



To : Carolina Balliew,
Montana Remedial Section C Supervisor, Region 8,
US Environmental Protection Agency (EPA)
10 West 15th Street, Helena, MT 59626

To: Christopher Dorrington,
Director, Montana Department of Environmental Quality (DEQ)
P.O. Box 200901, Helena MT 59620-0901

January 18, 2024

Dear Ms. Balliew and Mr. Dorrington,

Citizens for a Better Flathead is a citizen-based advocacy organization representing more than 3000 residents of Flathead County. We, along with the Columbia Falls-based Upper Flathead Neighborhood Association representing some 200 residents in the Columbia Falls area, and a rapidly growing number of city and county residents throughout the Flathead including a number of former Columbia Falls Aluminum Company (CFAC) employees and other local organizations, have come together to form the **Coalition for a Clean CFAC**. Our mission is to *secure the comprehensive cleanup of the Columbia Falls Aluminum Company (CFAC) Superfund site for the health, enjoyment, and economic benefit of the local community and the protection of the Flathead watershed.*

We are writing now to formally request that the EPA order a time-out to the proposed issuing of a Final Record of Decision on the CFAC Superfund Site scheduled for an estimated time frame in March of 2024. We Request that EPA and Montana DEQ not go forward with a Record of Decision based on its proposed waste-in-place plan outlined in the 2021 Feasibility Study and the 2023 proposed Cleanup plan for the Columbia Falls smelter site.

While the public record will show that the option of off-site removal of highly toxic waste has all along been called for and supported by the local community and the Columbia Falls City Council, the Feasibility Study Report never seriously considered this as a viable option and instead it was deemed, and early on dismissed, as too expensive. An actual cost estimate was never produced. (See discussion of “Relative Cost” beginning on page 69 of the 2021 Feasibility Study Report and page 10 of the 2023 Proposed Plan for Cleanup Columbia Falls Aluminum Company Superfund Site.)

We request that EPA and DEQ take a time-out to produce a focused feasibility study evaluating realistic costs for removal of acute and extremely hazardous wastes including the Spent Pot Liner and Wet Scrubber Pond Wastes to an offsite hazardous waste disposal facility. This will require investigation not previously completed during the remedial investigation, including waste volumes, amount of waste intermingling, and volumes of contaminated soils beneath the existing waste dumps.

This focused feasibility study should include consideration of use of the existing rail lines at the CFAC site which were used for many years after 1990 to remove highly toxic Spent Pot Liners (SPL) and other hazardous waste. Not only does the CFAC smelter after 1990 have a history of successfully using the existing rail lines at CFAC to ship highly toxic waste like SPLs to a federally certified hazardous waste landfill out of state¹, other smelters in the northwest like the Alcoa Smelter in Vancouver, Washington have done so as well.

Our reservation regarding the proposed action calling for leaving toxic waste in place at the CFAC site is validated and heightened by the recent conclusion of the Montana Natural Resource Damage Program, acting on behalf of Gov. Greg Gianforte, who was joined by the Confederated Salish and Kootenai Tribes (CSKT) as well as two federal natural resource trustees, the U.S. Departments of Interior and Agriculture, to issue a notice of intent to perform a natural resource damage assessment at the CFAC site. Most telling is the conclusion of their detailed 34-page pre-assessment screen which states regarding the proposed CFAC cleanup plan that, “EPA has issued a proposed plan for a final cleanup in 2023; the preferred alternative, however, will not return the Site to baseline. Rehabilitation, restoration, or replacement of natural resources is required to reduce future injuries and compensate the public for interim losses of natural resources and the services they provide.”² These findings are one more reason we believe a time out is warranted to ensure more effective cleanup solutions are considered and adopted.

Actual cost estimates and investigation of additional alternatives should be done as well on treatment of other potential remaining wastes at the site including their consolidation into a “high and dry” lined and capped landfill meeting state-of-art design and containment standards for toxic wastes. This and the removal of the most toxic wastes should be reviewed as a cost-effective alternative to the very expensive proposed slurry wall containment structure. The proposed use of a slurry wall at this site faces unique site-specific challenges of high ground water that fluctuates significantly during the year by as much as 25 feet and the inability of these proposed slurry walls to reach to the depth of a suitable impermeable layer needed to prevent ongoing contact between groundwater and the buried waste proposed currently to be left in place. Cost estimates and alternatives should also be reviewed for some low-level wastes not contaminated with cyanide and fluoride or other such highly toxic wastes, which could perhaps be sent to the Flathead County landfill, if justified, in limited quantities, as this is a lined facility that sits some 300 feet above groundwater.

This requested time-out should also provide time to facilitate the missing consideration of an assessment of climate vulnerability for this superfund site including consideration of long-term impacts from flooding (climate change) and seismic activity. This assessment is now being done all around the country and for the Smurfit Mill site in Missoula.

Another important reason and need for EPA and DEQ to take a time-out before issuing a final Record of Decision (ROD) is a missed step under the Superfund Redevelopment Initiative (SRI) process established in 1999 to help communities return Superfund sites to productive use³. As this directive sets forth, “Regions should review the Superfund Land Use Directive and ensure that reasonable future land use assumptions are incorporated into the development, evaluation and selection of response actions, where appropriate.”

¹ CV 18-131-M-DWM, FINDINGS OF FACT AND CONCLUSIONS OF LAW, CFACLLC vs Atlantic Richfield, 8/25/21

² *Montana Begins Natural Resource Damage Assessment at CFAC Superfund Site*, Flathead Beacon 1/16/2024

³ <https://www.epa.gov/superfund-redevelopment/superfund-redevelopment-policy-guidance-and-resources> and <https://www.epa.gov/superfund-redevelopment/superfund-reuse-planning-support-technical-assistance>

For whatever reason or set of reasons, be it the disbandment of the Glencore-created Community Liaison Panel once CFAC was designated as a superfund site in 2016, the time wait for site analysis that followed this, or the chaos of the covid years where no one wanted to gather, a stakeholder process has never been held to engage the community in imagining potential reuses and future development at the CFAC 900+ acre site. In our recent outreach in the community, this lack of a future vision for redevelopment is one that the community wants to see happen so that it can be considered prior to the final selection of cleanup and remedial processes. Indeed, the EPA has a program to facilitate such community visioning known as *Regional Seeds*. “The purpose of Regional Seeds is to provide site teams with technical assistance to facilitate redevelopment, remove barriers to productive reuse, and ensure future use is well aligned with the cleanup and removal/remedial process.”

The 2023 proposed Cleanup plan for the Columbia Falls smelter site states on page 4 that “Local authorities have not adopted a future land use plan for the site.” But the plan fails to call for or identify the benefits to the community of having such a plan in place. Instead, it simply repeatedly states that the recommended cleanup strategies in this plan are sound given the “current and reasonably expected future uses” of this CFAC site. But this is not the consensus of the public.

As noted in a front-page story in the Hungry Horse News earlier this month referring to the over 750 pages of comment the EPA received in August on this proposal, “Community members were almost universally opposed to leaving the waste in place, slurry walls or not. “Leaving the waste in place next to the Flathead River is a recipe for disaster,” one person commented.”

The proposed waste-in-place plan would indeed impose severe restrictions on future land uses at the site with the need for deed restrictions limiting available land uses near the waste dumps, a groundwater control area banning drinking water wells, and access control points such as fencing and warning signs; not the vision of a cleaned-up, economically revitalized property that the community so desires and deserves. A waste-in-place solution fails to provide the assurances the community deserves that there will not be on-going and worsening leaking of these toxic wastes to ground water and surface waters. as the waste plume grows and moves.

Removal of the most contaminated wastes including spent pot liners and wet scrubber pond waste, and consolidation of less contaminated materials in lined and capped and high-and dry landfills on site will reduce the burdensome restrictions that leaving the waste in place would cause. This will allow a broader range of land uses benefitting the community in the future.

The smelter produced aluminum, good jobs and taxes for about 54 years, yet the wastes from that process have remained on site limiting the available uses of the land for 15 years since the smelter closed. We do not support leaving the waste in place and restricting the use of this land in perpetuity, just to save some money on cleanup today. The community deserves better than this.

We urge you to call for a time-out to provide Columbia Falls and Flathead residents and businesses a focused feasibility report evaluating realistic costs for removal of the highly toxic waste on site, as well as other missing data and costs for other clean-up activities discussed above. **We believe this missing information is essential to be able to craft a future vision for the redevelopment of this site that is good for the community, the economy, the environment, and for future generations. Without this information the public and EPA cannot really know if the proposed solution would meet the EPA’s**

goals for solutions that offer long term effectiveness and permanence, as well as community acceptance.

Sincerely,

Mayre Flowers, Shirley Folkwein Phil Matson, and Peter Metcalf on behalf of the ***Coalition for a Clean CFAC***, PO Box 2198, Kalispell, MT 59903

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Nicole Bond, Columbia Falls Resident

Becca Wheeler, Columbia Falls Resident

Jim and Heather Peacock, Columbia Falls Residents

Larry D. Williams, Columbia Falls Resident

Rebecca R. (Becky) Williams, Columbia Falls Resident

Attached:

- City of Columbia Falls City Council letters to EPA and DEQ in opposition to a waste-in-place solution, 4/6/2015 and 3/25/2022.
- Senator Jon Tester's 5/3/2022 Letter to EPA Administrator, Michael Regan

Cc

- KC Becker, Regional Administrator for EPA's Region 8
- Matthew Dorrington, Remedial Project Manager, U.S. EPA Region 8
- Columbia Falls City Council, Mayor Don Barnhart
- Whitefish City Council, Mayor John Mulfield
- Kalispell City Council, Mayor Mark Johnson
- Flathead County Commissioners: Brad Abell, Randy Brodehl, and Pam Holmquist
- US Senator Jon Tester , c/o Eric Erik Nylund, Regional Director and Natural Resources Liaison Butte, and Chad Cambell, Regional Director, Kalispell
- US Senator Steve Daines, c/o Bret Slaughter, Natural Resource Liaison
- Confederated Salish and Kootenai Tribal Council, Tom McDonald, Chair
- The Confederated Salish & Kootenai Tribes: Richard Janssen, Head of CSKT Natural Resources Dept
- The Montana Natural Resource Damage Program: Doug Martin and Katherine Hausrath
- Montana DEQ Project Manager, Richard Sloan
- Flathead City-County Health Department: Jennifer Rankosky
- Flathead Lake Biological Station, UM, James Elser, Director and Tom Bansak , Associate Director
- Western Montana Conservation Commission, Casey Lewis, Executive Director
- Flathead Conservation District, Pete Woll, Board Chair, and Samantha Tappenbeck, Resource Conservationist