

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the Matter of the Application)
of the City of Libby and the)
County of Lincoln for Approval) STIPULATION
of its Local Air Pollution)
Control Program)

This Stipulation is made and entered into by and between the City of Libby and the County of Lincoln (jointly referred to as LCC), and the Montana Department of Health and Environmental Sciences (Department). Accordingly, the parties submit this Stipulation to the Board of Health and Environmental Sciences (Board) for its review and approval, and consideration as part of the application of LCC for approval of its local air pollution control program.

1. Section 75-2-301, MCA, provides for the establishment of local air pollution control programs.

2. On October 17, 1990, and after a public hearing, the Lincoln County Commission adopted regulations to implement a local air pollution control program. On November 5, 1991, the Libby City Council conducted a public hearing and adopted regulations to implement a local air pollution control program. The regulations adopted by the City and County are identical.

3. On August 14, 1991, and upon proper public notice,

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1 the Libby City Council and the Lincoln County Commission
2 conducted a joint public hearing on the regulations described
3 above in Paragraph 2. At the conclusion of the hearing, the
4 City and County reaffirmed the adoption of the above-
5 mentioned regulations, and approved the creation of a local
6 air pollution control program.

7 4. The local air pollution control program adopted by
8 the LCC encompasses the County of Lincoln including the City
9 of Libby (excluding the municipalities of Eureka, Rexford and
10 Troy), and contains requirements for the control of PM-10
11 emissions from both fugitive dust (from roads, parking lots
12 and log yards), and wood combustion (from solid fuel burning
13 devices and prescribed open burning). Those sections of the
14 program which regulate PM-10 emissions from solid fuel burn-
15 ing (Regulation 2) and fugitive dust from roads, parking lots
16 and sawmill log yards (Regulations 3, 4, 5 and 6) only apply
17 to a discrete area within Lincoln County, defined as an Air
18 Pollution Control District (District). A map and legal des-
19 cription of the area included in the proposed District is
20 attached as Exhibit A and by this reference is incorporated
21 into this Stipulation. That section of the proposed program
22 which regulates PM-10 emissions from prescribed open burning
23 (Regulation 7) only applies to a discrete area within Lincoln
24 County defined as an Impact Zone. A map and legal descrip-
25 tion of the area included in the proposed Impact Zone is

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1 attached as Exhibit B and by this reference is incorporated
2 into this Stipulation.

3 5. LCC has filed an application with the Board, seek-
4 ing approval of its proposed local air pollution control pro-
5 gram, pursuant to Section 75-2-301, MCA. The Department has
6 engaged in a thorough review of the application submittal,
7 and several meetings have been held between the Department
8 and LCC.

9 6. Based upon the Department's review of the proposed
10 Lincoln County Air Pollution Control Program, the parties to
11 this Stipulation agree as follows:

12 a. the location, character and extent of partic-
13 ular concentrations of population and air contaminant
14 sources, and the geographic, topographic and meteorolo-
15 gical considerations involved, and combinations of the
16 foregoing, are such as to make impracticable the mainte-
17 nance of appropriate levels of air quality without an
18 air pollution program such as that proposed by the LCC
19 application;

20 b. a local air pollution control program which
21 includes the boundaries proposed in the LCC application
22 is an acceptable alternative to direct state administra-
23 tion;

24 c. the proposed local air pollution control pro-
25 gram provides for administrative organization, staff,

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STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Lincoln County
Air Quality Control
Program

1 financial and other resources necessary to effectively
2 and efficiently carry out the program;

3 d. the proposed local air pollution control pro-
4 gram has been adopted into local law and includes the
5 necessary provisions for enforcement by administrative
6 and judicial process;

7 e. the local regulations constituting the pro-
8 posed local air pollution control program which is the
9 subject of this proceeding, are compatible with, more
10 stringent, or more extensive than the corresponding
11 requirements under the Montana Clean Air Act, Title 75,
12 Chapter 2, MCA, and regulations adopted by the Board
13 thereunder.

14 7. The parties recognize and agree that as to any
15 source which is regulated under the Montana Clean Air Act,
16 Title 75, Chapter 2, MCA, if LCC has not provided by ordi-
17 nance or local law for requirements compatible with, more
18 stringent than, or more extensive than those imposed by the
19 Board concerning that source, then regulation of that source
20 should be retained for the Department.

21 8. There are two sources within the boundaries of the
22 proposed Air Pollution Control District and Impact Zone whose
23 operations will be subject to partial regulation under the
24 proposed program. These sources include the following: the
25 sawmill and plywood plant located at Highway 2 South, Libby,

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1 currently doing business as Champion International Corpora-
2 tion; and the sawmill located one mile west of Libby, cur-
3 rently doing business as Louisiana-Pacific Corporation. As
4 to these sources, the parties to this Stipulation agree that
5 aside from the partial regulation of discrete activities at
6 these sources (log yards, solid fuel burning devices, and
7 prescribed open burning) by the proposed local program, the
8 complexity and magnitude of these sources is otherwise beyond
9 the reasonable capability of the proposed program, and their
10 control may be more efficiently and economically performed at
11 the state level. Accordingly, the parties further agree that
12 the Department should assume and retain full control of these
13 sources, with the exception of log yard operations, pre-
14 scribed open burning (in the Impact Zone) and any solid fuel
15 burning devices (as defined in the local program), which will
16 be regulated by the proposed local air pollution control
17 program.

18 9. Further, under Section 75-2-301(4), MCA, there are
19 several types of sources for which the Board may not delegate
20 regulatory authority to LCC. The parties to this Stipula-
21 tion agree that the Department should assume and retain full
22 control of these sources.

23 10. As described above, LCC is only seeking authority
24 to operate a local air pollution control program which regu-
25 lates certain defined activities (concerning roads, parking

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1 lots, log yards, solid fuel burning and prescribed open burn-
2 ing) in discrete geographical areas (the proposed Air Pollu-
3 tion Control District and Impact Zone). In addition to these
4 limits implicit in the application, LCC is expressly not
5 seeking authority to regulate any stationary source which is
6 subject to regulation by the Department under ARM 16.8.1102,
7 with the following exceptions:

8 a. solid fuel burning devices (as defined in
9 the proposed local program) located at a stationary
10 source within the boundaries of the Air Pollution
11 Control District shall be subject to such program;
12 and

13 b. fugitive dust emissions from sawmill log
14 yards within the boundaries of the Air Pollution
15 Control District shall be subject to such program.

16 c. prescribed open burning located at a station-
17 ary source within the Impact Zone shall be subject to
18 such program.

19 11. The parties to this Stipulation agree that LCC
20 shall be responsible for emergency powers as provided in
21 Section 75-2-402, MCA, in regard to those sources and
22 activities governed by the proposed air pollution control
23 program, and the Department shall retain such emergency
24 powers over all other sources.
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LINCOLN COUNTY

MONTANA DEPARTMENT OF
HEALTH AND ENVIRONMENTAL
SCIENCES

BY: L. G. Dolezal
LARRY DOLEZAL, Chairman
Lincoln Co. Commissioners

BY: Dennis Iverson
DENNIS IVERSON
Director

DATE: 10/2/91

DATE: 10/7/91

CITY OF LIBBY

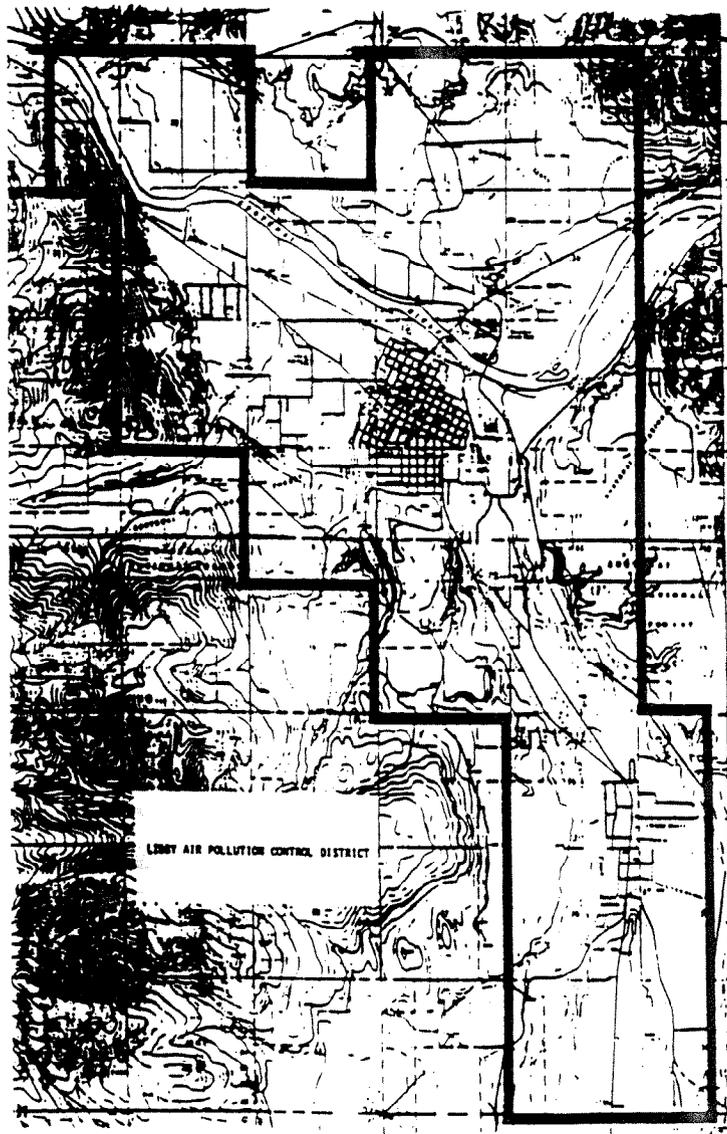
BY: Fred Brown
Fred Brown, Mayor

DATE: Oct 1 1991

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Exhibit A

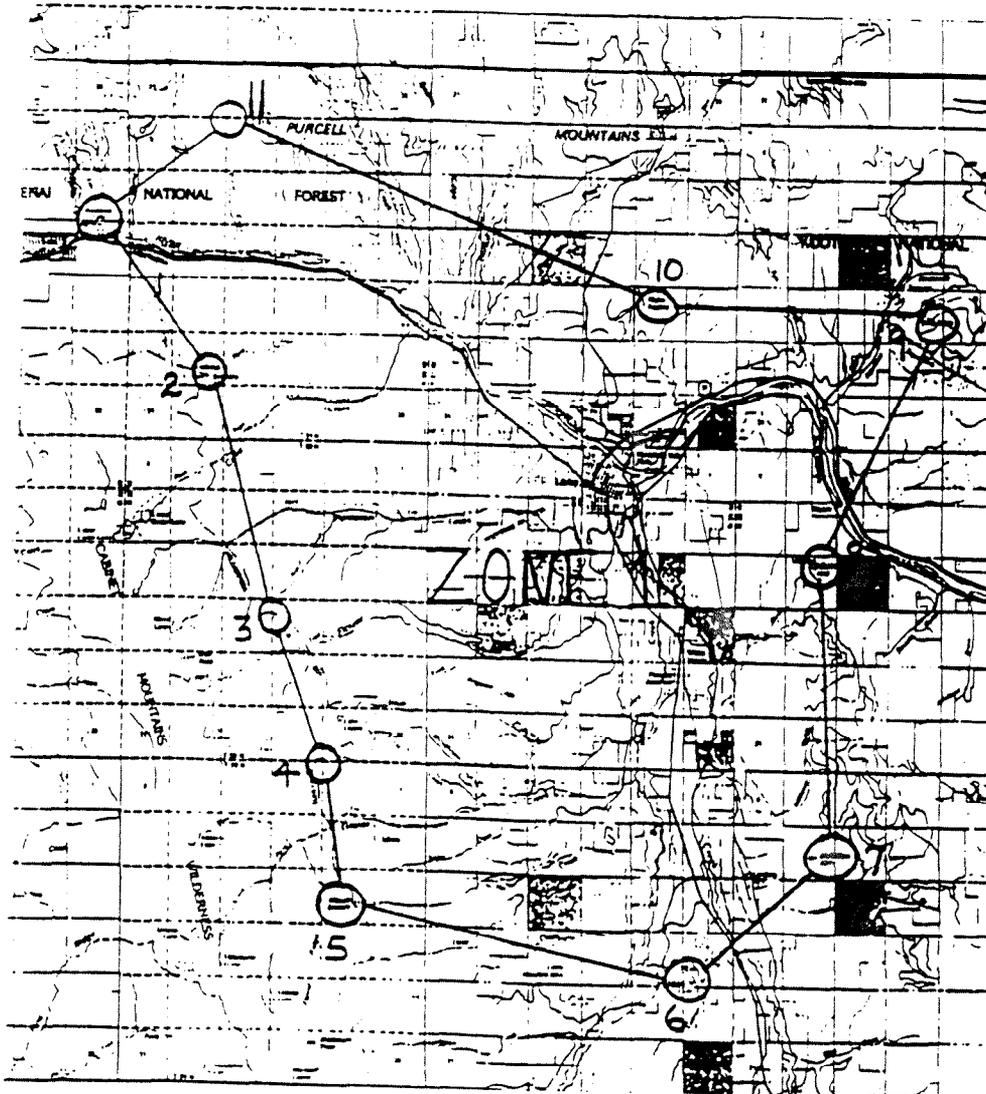


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Exhibit B

IMPACT AREA



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