

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Lincoln County
Air Quality Control
Program

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

3 -----
4 In the Matter of the Application)
5 of the City of Libby and the) FINDINGS OF FACT,
6 County of Lincoln for Approval of) CONCLUSIONS OF LAW
7 Amendments to the Local Air) AND ORDER
8 Pollution Control Program)
9 -----

6 BACKGROUND

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8 1. The City of Libby and County of Lincoln (hereinaf-
9 ter "Libby") have filed an application with the Board of
10 Health and Environmental Sciences ("Board") seeking approval,
11 pursuant to Section 75-2-301, MCA, of amendments to Libby's
12 air pollution control program.

13 2. Pursuant to public notice, and on December 16,
14 1994, at its meeting in Billings, Montana, the Board conduct-
15 ed a hearing on the application to amend the Libby air pollu-
16 tion control program. At the hearing, an opportunity was
17 provided for all interested parties to present testimony and
18 evidence on the application. Based upon the record of this
19 proceeding, the Board enters the following Findings of Facts,
20 Conclusions of Law, and Order.

21 FINDINGS OF FACT

22
23 3. On November 15, 1991, and pursuant to Section 75-2-
24 301, MCA, the Board approved a local air pollution control
25 program to be administered by Libby. In the application that
26 is the subject of this proceeding, Libby is seeking approval
27 from the Board of amendments to that program. The amendments
relate to contingency measures that will go into effect only
upon notification by EPA or the State that Libby has failed

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1 to attain the PM-10 standard by December 31, 1994 or to main-
2 tain the standard after that date.

3 4. A copy of the amendments that are the subject of
4 this proceeding is attached to this Order as Exhibit A and by
5 this reference is incorporated herein. Specifically, the
6 amendments consist of the addition of Section 75.1.103, "Se-
7 lection and Implementation of Contingency Measure Programs",
8 to Libby's air pollution control program.

9 5. The amendments are summarized as follows: in the
10 event that Libby fails to attain or to maintain the PM-10
11 standard, one of the following contingency measures will
12 automatically take effect:

13 a. If residential woodburning is found to be a
14 significant contributor to a PM-10 violation then all
15 woodburning devices in use between October 1 and March
31 must operate with a Class I, Class II, Low Income
Exemption, or Sole Source permit.

16 b. If reentrained road dust is found to be a
17 significant contributor to a PM-10 violation then the
18 area of road sanding, sweeping, and liquid de-icing will
be extended to the boundaries of the Air Pollution Con-
trol District.

19 c. If industrial sources are found to be a sig-
20 nificant contributor to a PM-10 violation then measures
21 reducing the identified source's emissions will be ini-
tiated by the Department of Health and Environmental
Sciences.

22 6. The amendments to the Libby air pollution control
23 program were publicly heard and adopted on the following
24 dates:

25 Libby City Council First Reading: 9/13/94
26 Libby City Council Final Reading: 10/3/94
27 Lincoln County Commissioners First Reading: 9/7/94

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1 Lincoln County Commissioners Final Reading: 10/19/94
2 Public Hearing Hearing Date: 10/12/94
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4 7. In previous Orders concerning the Libby air pollu-
5 tion control program, the Board has found that the location,
6 character, and extent of particular concentrations of popula-
7 tion and air contaminant sources, and the geographic, topo-
8 graphic and meteorological considerations involved, and com-
9 binations of the foregoing, were such as to make impracti-
10 cable the maintenance of appropriate levels of air quality
11 without a local air pollution control program such as that
12 administered by the local government. The Board reaffirms
13 the appropriateness of these findings, as they relate to the
14 Libby air pollution control program, as amended.

15 8. In previous Orders concerning the Libby air pollu-
16 tion control program, the Board has found that the program
17 provided for administrative organization, staff, financial
18 and other resources necessary to effectively and efficiently
19 carry out the program. The Board reaffirms the appropriate-
20 ness of these findings as they relate to the Libby air pollu-
21 tion control program, as amended.

22 9. In previous Orders concerning the Libby air pollu-
23 tion control program, the Board has found that the program
24 included the necessary provisions for enforcement by adminis-
25 trative and judicial processes. The Board reaffirms the
26 appropriateness of these findings as they relate to the Libby
27 air pollution control program, as amended.

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1 10. The Board finds that the amendments contained in
2 Exhibit A are compatible with, more stringent, or more exten-
3 sive than the corresponding requirements under the Montana
4 Clean Air Act, Title 75, Chapter 2, MCA, and regulations
5 adopted thereunder.

6 11. Implementation of the Libby air pollution control
7 program, as amended, is not intended to interfere with the
8 retention of jurisdiction by the Department over certain
9 sources located within the boundary of the Libby air pollu-
10 tion control district, as required by the Board's Order of
11 March 19, 1993.

12 12. The Department should assume and retain control
13 over any source regulated by the Montana Clean Air Act, Title
14 75, Chapter 2, MCA, for which Libby has not provided by ordi-
15 nance or local law for requirements which are compatible
16 with, more stringent, or more extensive than those imposed by
17 the Montana Clean Air Act or regulations adopted thereunder.

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

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CONCLUSIONS OF LAW

1. Proper notice and an opportunity to participate in this proceeding has been provided to all interested parties. Title 2, Chapters 3 and 4, MCA.

2. The Libby air pollution control program, including the amendments that are the subject of this application, meets the requirements set forth by statute for approval by the Board. Section 75-2-301, MCA.

3. The Department should assume and retain control over any source regulated by the Montana Clean Air Act, Title 75, Chapter 2, MCA, for which Libby has not provided by ordinance or local law for requirements which are compatible with, more stringent than, or more extensive than those imposed by the Montana Clean Air Act or regulations adopted thereunder.

4. Pursuant to Section 75-2-301(4), MCA, and except for the emergency powers provided for in Section 75-2-402, MCA, the Board may not delegate to Libby the authority to control the following sources of air contaminants: those that require the preparation of an environmental impact statement pursuant to Title 75, Chapter 1, Part 2, MCA; those that are subject to regulation under the Montana Major Facility Siting Act, Title 75, Chapter 20, MCA; and those that have the potential to emit 250 tons per year or more of any pollutant subject to regulation under the Montana Clean Air Act, Title 75, Chapter 2, MCA, including fugitive emissions, unless the

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1 authority to control the source was delegated to Libby prior
2 to January 1, 1991.

3 5. If the Board finds that the control of a particular
4 air pollutant source, because of its complexity or magnitude,
5 is beyond the reasonable capability of Libby or may be more
6 efficiently and economically performed at the state level,
7 the Board may direct the Department to assume and retain
8 control over that air pollutant source. Section 75-2-301(9),
9 MCA.

10 6. The Findings of Fact contained in this Order are
11 hereby adopted as Conclusions of Law.

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13 ORDER

14 1. The Board approves the Libby air pollution control
15 program, as amended by the application in this proceeding.

16 2. The Board directs the Department of Health and
17 Environmental Sciences to assume and retain control over
18 those sources of air contaminants listed in Section
19 75-2-301(4), MCA.

20 3. Approval herein by the Board of the amendments to
21 the Libby air pollution control program does not interfere
22 with the retention of jurisdiction by the Department over
23 certain sources located within the boundary of the Libby air
24 pollution control district, as required by the Board's Order
25 of March 19, 1993.

26 4. The Board directs the Department of Health and
27 Environmental Sciences to assume and retain control over any

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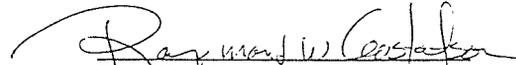
1 source regulated by the Montana Clean Air Act, Title 75,
2 Chapter 2, MCA, for which Libby has not provided by ordinance
3 or local law for requirements which are compatible with, more
4 stringent than, or more extensive than those imposed by the
5 Montana Clean Air Act or regulations adopted thereunder.

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

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DATED this 16 day of December, 1994.

BOARD OF HEALTH AND
ENVIRONMENTAL SCIENCES


RAYMOND W. "RIB" GUSTAFSON
Chairman