



Joe Vranka  
Superfund Unit Manager

Allie Archer  
Remedial Project Manager

Federal Building  
10 West 15th St., Suite 3200  
Helena, MT 59626

August 5, 2020

Dear Mr. Vranka and Ms. Archer,

The Clark Fork Coalition (CFC) is a science-based, community-grounded organization representing more than 3,000 river advocates in western Montana and around the country. CFC has tracked developments at the Smurfit-Stone mill since 1985, when it was owned by Champion. As noted in our May 31, 2020 *Missoulian* editorial, more than a decade after plant closure, and five years into EPA's remedial investigation activities under its 2015 Administrative Order on Consent (AOC) with the Potentially Responsible Parties (PRPs), we are concerned about the slow pace of progress toward active cleanup, and about the lingering public health threats and environmental risks posed by an acutely hazardous area on the property.

**We are writing now to formally request that the EPA order a feasibility study to immediately address the most highly-polluted area of the site: the 140 acres of unlined waste and sludge dumps.**

CFC understands that EPA and consultants for the PRPs are in the midst of an investigation of the entire 3,200-acre mill site. We do not discount this process, and are hopeful that the EPA will eventually gather all data needed to ensure the whole site is cleaned up in a way that protects human health and the environment.

Nevertheless, we believe a feasibility study to specifically address the waste and sludge dumps provides a viable and timely path forward toward active cleanup. Our request is based on the following:

- **The site's waste and sludge dumps pose acute problems for groundwater and the Clark Fork River.** As EPA is aware, for decades, the mill produced enormous quantities of waste and sludge left over from the pulping process. Almost all of the site's solid waste – 54 tons a day of sludge at peak operations – was placed into unlined and largely unregulated dumps now covering roughly 140 acres. Much of this waste is located in or near the floodplain of the Clark Fork River, allowing hazardous materials to continually leach into groundwater and the river.

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- **Both state and federal officials have long been aware of the environmental hazards posed by these poorly-sited dumps:**
  - The problems posed by the dumps and the regulatory failure surrounding their operation and closure were detailed in a 2016 letter from Missoula County Water Quality District to EPA and DEQ which noted that the site's dumps were used to store general refuse, primary sludge, hog fuel ash, lime kiln grits, asbestos, ragger wire, and wood yard waste (see attached WQD letter dated July 25, 2016).
  - Sampling data gathered by environmental consultants URS in 2012 and NewFields in 2014 indicate that the dumps contain a dangerous mixture of heavy metals and other contaminants, including cadmium, mercury, arsenic, selenium, lead, dioxins, and furans.
  - More recent analysis<sup>1</sup> corroborates these findings and shows alarming levels of contaminants, including manganese levels that exceed the proposed state standard by more than 500 times.
- **The waste dumps are unlined and were almost entirely unregulated during the lifetime of the mill, which allows hazardous materials to continue to seep into groundwater.** Nearly 30 years ago, state regulators rejected Smurfit's request to permit their existing landfills/dumps due to several shortcomings, including inadequate separation to groundwater, lack of a liner and leachate collection system, lack of methane recovery system, and lack of a closure plan.<sup>2</sup> Yet these uncontained dumps and sludge ponds were allowed to remain out of compliance. State regulators never adequately explained how the dumps would be properly regulated in order to comply with state and federal laws governing the storage and disposal of solid wastes. Consequently, sludge and other waste continued to pile up, and remain uncontained and in ongoing violation of state and federal laws.
- **The unlined waste and sludge dumps will continue to contaminate groundwater and the river as long as they contain hazardous material and are in contact with groundwater,** as has been acknowledged by Montana DEQ.<sup>3</sup> For this reason, the Missoula Water Quality District concluded in its July 2016 letter that the *only* effective remedy would be "removal of the materials from contact with groundwater and proximity to the Clark Fork River and its floodplain [...] [a]nd disposal in a properly designed landfill with cap, liner and leachate collection, isolated from groundwater and surface water."
- **Existing characterization data on the waste and sludge dumps provide sufficient evidence about the risks they pose to justify action by EPA to clean them up.**

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<sup>1</sup> *Pre-Assessment Screen: Smurfit-Stone/Frenchtown Mill Site*, prepared for the Montana Natural Resource Damage Program by Abt Associates Inc. (April 30, 2018) pgs. 15-17.

<sup>2</sup> See Jan. 15, 1993 memo from James Wilbur of the DHES Solid Waste Bureau to Steve Pilcher of the DHES Water Quality Bureau.

<sup>3</sup> See e.g. March 19, 2010 correspondence from Jenny Chambers with Montana DEQ's Waste & Remediation Division stating "[t]he sludge ponds will continue to be a source of contamination to shallow groundwater and possible [SIC] the river as long as they are full of material."

- We are not asking EPA to invoke its emergency action authority for the dumps. Rather, we are asking EPA to: a) acknowledge that the dumps must be removed; b) advance from the remedial investigation to the feasibility study at the dumps; and c) demand from the PRPs a timely and comprehensive cleanup of the dumps that will end the chronic movement of pollution from the dumps to the groundwater and on to the river.
- **EPA has full authority to act now, and has a clear path forward to do so:**
  - The 140-acre area in question meets the conditions established in the AOC for EPA to move forward on the feasibility study phase and explore cleanup options because the dumps are demonstrably causing “releases or potential releases of hazardous substances posing a threat to human health or the environment.”
  - If necessary, this could be accomplished by creating a separate Operable Unit, which EPA has the authority to carve out “when phased analysis and response is necessary or appropriate given the size or complexity of the site.”<sup>4</sup>
  - By treating the dumps as a separate Operable Unit, EPA can exercise its authority to order the PRPs to conduct a feasibility study for the removal and relocation of this material to a safe and regulated repository.<sup>5</sup>

Every data set, investigation, and study about the waste and sludge dumps to date confirms that they contain highly hazardous materials. And, as those wastes are known to be in direct contact with groundwater, they ultimately reach the Clark Fork River.

As CFC has articulated since at least 2018, the current situation is untenable, and further delay is unwarranted. The question in front of EPA is not, “*Do these dumps need to be cleaned up?*” We know that they do. The question is, “*How do we clean them up?*” The past regulatory failures surrounding operation and closure of these dumps only underscore the need for expeditious action.

**For these reasons CFC calls on EPA to order a feasibility study to address the waste and sludge dumps now** – an action that can proceed in a way that does not preclude or impede ongoing investigations across the site.

CFC appreciates the good working relationship we have had with EPA, and we look forward to a reply to our request.

Sincerely,



Karen Knudsen, Executive Director

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<sup>4</sup> 40 C.F.R. § 300.430(a)(1)(ii)(A).

<sup>5</sup> See AOC at ¶ 47, allowing EPA to order feasibility study “at one or more OUs of the Site due to the releases or potential releases of hazardous substances posing a threat to human health or the environment,” and reserving EPA authority to “conduct the work itself at any point, to seek reimbursement from [the PRPs] and/or to seek any other appropriate relief.”

cc:

EPA Region 8 Administrator Gregory Sopkin

Missoula County Commissioners: Josh Slotnick, Dave Strohmeier, and Juanita Vero

US Senator Steve Daines, c/o Danielle Tribble

US Senator Jon Tester , c/o Deb Frandsen

The Confederated Salish and Kootenai Tribes: Mary Price, Legal Department Scientist

The Montana Natural Resource Damage Program: Doug Martin, Restoration Program Chief

Smurfit-Stone Community Advisory Group: Jeri Delys, Chair

Missoula City-County Water Quality District: Travis Ross, Division Supervisor

Missoula City-County Water Quality Advisory Committee: Ian Magruder, Chair