



Allie Archer
Remedial Project Manager
Federal Building
10 West 15th St., Suite 3200
Helena, MT 59626

November 13, 2020

Dear Ms. Archer,

We appreciate your September 4th response to the Clark Fork Coalition. CFC values our relationship with EPA leadership in working through the Smurfit-Stone investigation, and we are encouraged by the EPA's commitment to move forward to the feasibility phase of the process at a speed that is commensurate with the problem.

As noted earlier, CFC does not believe the action requested in our August 5, 2020 letter constitutes a "deviation" from the larger Superfund process. To the contrary, the EPA has full authority to analyze cleanup options at specific, targeted areas of the site while continuing its site-wide remedial investigation. A feasibility study aimed at the waste and sludge dumps is not mutually exclusive to an ongoing investigation at other, less-contaminated areas of the site.

The EPA does not appear to contest this authority, and we encourage the agency to exercise it in this case. Further, when viewed as a whole, including past regulatory failures surrounding the landfills and sludge ponds, the evidence supports CFC's request to begin evaluating cleanup options for these highly contaminated areas.

In its letter, the EPA asserts that site data collected to date "indicate groundwater contaminants are not migrating beyond WMA areas." (EPA Letter dated Sept. 4, 2020, p. 2). This statement is concerning because it appears to prematurely endorse erroneous conclusions drawn in the PRP's Draft Groundwater Conceptual Site Model (GCSM).

As noted in our comments on the model, the Draft GCSM fails to provide an objective interpretation of existing groundwater data and draws several premature and misleading conclusions. The above statement also contradicts data collected that confirms some (if not all) of these waste management areas are in contact with groundwater and are leaching their contents into the aquifer in OU3. This should come as no surprise given that all of the waste areas, sludge ponds,

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and landfills are unlined. These buried wastes have always been, and remain, uncontained.

While the PRPs have proposed a theory to explain attenuation of contaminants as they move toward the river, surface water samples collected to date are woefully insufficient to support a conclusion that decades of buried contaminants are disappearing from groundwater before reaching the river.

Even assuming some chemical attenuation process is occurring (which is unproven), this would not preclude the EPA from moving forward with a feasibility study to explore options to address the chronic or acute leaking of contaminants into the shallow aquifer.

Moreover, the Clark Fork River simply cannot be relied upon to dilute or chemically alter leaking contaminants within the riparian mixing zone. Site-wide groundwater contamination was created by the PRPs and must be addressed by the PRPs, and any allowance for chronic discharge of contaminants into groundwater or surface waters is unacceptable.

In summary:

- CFC has serious concerns about the long-term implications of an EPA decision to allow a “status quo” remedy, whereby internal and external berms are made permanent, onsite groundwater is rendered permanently un-useable, and unlined waste dumps/sludge ponds are sanctioned to remain perilously close to the Clark Fork River and floodplain – perpetually leaking into the aquifer.
- CFC is not making a demand for a specific remedial action at this time. Nonetheless, we firmly believe that EPA should move toward discussing options for cleanup of the waste and sludge dumps.
- In formulating a cleanup plan, CFC strongly encourages the EPA to ensure that any proposed action fully complies with relevant state and federal requirements governing the disposal and storage of hazardous waste.¹
- The EPA has recently confirmed that it will initiate the feasibility study phase of the process by August of 2021. CFC respectfully requests that the agency commit (in writing) to meeting this benchmark.

¹ See CERCLA § 121(d), 42 U.S.C. § 9621(d), providing that a state's environmental standards, including state RCRA requirements, shall be considered in determining the level of cleanup at a CERCLA site and will be applied to the extent that they are applicable, relevant and appropriate. *State of Colo. v. US Dept. of the Army*, 707 F. Supp. 1562 (D. Colo. 1989).

We appreciate the EPA's response to our concerns and willingness to meet to further discuss. We look forward to working with the agency toward timely remedial action to address the most problematic areas in a manner that does not preclude or impede ongoing or further investigations at the remainder of the site.

Sincerely,



Karen Knudsen
Executive Director

cc by email:

- Missoula County Commissioners: Josh Slotnick, Dave Strohmeier, and Juanita Vero
- U.S. Senator Steve Daines, c/o Sharon Parks-Banda
- U.S. Senator Jon Tester, c/o Deb Frandsen
- The Confederated Salish and Kootenai Tribes: Mary Price, Legal Department Scientist
- The MT Natural Resource Damage Program: Doug Martin, Restoration Program Chief
- Smurfit-Stone Community Advisory Group: Jeri Delys, Bruce Sims, Jennifer Harrington, and Brian Campbell, CAG Admin Team
- Missoula City-County Water Quality District: Travis Ross, Division Supervisor
- Missoula City-County Water Quality Advisory Committee: Ian Magruder, Chair
- Montana Department of Environmental Quality: Keith Large, Superfund Project Officer