendment and Resolution 2023-07 FY 22/23 Budget Amendment Public Hearing:** Present were Finance Director Wendy Drake, Rebecca Nelson and Ray Stout.

Finance Director Wendy Drake presented resolutions for commissioner approval.

Commissioner Teske read Resolution 2023-06 Budget Amendment for FY 21/22. Resolution is to correct unanticipated expenditures/revenues not known at the time the budget was officially approved. **Motion** by Commissioner Teske to approve Resolution 2023-06 as submitted. Second by Commissioner Hammons, motion was unanimous.

Commissioner Hammons read Resolution 2023-07 Budget Amendment for FY 22/23. Resolution is to correct unanticipated expenditures/revenues not known at the time the budget was officially approved. **Motion** by Commissioner Teske to approve Resolution 2023-07 as submitted. Second by Commissioner Hammons, motion was unanimous.

11:10 AM **District 2 Road Department Dump Truck:** Cancelled

12:00 PM **Break**

1:30 PM **Planning / Preliminary Plat Review, Taylor Flats Subdivision:** Present were County Planner Jesse Haag, Planning Consultant Kristin Smith, Jerry Bennett, Byron Sanderson, and Rebecca Nelson.

Taylor Flats Preliminary Plat located in Libby on the Parmenter Creek bench on Taylor Road. Proposal is for 4 residential lots with 7 conditions. Three of the four lots already have existing homes on them. Planning staff recommends commissioners grant preliminary approval to Taylor Flats Subdivision subject to conditions. There was a brief discussion regarding Condition Number 7 regarding owners hereby waive the right to protest the creation of a Special Improvement District. Byron commented that this condition has not been used consistently in other subdivision approvals. Jerry commented that he is ok keeping the condition but expressed that he has never liked that language stating citizens "waive the right to protest" and suggested the commissioners consider changing the language in the future. **Motion** by Commissioner Teske to approve Preliminary Plat to Taylor Flats Subdivision subject to 7 conditions and based on planning staff recommendation. Second by Commissioner Hammons, motion was unanimous.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Josh Letcher, Chairman

ATTEST: _____
Robin Benson, Clerk of the Board