

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Lincoln County
Air Quality Control
Program

REVISED

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)
6 County of Lincoln for Approval) STIPULATION
7 of Amendments to their Local Air)
8 Pollution Control Program)
9 -----

10 This Stipulation is made and entered into by and between
11 the City of Libby and the County of Lincoln (jointly referred
12 to as LCC), and the Montana Department of Health and Environ-
13 mental Sciences (Department). Accordingly, the parties submit
14 this Stipulation to the Board of Health and Environmental
15 Sciences (Board) for its review and approval, and consider-
16 ation as part of the application of LCC for approval of
17 amendments to its local air pollution control program.

18 1. Section 75-2-301, MCA, provides for the establish-
19 ment of local air pollution control programs. Pursuant to
20 this section, the Board approved a local air pollution con-
21 trol program to be administered by the City of Libby and
22 County of Lincoln on November 15, 1991. LCC has filed an
23 application with the Board, seeking approval of substantial
24 amendments to its local air pollution control program relat-
25 ing to solid fuel burning devices, road dust control and open
26 burning. The Department has engaged in a thorough review of
27 the application submittal, and several meetings have been
held between the Department and LCC.

(STIPULATION)

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

7 3. On January 6, 1993, and after a public hearing, the
8 Lincoln County Commission adopted the regulations and ordi-
9 nances described above in Paragraph No. 2. On February 1,
10 1993, the Libby City Council conducted a public hearing and
11 adopted the regulations and ordinances described above in
12 Paragraph No. 2. The regulations adopted by the City and
13 County are identical.

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

3 5. In its Order of November 15, 1991, the Board deter-
4 mined that the location, character and extent of particular
5 concentrations of population and air contaminant sources, and
6 the geographic, topographic and meteorological considerations
7 involved, and combinations of the foregoing, were such as to
8 make impracticable the maintenance of appropriate levels of
9 air quality without an air pollution program such as that
10 proposed by the LCC application (Finding No. 7). The Board
11 also found that a local air pollution control program which
12 included the boundaries proposed by the LCC application was
13 an acceptable alternative to direct state administration
14 (Finding No. 8). The parties to this Stipulation reaffirm
15 the appropriateness of these findings, as they apply to this
16 proceeding.

17 6. In its Order of November 15, 1991, the Board found
18 that the local air pollution control program proposed by LCC
19 provided for administrative organization, staff, financial
20 and other resources necessary to effectively and efficiently
21 carry out the program (Finding No. 9). The Board also found
22 that the proposed local air pollution control program had
23 been adopted into local law and included the necessary provi-
24 sions for enforcement by administrative and judicial process
25 (Finding No. 10). The parties reaffirm the appropriateness
26 of these findings, as they apply to this proceeding.

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1 7. The local laws and ordinances which comprise the
2 local air pollution control program administered by the LCC,
3 and as proposed to be amended by the application which is the
4 subject of this proceeding, are compatible with, more strin-
5 gent, or more extensive than the corresponding requirements
6 under the Montana Clean Air Act, Title 75, Chapter 2, MCA,
7 and regulations adopted by the Board thereunder. However,
8 the parties recognize and agree that as to any source which
9 is regulated under the Montana Clean Air Act, Title 75, Chap-
10 ter 2, MCA, if the LCC has not provided by ordinance or local
11 law for requirements compatible with, more stringent than, or
12 more extensive than those imposed by the Board concerning
13 that source, then regulation of that source should be re-
14 tained for the Department.

15 8. There are two sources within the boundaries of the
16 proposed Air Pollution Control District and Impact Zone whose
17 operations will be subject to partial regulation under the
18 proposed program. These sources include the following: the
19 sawmill and plywood plant located at Highway 2 South, Libby,
20 currently doing business as Champion International Corpora-
21 tion; and the sawmill located one mile west of Libby, cur-
22 rently doing business as Louisiana Pacific Corporation. As to
23 these sources, the parties to this Stipulation agree that
24 aside from the partial regulation of discrete activities at
25 these sources (log yards, solid fuel burning devices, and
26 open burning) by the proposed local program, the complexity
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1 and magnitude of these sources is otherwise beyond the rea-
2 sonable capability of the proposed program, and their control
3 may be more efficiently and economically performed at the
4 state level. Accordingly, the parties further agree that the
5 Department should assume and retain full control of these
6 sources, with the exception of log yard operations, open
7 burning (in the Impact Zone) and any solid fuel burning de-
8 vices (as defined in the local program), which will be regu-
9 lated by the proposed local air pollution control program.

10 9. Further, under section 75-2-301(4), MCA, there are
11 several types of sources for which the Board may not delegate
12 regulatory authority to LCC. The parties to this Stipulation
13 agree that the Department should assume and retain full con-
14 trol of these sources.

15 10. As described above, and as amended, LCC is only
16 seeking authority to operate a local air pollution control
17 program which regulates certain defined activities (concern-
18 ing roads, parking lots, log yards, solid fuel burning and
19 open burning) in discrete geographical areas (the Air Pollu-
20 tion Control District and Impact Zone). In addition to these
21 limits implicit in the application, LCC is expressly not
22 seeking authority to regulate any stationary source which is
23 subject to regulation by the Department under ARM 16.8.1102,
24 with the following exceptions:

25 a. solid fuel burning devices (as defined in
26 the local program) located at a stationary source

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1 within the boundaries of the Air Pollution Control
 2 District shall be subject to such program; and
 3 b. fugitive dust emissions from sawmill log
 4 yards within the boundaries of the Air Pollution
 5 Control District shall be subject to such program.
 6 11. The parties to this Stipulation agree that LCC
 7 shall be responsible for emergency powers as provided in
 8 Section 75-2-402, MCA, in regard to the operation of solid
 9 fuel burning devices (as defined in the proposed local pro-
 10 gram) within the area governed by the proposed Air Pollution
 11 Control District, and the Department shall retain such emer-
 12 gency powers over all other sources.

14 LINCOLN COUNTY
 15
 16 BY *Paul Miller* 3.
 Chairman
 Lincoln County Commissioners
 18 BY *L. B.*
 Mayor
 20 DATE 3-17-1993

MONTANA DEPARTMENT OF
 HEALTH AND ENVIRONMENTAL
 SCIENCES
 BY *Robert J. Robinson*
 Robert J. Robinson
 Director
 DATE 3/18/93

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