

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Lincoln County
Air Quality Control
Program

1 by the public. Based upon the record in this proceeding, the
2 Board enters the following Findings of Fact, Conclusions of
3 Law and Order.

4
5 Findings of Fact

6 3. On November 15, 1991, and pursuant to Section
7 75-2-301, MCA, the Board approved a local air pollution con-
8 trol program to be administered by the City of Libby and
9 County of Lincoln. In the application which is the subject
10 of this proceeding, LCC is seeking approval from the Board of
11 substantial amendments to this program relating to solid fuel
12 burning devices, road dust control and open burning. A copy
13 of the application, which includes the entire local air pol-
14 lution control program for the City of Libby and the County
15 of Lincoln, is attached to this Order as Exhibit B and by
16 this reference is incorporated herein in its entirety as part
17 of this document.

18 4. On December 23, 1992, and upon proper public no-
19 tice, the Libby City Council and the Lincoln County Commis-
20 sion conducted a joint public hearing on proposed regulations
21 and ordinances which amend their local air pollution control
22 program, and which are the subject of this application before
23 the Board.

24 5. On January 6, 1993, and after a second reading, the
25 Lincoln County Commission adopted the regulations and ordi-
26 nances described above in Paragraph No. 3. On February 1,
27 1993, the Libby City Council conducted a second reading and

1 adopted the regulations and ordinances described above in
2 Paragraph No. 3. The regulations adopted by the City and
3 County are identical.

4 6. As amended, the local air pollution control program
5 to be operated by the LCC encompasses the County of Lincoln
6 including the City of Libby (excluding the municipalities of
7 Eureka, Rexford and Troy), and contains requirements for the
8 control of both fugitive dust emissions (from roads, parking
9 lots and log yards), and PM-10 emissions (from solid fuel
10 burning and open burning). Those sections of the program
11 which regulate PM-10 emissions from solid fuel burning (Regu-
12 lation 2) and fugitive dust emissions from roads, parking
13 lots and sawmill log yards (Regulations 3, 4, 5 and 6) only
14 apply to a discrete area within Lincoln County, defined as an
15 Air Pollution Control District (District). That section of
16 the program which regulates PM-10 emissions from open burning
17 (Regulation 7) only applies to a discrete area within Lincoln
18 County defined as an Impact Zone.

19 7. In its Order of November 15, 1991, the Board deter-
20 mined that the location, character and extent of particular
21 concentrations of population and air contaminant sources, and
22 the geographic, topographic and meteorological considerations
23 involved, and combinations of the foregoing, were such as to
24 make impracticable the maintenance of appropriate levels of
25 air quality without an air pollution program such as that
26 proposed by the LCC application (Finding No. 7). The Board
27 also found that a local air pollution control program with

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1 such boundaries was the only acceptable alternative to direct
2 state administration (Finding No. 8). The Board reaffirms
3 the appropriateness of these findings, as they relate to the
4 local program, as amended.

5 8. In its Order of November 15, 1991, the Board found
6 that the local air pollution control program proposed by LCC
7 provided for administrative organization, staff, financial
8 and other resources necessary to effectively and efficiently
9 carry out the program (Finding No. 9). The Board also found
10 that the proposed local air pollution control program had
11 been adopted into local law and included the necessary provi-
12 sions for enforcement by administrative and judicial process
13 (Finding No. 10). The Board reaffirms the appropriateness of
14 these findings, as they relate to the local program, as
15 amended.

16 9. The local laws and ordinances which comprise the
17 local air pollution control program administered by LCC, and
18 as proposed to be amended by the application in this proceed-
19 ing, are contained in Exhibit B to this Order. The Board
20 finds that these local laws and ordinances, as amended, are
21 compatible with, more stringent, or more extensive than the
22 corresponding requirements under the Montana Clean Air Act,
23 Title 75, Chapter 2, MCA, and regulations adopted by the
24 Board thereunder.

25 10. There are two sources within the boundaries of the
26 proposed Air Pollution Control District and Impact Zone whose
27 operations will be subject to partial regulation under the

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1 proposed program. These sources include the following: the
2 sawmill and plywood plant located at Highway 2 South, Libby,
3 currently doing business as Champion International Corpora-
4 tion; and the sawmill located one mile west of Libby, cur-
5 rently doing business as Louisiana Pacific Corporation. As to
6 these sources, the Board finds that aside from the partial
7 regulation of discrete activities at these sources (log
8 yards, solid fuel burning devices, and open burning) by the
9 local program, the complexity and magnitude of these sources
10 is otherwise beyond the reasonable capability of the program,
11 and their control may be more efficiently and economically
12 performed at the state level.

13 11. The Board finds that, as amended by this applica-
14 tion, LCC is only seeking authority to operate a local air
15 pollution control program which regulates certain defined
16 activities (concerning roads, parking lots, log yards, solid
17 fuel burning and open burning) in discrete geographical areas
18 (the Air Pollution Control District and Impact Zone). In
19 addition to these limits implicit in the application (Exhibit
20 B), LCC is expressly not seeking authority to regulate any
21 stationary source which is subject to regulation by the Dep-
22 artment under ARM 16.8.1102, with the following exceptions:

- 23 a. solid fuel burning devices (as defined in
24 the local program) located at a stationary source
25 within the boundaries of the Air Pollution Control
26 District shall be subject to such program;
27 b. fugitive dust emissions from sawmill log

1 yards within the boundaries of the Air Pollution
2 Control District shall be subject to such program;
3 and

4 c. open burning located at a stationary
5 source within the Impact Zone shall be subject to
6 the local program.

7 12. The Department should assume and retain control
8 over any source regulated by the Montana Clean Air Act, Title
9 75, Chapter 2, MCA, for which LCC has not provided by ordi-
10 nance or local law for requirements which are at least com-
11 patible with those imposed by the Montana Clean Air Act or
12 regulations adopted thereunder.

13 13. The Board finds that, as part of the requisite
14 degree of authority necessary to administer its proposed
15 local air pollution control program, it is appropriate for
16 LCC to be responsible for emergency powers as provided in
17 Section 75-2-402, MCA, in regard to those sources and activi-
18 ties governed by the local air pollution control program, as
19 amended. The Department shall retain such emergency powers
20 over all other sources.

21

22 Conclusions of Law

23 1. Proper notice and an opportunity to participate in
24 this proceeding has been provided to both the Department and
25 LCC, and the public. Title 2, Chapters 3 and 4, MCA.

26 2. The local air pollution control program adminis-
27 tered by LCC, and as amended by the application in this pro-

1 ceeding, meets the requirements set forth by statute for
2 approval by the Board. Section 75-2-301, MCA.

3 3. The Department should assume and retain control
4 over any source regulated by the Montana Clean Air Act, Title
5 75, Chapter 2, MCA, for which LCC has not provided by ordi-
6 nance or local law for requirements which are at least com-
7 patible with those imposed by the Montana Clean Air Act or
8 regulations adopted thereunder.

9 4. Pursuant to statute, and except for the emergency
10 powers provided for in Section 75-2-402, MCA, the Board may
11 not delegate to LCC the authority to control the following
12 sources of air contaminants: those that require the prepara-
13 tion of an environmental impact statement pursuant to Title
14 75, Chapter 1, Part 2, MCA; those that are subject to regu-
15 lation under the Montana Major Facility Siting Act, Title 75,
16 Chapter 20, MCA; those that have the potential to emit 250
17 tons per year or more of any pollutant subject to regulation
18 under the Montana Clean Air Act, Title 75, Chapter 2, MCA,
19 including fugitive emissions, unless the authority to control
20 the source was delegated to LCC prior to January 1, 1991.
21 Section 75-2-301(4), MCA.

22 5. The Board may not delegate to LCC the authority to
23 control those sources whose complexity and magnitude is be-
24 yond the reasonable capability of LCC, or the control of
25 which may be more efficiently and economically performed at
26 the state level. Section 75-2-301(9), MCA.

27 6. The Findings of Fact contained in this Order are

1 hereby adopted as Conclusions of Law.

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Order

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1. The Board approves the local air pollution control program currently being administered jointly by the City of Libby and the County of Lincoln, as amended by the application in this proceeding.

2. The Board directs the Department of Health and Environmental Sciences to assume and retain control over those sources of air contaminants listed in Section 75-2-301(4), MCA.

3. Except for log yard operations, open burning (in the Impact Zone) and any solid fuel burning device (as defined in the local program), which are regulated by the approved local program, as amended, the Department should assume and retain full control of the following sources: the sawmill and plywood plant located at Highway 2 South, Libby, currently doing business as Champion International Corporation; and the sawmill located one mile west of Libby, currently doing business as Louisiana Pacific Corporation.

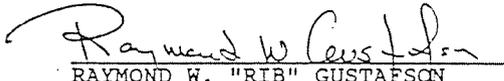
4. The Board directs the Department of Health and Environmental Sciences to assume and retain control over any source regulated by the Montana Clean Air Act, Title 75, Chapter 2, MCA, for which LCC has not provided by ordinance or local law for requirements which are at least compatible with those imposed by the Montana Clean Air Act or regulations adopted thereunder.

1 5. The Board directs the Department of Health and
2 Environmental Sciences to assume and retain control over
3 those sources of air contaminants which are not intended to
4 be covered by the approved local air pollution control pro-
5 gram, as amended and as described in Paragraph 11 of the
6 Findings of Fact herein.

7 6. The Board orders that the LCC shall be responsible
8 for emergency powers as provided in Section 75-2-402, MCA, in
9 regard to those sources and activities governed by the ap-
10 proved local air pollution control program, as amended. The
11 Department shall retain such emergency powers over all other
12 sources.

13 DATED this 19 day of March, 1993.

14 BOARD OF HEALTH AND
15 ENVIRONMENTAL SCIENCES

16 
17 RAYMOND W. "RIB" GUSTAFSON
18 Chairman