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May 3, 2022

The Honorable Michael Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Regan:

I am writing to highlight growing concerns from communities in Montana about the EPA's use of waste-in-place remedies at Superfund sites, and the importance of outreach from EPA staff to communities navigating the Superfund process. EPA has a critical responsibility to ensure communities are well-informed so that they can provide meaningful input into cleanup decisions, and that remedies the agency supports are protective of human health and the environment.

I am troubled by the EPA's reliance on waste-in-place remedies at multiple sites in Montana. Communities are rightfully skeptical about the risks posed by leaving toxic waste on site where it could migrate into groundwater or surface water. There are multiple waste-in-place remedies that are either already in place or under consideration that are mere feet away from rivers in Butte, Anaconda, Frenchtown, and Columbia Falls. In 2017, flooding at the Smurfit Stone site damaged the berm separating the site from the Clark Fork River, and also sent a plume of material into the river. Modeling from the Montana Bureau of Mines indicated that waste from tailings at the Butte-Silver Bow site would migrate much more quickly than EPA suggested, and present an imminent risk to groundwater and surface water. Despite EPA assurances about the extent and mobility of contamination, there has been subsequent testing by state entities raising serious questions about assumptions made during the investigation. At Columbia Falls, community leaders have told me that their repeated concerns about the risks a potential waste-in-place remedy poses to headwaters have seemingly fallen on deaf ears. At a minimum, this creates a public trust and confidence issue at other sites. Worse, a remedy that isn't effective poses a direct threat to human health and water quality.

The EPA needs to do more to ensure that planned remediation actions are actually protective of the sites in question, and that the public is well-informed of the inherent risks associated with waste-in-place remedies. EPA should work with affected communities to ensure that controversial waste-in-place remedies receive significant additional scrutiny, either through direct analysis from EPA staff or in concert with hydrology experts from other agencies. Objective experts should clearly demonstrate to the public, based on real-world monitoring from the site and surrounding waters, that their proposed remedy keeps waste where it should be. Input from outside experts, especially those with additional monitoring data, should be welcomed, and responses to that input should be included in the EPA's analysis of the site and its outreach to the affected community. If an affected community calls for an alternative remedy, EPA should give serious consideration to developing an alternative cleanup solution and, if those

alternatives aren't feasible, provide detailed explanations in public meetings and online why those remedies are not possible.

In addition to bolstering its scientific analysis of waste-in-place remedies, EPA also needs to improve its outreach to affected communities. The public needs a clear understanding of the procedural and scientific steps involved with cleaning up a Superfund site, and much earlier in the process than has occurred, so that their input can be considered in feasibility studies remediation investigations. I have spoken directly with many community leaders from across Montana who have attended EPA briefings on their site, and left without a clear understanding of what steps remained before remediation could begin, when and how the public could comment on proposed remedies, and how EPA was verifying that a proposed remedy was protective. In many cases, briefings that contain digestible information came long after critical steps were complete. When local elected officials, leaders of community groups, and business owners don't have this information in plain English, it is supremely difficult for them to effectively advocate for the remediation that actually works for the community during those critical early portions of the process.

For community leaders to be better informed, the Community Involvement Coordinators for Montana's sites need to ensure public meetings are sufficiently noticed. Information presented at those meetings must be comprehensible to members of the public who are not subject matter experts, and local stakeholders need to be informed about the scientific justification for specific remedies well before milestones are reached. Montana communities also need to be informed about their options to secure direct financial support for technical assistance through EPA's Technical Assistance Grants and Technical Assistance Services for Communities. Online information needs to be presented clearly, informatively, and as objectively as possible. The website for Columbia Falls includes a misspelling in the first few sentences explaining the site, and links through to the potentially responsible party's non-government website to explain the Superfund process and remedial investigation. This does not inspire confidence that EPA is treating this site with a high attention to detail and providing objective information to the public. I encourage you to revisit your online presentation of information, and promptly schedule in-person public meetings within your ongoing COVID safety guidelines to more clearly explain proposed remedies and the Superfund cleanup process with Montana's Superfund communities.

Thank you for your work to engage with Montana's Superfund communities, and to ensure remedy options are substantially protective of human health and the environment. EPA has an important role to play in our daily lives and has an opportunity to improve public perception across its programs.

Sincerely,

Jon Tester