

DRAFT ENVIRONMENTAL ASSESSMENT FOR W.R. GRACE VERMICULITE MINE CLOSURE PLAN NEAR LIBBY, MT pdf

1: EPA: Asbestos Is Not a Threat to Residents of Libby, Montana

Full text of "Draft environmental assessment for W.R. Grace vermiculite mine closure plan near Libby, MT: operating permit " See other formats MONTANA STATE This "cover" page added by the Internet Archive for formatting purposes

Farner suggests contacting a private insurance carrier. There is no compensation in the State for occupational disease at this time State visits site to discuss purpose of Industrial Hygiene Division March Plant shut down for remodeling. Company plans to install dust collection system in future December 9: State Board of Health conducts inspection of mine relating to occupational health State issues occupational health report Air and CO samples collected at mill and load out station Results: Universal Zonolite completes installation of dust control equipment: Concentration of dust in the air vary Concentration in relation to free silica are not excessive although the concentration of nuisance dust in the dry milling process exceeds the Recommendation will follow when concentration of the fibers is known. Report recommends improvements of the ventilation system and mandate use of respirators in the dry milling process. Report from Department of Health, Ed and Welfare, UT from Dohrman Byers concerning samples analysis of dust collected during Wake study Do not have a reliable method to determine asbestos in samples -- if company will cooperate and control the dust the asbestosis and silicosis hazard would certainly be minimal Wake reiterates concern that the asbestos in the dust would be higher than comparing asbestos content in the ore and requests additional information when available Ben Wake requests that Mr. Byers analyze three sputum samples from three men exposed to asbestos dust No response in file Ben Wake conducts study at Zonolite Company: Clark Cooper, Occupational Health-Dept. H, Ed and W in Washington, D. Yes Type of asbestos: Tremolite Percent of asbestos fibers in air-borne dust samples submitted: Noted improvement in ventilation system are counteracted by poor house keeping Recommendations: Grace submits construction permit application for sources of air pollution Dust collector for bagging facility in town W. Grace issued Mine operating permit 10 Department of State Lands conducts inspection to review controls to correct silt problem in Rainy Creek W. Grace submits application to install air pollution control equipment to comply with applicable air pollution regulations Clean Air Act: Asbestos Regulations adopted Federal Regulations focus: Demolition and Renovation Asbestos as a commercial product W. Grace Zonolite plant discussed changes being implemented Robert T. Hill inspector No dry grinding of ore Ore concentration is wet and final screening is totally enclosed Asbestos is supposedly removed by the concentration process and should not be a problem in the product Asbestos survey: Average concentration in the mill and screen plant are below the TLV of 5. Grace site July 1st: Grace receives approval to expand mine site to Grace requests Air Quality permit change Present sources have been covered by permits to construct requests converting to operating permits 8 permits issued between DSL conducts mine site inspection Corps of Engineers conducts inspection EPA Interim Final Report prepared under contract by Versar Inc. Grace Source operation conditions during inspection are in compliance for visible emissions and opacity limits April 20th Status report prepared by EPA epidemiology study of past and present workers-Report is to be considered incomplete Facts noted in report performed by W. Grace Medical Surveillance program.

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2: Montana DEQ > DEQAdmin > dir > libby > wrgracetimeline

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Asbestos Property Damage Claim Capitalization and bold in original. The Notice also described the consequences for not filing a proof of claim: Thus, the definition of Asbestos PD Claims was broad and the consequences of not filing a proof of claim severe. The definition included claims for the cost of removing asbestos containing material as well as indirect claims for economic loss and loss in property value. This is a core proceeding pursuant to 28 U. When Grace filed for bankruptcy, there was heavy publicizing, including a number of Libby-related lawsuits. One of the lawsuits was a class action which included Plum Creek in the class. The suit sought remediation and damages. In the midst of the EPA activity on its timberland, Plum Creek adopted a "precautionary approach" to its commercial activities in potentially affected areas in Libby. The closure prevented Plum Creek from reaching its timber. Plum Creek produced the "Grace Risk Assessment," a series of documents that included mapping and sampling. The "Grace Risk Assessment" took place by November. In late , Plum Creek approached the EPA to determine whether it was dangerous to human health to continue logging in the area or if there were recommended sampling strategies. The claim asserted environmental contamination at the Superfund site in Libby, along with others. Plum Creek then determined that it should file the claim and submitted an amended proof of claim on June 30, Pursuant to the Tolling Agreement Order, all related matters were tolled until the effective date of the Plan "at which point Plum Creek could re-file the Motion in the Bankruptcy Court or seek other appropriate relief. Plum Creek argues that it did not receive notice to satisfy due process because there was not scientific certainty as to whether vermiculite could be absorbed into tree bark in its timberlands. Alternatively, Plum Creek argues that its failure to file a timely claim is the result of excusable neglect. There are certain legal truths about notice. First, a known creditor must receive actual notice, but an unknown creditor is entitled to notice by publication. A "known" creditor is known or reasonably ascertainable; and an "unknown" creditor has conjectural or future interests and its identity does not come to the knowledge of the debtors. Pope, , U. As previously mentioned, the Asbestos PD Claims include claims that relate to "diminution of property value, environmental damage, economic loss and property damage" which resulted from asbestos products or from vermiculite which Debtors mined, milled or processed. First, the claimant files a proof of claim addressing factors that relate to discharge. The claimant must then provide information. If Grace believes the claim was discharged, it must file a motion to enforce the discharge. If the Court then finds the claim was not discharged, the claimant may prosecute the claim against the PD Trust post-effective date claim. If the Court finds the claim was not discharged, the claimant may prosecute the claim against the PD Trust. Notice to Plum Creek Plum Creek argues that it was not until the end of that it had knowledge that the contamination of its trees had occurred and that the contamination was hazardous to human health. The Court finds that Plum Creek received sufficient notice to satisfy due process concerns as well as the requirements in the Bankruptcy Rules. Plum Creek received actual notice. However, in arguing alternatively that Plum Creek was only entitled to publication notice, Grace correctly relies on a District Court case considering the same issue of notice required to an unknown creditor. In *PacifiCorp*, the District Court rejected attempts by current and former owners of a former Grace vermiculite processing site in Salt Lake City to file late claims less than two years after the Bar Date. Grace, WL D. The District Court found that the Debtors had no obligation to look beyond their books and records to determine the existence of creditors. Further, in addition to publication notice Plum Creek had actual notice of its claims. There is a presumption that an item properly addressed and mailed is timely received. See *In re Cendant Corp*. Plum Creek has not disputed its receipt of this notice. Plum Creek focuses its argument on the claim that it had no notice that it was even possible that asbestos could be incorporated

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into tree bark, implying that the scientific understanding of asbestos had not progressed far enough before the Bar Date. The email then goes on to establish a sampling procedure for bark. While sampling had yet to be conducted, Wolcott acknowledged the possibility that "[t]he worst scenario would be detection of large amounts of [vermiculite], which would likely preclude any logging. Plum Creek and others learned from the Bar Date Notice that claims relating to vermiculite were to be filed or lost. Scientific certainty is not the standard to determine whether a party had a claim. All of the foregoing weigh against Plum Creek and its claim. Plum Creek knew well before the Bar Date that there was a real, or at least a truly potential, problem with its timber and asbestos. Grace provided Plum Creek with both actual notice and publication notice of the Bar Date. It does not matter whether Plum Creek was a known or unknown creditor since Grace provided both actual notice and abundant and wide-spread publication notice of the Bar Date. Plum Creek was told prior to the Bar Date that there was the possibility that asbestos had been incorporated into the bark of the trees and that it was possible that due to such exposure future logging would be precluded. Importantly, Plum Creek does not dispute this, it simply argues that there was no scientific certainty that the property was contaminated or to what extent. Excusable Neglect Plum Creek argues for but cannot satisfy the requirements for excusable neglect. The Court must consider the totality of the circumstances. In re Orthopedic Bone Screw Prods. These circumstances include danger of prejudice to debtor, length of delay and its potential impact on judicial proceedings, reason for delay, including whether it was within reasonable control of movant, and whether the movant acted in good faith. Plum Creek lacks a legitimate reason for its delay in filing a claim and that is fatal to its attempt to assert excusable neglect. It is true that all factors must be considered and no one factor trumps the others. Yet, addressing fault in the delay is crucial in determining whether neglect was excusable as the Supreme Court held in Pioneer. Here, it is not clear why Plum Creek did not file a timely claim. The Bar Date Notice clearly stated that creditors with claims "no matter how remote or contingent" were required to file proofs of claim in order to preserve the claim. Yet, Plum Creek cannot credibly plead ignorance as it established the precautionary zone before the Bar Date, causing Plum Creek at least some loss from lacking access to its timber. Similar to this case, the claimants in PacifiCorp received scientific confirmation of Grace asbestos contamination of their property after the Bar Date. Although PacifiCorp was not yet governing law at the time Plum Creek should have filed its claim, its reasoning is still instructive here. Despite this notice, PacifiCorp delayed in filing its proof of claim until The District Court disallowed the late filed claim. This is the very same kind of public concern and news coverage that persisted in Libby for almost a decade prior to the Bar Date. The delay by Plum Creek in filing its proof of claim was unjustified. It is entirely possible that allowing Plum Creek to file a late claim would open the floodgates to other claims. The seven years are far more than other courts have allowed. A seven year delay is simply too long. Plum Creek had the facts from the EPA of the likelihood of asbestos contamination but failed to file a proof of claim. Debtors also gave notice that anyone with a claim, however remote or contingent, was required to file a proof of claim. Further, its failure to file timely proofs of claim in the Grace bankruptcy was not the result of excusable neglect. Accordingly, the Court will grant the Motion. Grace is directed to submit a form of Order on notice to Plum Creek. Objection of Plum Creek Timber Co. Declaration of Service of Craig A. Zink, dated June 21, Newspaper articles gathered in Exhibit L to the Motion. Motion of Plum Creek Timberlands, L. Objection, Exhibit C, Section 1.

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3: IN RE W.R. GRACE & CO. | B.R. () || www.enganchecubano.com

HELENA, MONTANA Responses to public and agency comments on the Draft Environmental Assessment for closure of the vermiculite mine near Libby, Montana This Final Environmental Assessment adopts the Draft Environmental Assessment (DEA) completed August 19, , for W. R. Grace & Company, Operating Permit

This FEA is for W. Thank you for your time and effort in working with the issues through the environmental analysis process. The following comments were received during a public meeting held September 3, , in Libby, Montana. The comments also include those received by phone or written comments sent to Department of State Lands. Comments were received from Lincoln County officials. Department of Health and Environmental Sciences, W. Fish from Rainy Creek smell like diesel or kerosene. The source is obviously the tailing impoundment. Several reagents chemicals were dumped in the impoundment along with the tailing. What can be accomplished to mitigate this problem? Grace site to detect effects of reagent use such as diesel. Diesel exists in the impoundment water and Total Hydrocarbon is currently monitored in area waters. Samples and analysis must be made to address levels of asbestiform minerals on and along the public road along Rainy Creek. Control measures must be implemented to insure minimal health risk exposure from vehicle use along the road. Lincoln County Commissioners are monitoring the road asbestos exposure levels with W. Based on the results of the monitoring program, DSL will take appropriate action on the section of Rainy Creek road in the permit area. Please see the Environmental Assessment page 13, 40, and Treated timbers, asphalt shingles, and diesel tanks have been buried in the tailing material. Is this a hazard and does it constitute a violation of the burying of hazardous waste? Disposal activity requires compliance with applicable laws in effect at the time of the disposal. However, mining is excluded because permitting already is in place for mining activities including disposal of solid wastes on site. The original permit, approved January 31, , allowed for solid waste disposal on site, " All applicable county, state and federal laws are being complied with. In these early years almost anything could be dumped as long as it complied with the permit statement above. Current waste disposal regulations Group II wastes are inert solids and decomposable waste but not hazardous wastes. Group III wastes are only inert solids. The waste disposal site at W. Grace compares to a Class III site. The Department has determined that iron and steel wastes and treated timbers from the mine and mill can also be deposited in that site. The site is situated where the potential for water pollution is minimized. If any effects to the water are recognized and can be associated with the solid waste disposal, the language in the original permit would allow for enforcement which may mean excavation of the site to remove the problem material. At present the Department has no indication that water quality problems have developed as a result of the waste disposal site. This has been complied with. Empty tanks and barrels have also been buried at the site and determined not to constitute a threat to water quality. Who is responsible for the mine property, including mine, roads and impoundment after closure? Grace is the responsible party as owner of the property. DSL will be involved until the mining company has received bond release for successful reclamation of all surface disturbances. This includes the section of Rainy Creek road that is in the permit boundary. Grace and any subsequent landowners to carry an operating permit because the impoundment and its associated flood routing structures are considered high hazard. See EA pages What are the stability and safety factor of the dam? Stability analysis of the dam was conducted under static no earthquake forces as well as seismic conditions. Factors of safety FS ranged from 1. These values are well within the parameters used by the US Army Corps of Engineers and the MT Department of Natural Resources for their dam analyses, where a safety factor cut-off for static analysis is 1. Grace conducted an assessment of the flood resulting from a rain-on-snow event. The PMF resulting from a hour rain-on-snow event in January preceded by a 3-day prestorm period of snowmelt produced a peak discharge of 3, cfs. The impoundment was found to safely pass the discharge from a 0. The proposed emergency spillway would provide additional flood routing capacity. Page 10 indicates W. Grace has applied to the Dam Safety Section for a hazard determination and classification. Grace does not

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have to complete this application but must turn in their Emergency Action Plan. Because the dam qualifies for a high hazard classification, the application and fee are unnecessary. Page 21 paragraph 2 does not state what erosion protection would be added to the emergency spillway. The third paragraph states that the spillway would be " Page 28 states, "Dams in a series are not considered to be good engineering practice. The basis for the statement is grounded In professional observation. The successful performance of a system of multiple engineered structures depends on the inter-action of the parts. The parts in themselves introduce more elements that may require repair, maintenance, and ultimately more cost. The proposed design minimizes upstream structures which reduce monitoring, costs and dependency on upstream dams. Page 32 states, "An earthquake. Hebgen Lake dam had a large fault displacement directly under it along with several overtoppings from the earthquake event. The dam suffered very little damage. The DSL recognizes that the word choice between "undoubtedly would" and "could" does change the intent of the sentence. The comment is so noted. The context of the paragraph in which this sentence appears however, is meant to inform the reader that the seismic response of the dam has implications for the Dam Safety Section of the DNRC and not for DSL as they will have oversight for repair and maintenance in the event of a structurally damaging earthquake. Page 32, same paragraph states, "The issue of seismicity and its effects on the closure plan have been dismissed by DSL The comment is correct. Page 44 - Flood Routing Alternatives and Environmental Consequences, discusses stability and seismicity. Page 32 should conclude that the issue of seismicity is resolved because stability can be demonstrated, not that it is dismissed. Page 37, second paragraph, states " The Foster report was for capacity of the entire facility for tailing and water. Grace report of acre feet is for water storage flood waters on top of the tailing. The DHES Solid and Hazardous Waste Bureau will consider the results of the air monitoring in determining whether additional dust abatement procedures will be required in the future. Wetlands should be considered as an alternative in the impoundment closure plan. Grace has proposed a wetland as part of the reclamation plan. The wetland will provide wildlife use for moose as well as waterfowl. DSL and DSS are concerned about keeping the wetland back from the embankment as far as possible because of the high hazard status. The wetland will encompass 20 acres. See page 18 of the EA. Public access for hunting and elk vulnerability should be addressed in the closure plan. Grace has shown a desire to respond to public concerns about wildlife. Grace and set up a cooperative elk and deer management plan for the mine area. DSL can modify the seed mix and reclamation requirements to address needs identified in the cooperative plan for wildlife. Erosion of the inlet channel, sedimentation from a high flow event, and Fleetwood Creek sedimentation and seepage should be addressed. Rainy Creek and Fleetwood Creek enter the impoundment area as high energy streams. Erosion and sedimentation will be minimal as the impoundment surface is a depositional environment as long as the outlet structure and emergency spillway remain intact. DSL believes that W.

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Final environmental assessment for W.R. Grace vermiculite mine closure plan near Libby, MT operating permit prepared by Department of State Lands, Hard Rock Bureau. Also Titled W.R. Grace vermiculite mine closure plan near Libby, MT.

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Jesus Birthday Big Book Journey into Motherhood Psychotherapy theories and techniques Retro/revolutionary: 1993-1998 Ultan Guilfoyle Problem-oriented policing and crime prevention Colorado, world mourn deaths at Columbine High Mark Obmascik Eastern Exposition of the Gospel of Jesus According to St. John Being an Interpretation Thereof The First Five Years of Marriage (Focus on the Family Books) Through the year with Michael Ramsey Reasoning Phil Johnson-Laird A pictures worth a thousand words Contagious laughter and the brain Piano sheet cool change Classic Fairytales Paying for Hospitals Dean Swifts library STAR TREK THE NEXT GENERATION KAHLESS Urdu, my love song Rasma Haidri Animals in danger Asia Correlation and Dependence The Screaming Skull and the Old Nurses Story Tales from the totems of the Hidery The silent traveller in London Polly Flinders party. Californias Fourteeners Stockton Springs vital records, 1857-1891 Rector Family Heritage Groundwater 2000 W Highlights in gastrointestinal oncology Pathways to recovery : bankers, business, and nationalism in Thailand Kevin Hewison. History of economic theory and method Confronting white privilege Dale Weiss Garretts Crossing Uncertain Demographics and Fiscal Sustainability Sports silhouettes The planet Earth (Todays world) Michael Faraday (Ganeri, Anita, What Would You Ask?) Guide to boundary water routes 26. The open door: Hollywoods public relations at home and abroad, 1922-1928 Ruth Vasey Expansive agency in multi-activity collaboration Katsuhiko Yamazumi