



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

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

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-

STATE OF MONTANA  
AIR QUALITY CONTROL  
IMPLEMENTATION PLAN

Subject: Lincoln County  
Air Quality Control  
Program

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.

2

3

Order

4 1. The Board approves the local air pollution control  
5 program currently being administered jointly by the City of  
6 Libby and the County of Lincoln, as amended by the applica-  
7 tion in this proceeding.

8 2. The Board directs the Department of Health and  
9 Environmental Sciences to assume and retain control over  
10 those sources of air contaminants listed in Section  
11 75-2-301(4), MCA.

12 3. Except for log yard operations, open burning (in  
13 the Impact Zone) and any solid fuel burning device (as de-  
14 fined in the local program), which are regulated by the ap-  
15 proved local program, as amended, the Department should as-  
16 sume and retain full control of the following sources: the  
17 sawmill and plywood plant located at Highway 2 South, Libby,  
18 currently doing business as Champion International Corpora-  
19 tion; and the sawmill located one mile west of Libby, cur-  
20 rently doing business as Louisiana Pacific Corporation.

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

STATE OF MONTANA  
AIR QUALITY CONTROL  
IMPLEMENTATION PLAN

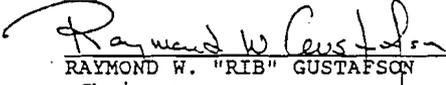
Subject: Lincoln County  
Air Quality Control  
Program

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