



**Notice of Intent to Perform a Natural Resource Damage Assessment
Pursuant to 43 C.F.R. § 11.32**

October 23, 2024

SENT VIA EMAIL AND CERTIFIED MAIL:

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**Re: The Libby Groundwater Contamination Site, National Priorities List
Comprehensive Environmental Response, Compensation, and Liability Act
(CERCLA) Site (Site)**

Potentially Responsible Party:

International Paper Company

Pursuant to state and federal laws, the State of Montana, through the Governor, (the Trustee) has trusteeship authority to perform a natural resource damage assessment (NRDA) for the Libby Groundwater Contamination National Priorities List Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Site (Site). The Trustee has made a preliminary determination that your company or entity is potentially liable for natural resource damages at the Site and intends to perform an NRDA at the Site.

Invite Participation in Development and Performance of the Assessment

By this notice, you are formally notified of your company or entity's opportunity to participate in the development of the type and scope of Assessment Plan(s) and subsequently in the performance of the assessment. This notice is your formal invitation to enter into a cooperative assessment agreement. The cooperative assessment approach provides several benefits to the potentially responsible party, trustees, and the public, such as increased efficiency, reduced

transaction costs, and a focus on restoration. The public will be encouraged to provide input into the assessment process, including reviewing and commenting on the development of the Assessment Plan(s), as well as any restoration proposals developed pursuant to the CERCLA Natural Resource Damage Assessment and Restoration (NRDAR) Regulations. Should your company decide to participate in a cooperative assessment, the process would be governed by a participation agreement negotiated with the Montana Natural Resource Damage Program (NRDP) working on behalf of the Trustee. Separate from whether your company participates in a cooperative agreement, NRDP will submit periodic invoices to International Paper Company for reimbursement of reasonable assessment costs.

Site Description:

The Site is located in and near Libby, Montana in Lincoln County. The Site is bounded to the north by the Kootenai River and the western portion of the Site is within Libby city limits. The Site was formerly operated as a wood-treatment facility from 1946 to 1969, and a lumber and plywood mill starting in 1985. Various chemicals were used in the wood-treatment operations, including creosote, pentachlorophenol (PCP), fuel oil, and carrier solvents.

NRDP has taken the initial step of preparing a Preassessment Screen for the Site in accordance with Subpart B – Preassessment Phase, §§ 11.20 – 11.25 of the CERCLA NRDAR Regulations, 43 C.F.R. Part 11, as amended. The CERCLA NRDAR Regulations provide a method for assessing damages for natural resources injuries resulting from releases of hazardous substances under CERCLA, as amended (42 U.S.C. §§ 9601, *et. seq.*).

A copy of the Preassessment Screen is attached for your convenience. The contents of a preassessment screen include five criteria that are used to evaluate whether to proceed with an assessment [43 C.F.R. § 11.23(e)]:

1. A discharge of oil or the release of a hazardous substance has occurred.
2. Natural resources for which the Federal or State agency or Indian Tribe may assert trusteeship under CERCLA have been or are likely to have been adversely affected by the discharge or release.
3. The quantity and concentration of the discharged oil or released hazardous substance is sufficient to potentially cause injury to those natural resources.
4. Data sufficient to pursue an assessment are readily available or likely to be obtained at reasonable cost.
5. Response actions, if any, carried out or planned, do not or will not sufficiently remedy the injury to natural resources without further action.

Based on an evaluation of these five criteria, the Trustee has determined that each of the five criteria in 43 C.F.R. § 11.23(e) have been met. Further, a Type B NRDA is warranted at the Site in accordance with 43 C.F.R. Part 11 Subparts C and E. The NRDA will assess damages for injuries to natural resources caused by releases of hazardous substances at the Site. As detailed in the Preassessment Screen, hazardous substances identified at the Site by EPA include PCP, polycyclic aromatic hydrocarbons (including acenaphthene, anthracene, fluoranthene, fluorene,

naphthalene, pyrene, benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dibenz(a,h)anthracene, and indeno(1,2,3-c,d)pyrene), benzene, arsenic, and dioxins/furans. Contaminants have been found in Site soils and groundwater. NRDP's evaluation of the sufficiency of the data related to contamination of the Kootenai River is ongoing.

Potentially Injured Natural Resources Based on a review of readily available data and information, the Trustee has concluded that natural resources for which the Trustee may assert trusteeship have been adversely affected by the release of hazardous substances from the Site. Soils and groundwater resources have been exposed to, and adversely affected by, elevated concentrations of the hazardous or deleterious substances listed in the Preassessment Screen. More details regarding the natural resources that have been or likely have been adversely affected by releases of hazardous substances can be found in the Preassessment Screen.

Statement of Authority for Asserting Trusteeship (Co-Trusteeship) over Potentially Injured Natural Resources

The Trustee of natural resources for the Site is the State of Montana through the Governor. The legal authority for all listed natural resource trustees to assert trusteeship, or co-trusteeship, over those natural resources potentially injured by hazardous releases from the Site, above, is found in CERCLA at 42 U.S.C. § 9607(f). The State of Montana also has authority under the Comprehensive Environmental Cleanup and Responsibility Act (CECRA). §§ 75-10-701, *et seq.* NRDP acts on behalf of the Governor under both CERCLA and CECRA.


Additional information on the background of the Site and basis of the preliminary determination may be found in the attached Preassessment Screen.

Please provide a response to this notice within thirty (30) calendar days of your receipt of this notice indicating whether you intend to participate in the NRDA process at the Site. Your response should provide a primary contact person and a primary fiscal contact.

Signed:



Montana Natural Resource Damage Program



Date