

LIBBY ASBESTOS OU3 EARLY RESTORATION PROPOSAL INSTRUCTIONS

The State of Montana, through the Natural Resource Damage Program (NRDP) is soliciting early restoration project concepts for potential inclusion in the Libby Asbestos Operable Unit 3 (OU3) Interim Restoration Plan Addendum 1. The Addendum will be released for public comment, and the Trustee (the Governor) will make a final decision on early restoration actions. Guidance on project submittals, including eligibility requirements and criteria that will be used to evaluate the projects, is included as Attachment A to this packet.

For early restoration project concepts to be considered, submit the following to NRDP **no later than 5:00pm on November 23, 2026:**

1. The Proposal Form
2. Letters of Commitment, if applicable (see Letter of Commitment Guidelines):
 - A letter of commitment from the lead entity if different than the entity proposing the project,
 - A letter of commitment from the landowner, if applicable and if different than the entity proposing the project and the proposed lead entity,
 - A letter of commitment from the entity assuming operations and maintenance of the project once completed, if applicable and if not already provided above.
3. A Project Abstract that covers the basic information indicated in the Project Abstract Guidelines.

To Submit:

Send the Early Restoration Proposal Form and project abstract **no later than 5:00pm on November 23, 2026,** to:

Natural Resource Damage Program

1720 9th Ave

P.O. Box 201425

Helena, MT 59620-1425

Phone: (406) 444-0205

E-mail: nrdp@mt.gov

Please put “Libby Asbestos OU3 2026 IRP Addendum” in the subject line.

For additional information, call or e-mail Sydney Stewart:

Sydney Stewart

Natural Resource Damage Program

(406) 465-6638

sydney.stewart@mt.gov

PROPOSAL FORM

Your Name and Contact Information:

Phone number: _____

E-mail: _____

Mailing address: _____

General Project Information:

Project name: _____

Requested funding amount: _____

Project type (select all that apply):

☐ Recreation

☐ Aquatic/Riparian Habitat

☐ Terrestrial Habitat

Lead entity: _____

Point of contact for lead entity

Name: _____

Phone number: _____

E-mail address: _____

If the lead entity is not the entity proposing the project, you must submit a Letter of Commitment from the lead entity along with this proposal.

Landowner (if applicable): _____

Point of contact for landowner

Name: _____

Phone number: _____

E-mail address: _____

If the landowner is not the entity proposing the project or the proposed lead entity, you must submit a Letter of Commitment from the landowner along with this proposal. Note that if this is a recreation project on private land, there must also be an easement providing public access and a commitment from the landowner to leave the project in place after construction. The easement must be acceptable to NRDP and in place before project implementation begins. These requirements should be addressed in the Letter of Commitment.

Who will be responsible for operations and maintenance (if applicable)?

This is required for recreational projects and will be evaluated for other projects on a project-specific basis. If not already provided, you must submit a Letter of Commitment from the entity assuming operations and maintenance of the project.

LETTER OF COMMITMENT GUIDELINES

A Letter of Commitment may be required with the project submittal in the following cases:

- **Lead Entity:** If the entity proposing the project is different than the proposed lead entity for implementing the project, a Letter of Commitment from the proposed lead entity must be submitted with the project proposal. The lead entity must be a governmental entity.
- **Landowner:** If there is a landowner involved in the project (for example, the project is to be implemented on private land or City/County property) and the landowner is not the entity proposing the project, a Letter of Commitment from the landowner must be submitted with the project proposal. If the proposed project is a recreational project on private land, there must also be an easement in place prior to project implementation that provides public access to the project and there must be a commitment from the landowner to leave the project in place after construction. If the easement is already in place when the proposal is submitted, please submit a copy of the easement so NRDP can make sure it is acceptable. If the easement is planned, the lead entity is expected to work with NRDP to ensure the easement is acceptable and put in place before implementation of the project begins.
- **Operations and Maintenance (O&M):** Another entity, that cannot be NRDP, must be identified and take responsibility for recreation projects implemented with natural resource damage funding. If the entity assuming responsibility for funding and implementing O&M of a recreation project is different than the entity proposing the project, a Letter of Commitment from the O&M entity must be submitted with the project proposal. O&M may also be required of non-recreation projects; this will be determined by NRDP on a project-specific basis. Please reach out to NRDP if you have questions about non-recreation projects O&M needs.

A Letter of Commitment should include:

- A point of contact for the entity;
- Support for the project from the entity;
- A clear statement of commitment to the project, including the specific roles and responsibilities that the entity will be taking on if the project is funded; and
- Any relevant conditions or expectations in accepting this role.

If the author serves multiple roles, they may submit just one letter detailing the roles they will be taking on.

PROJECT ABSTRACT GUIDELINES

Please provide the following information in an abstract no longer than four pages.

1. **Project Purpose and Benefits:** Indicate why the project is being proposed. Include the expected goals, objectives, and outcome of the project. Address the following:
 - How will the project restore, replace, rehabilitate, or acquire the equivalent of the natural resources injured or services lost due to the operations at Libby OU3?
 - How will the project benefit the public's use and enjoyment of those resources?
2. **Project Location:** Provide a short description of the project location, along with a project map.
3. **Project Description:** Describe the components of the project and how it will be implemented. Indicate the lead entity (must be the State or a governmental entity) and project partners for implementing the project. Indicate what progress, if any, has been accomplished to date on the project.
4. **Project Schedule:** Indicate the timeframe needed to complete the project and any specific completion deadlines that would apply.
5. **General Cost Information:** Provide an estimate of total project costs. If possible, provide a categorical breakdown of the costs for the following categories: salaries/benefits; contracted services; supplies and materials; travel and communication; equipment; or other (specify).
 - Indicate committed or anticipated matching funds.

Attachment A

GUIDANCE FOR PROJECT IDEA SUBMITTALS

Under CERCLA, natural resource damage (NRD) settlement funds can only be spent to restore, replace, rehabilitate, or acquire the equivalent of injured natural resources or compensate for the lost use of injured natural resources. In addition, natural resource trustees must complete a restoration plan and consider public input before NRD settlement funds can be spent (42 U.S.C. § 9611(i)). The restoration plan must specify how funds will be spent and include an evaluation of various restoration alternatives according to criteria specified in NRD regulations (43 C.F.R. § 11.81). Projects must also comply with the MEPA (§§ 75-1-102, MCA) and CECRA. Criteria for evaluating projects under CERCLA, CECRA, and MEPA are described below. In addition, NRDP will evaluate projects according to policy criteria.

Project Eligibility Requirements

Projects must meet the eligibility requirements outlined below to be considered for early restoration funding.

- Project restores, replaces, rehabilitates, or acquires the equivalent of the injured resources and services in or related to OU3.
- Project is located within Lincoln County.
- Project merits expedited funding and is able to be completed within 24 months of receiving funding.
- Project will not interfere with or be impacted by remedial actions within OU3.
- Project can be completed with the funding available.

Evaluation of Alternatives Under CERCLA

Possible alternatives to return injured resources to their baseline are required to be considered and may “reflect varying rates of recovery, combinations of management actions, and needs for resource replacements[.]” (43 C.F.R. § 11.82(c)). NRD legal criteria are provided in assessment regulations under CERCLA and are to be used when evaluating restoration options (43 C.F.R. § 11.82(d)). In applying these criteria to evaluate proposed restoration projects, the criteria will be evaluated qualitatively rather than quantitatively. The importance of each criterion as applied to individual alternatives will vary depending upon the nature of the alternatives. The legal criteria to be used are:

Technical Feasibility: This criterion evaluates the degree to which an early restoration action employs well-known and accepted technologies and the likelihood that the action will achieve its objectives. (43 C.F.R. § 11.14 (qq)). Actions that are technologically infeasible will be rejected. However, actions that are innovative or that have some element of uncertainty as to their results may be approved. Different actions will use different methodologies with varying degrees of feasibility. Accordingly, the application of this criterion will focus on an evaluation of an action’s relative technological feasibility.

Relationship of Expected Costs to Expected Benefits: This criterion examines whether an action’s costs are commensurate with the benefits provided. In doing so, the costs associated with a restoration action, including costs other than those needed simply to implement the action, and the benefits that would result from an action, will be determined. Application of this criterion is not a straight cost-benefit analysis, nor does it establish a cost-benefit ratio that is by definition

unacceptable. Quantifying the benefits of a project will sometimes require collection of additional data or information and additional analysis.

Cost-effectiveness: This criterion evaluates whether a particular restoration action accomplishes its goal in the least costly way possible. As outlined in the natural resource damage regulations, cost-effectiveness means that when two or more activities provide the same or a similar level of benefits, the least costly activity providing that level of benefits will be selected (43 C.F.R. § 11.14(j)). To apply this criterion in a meaningful fashion, all of the benefits restoration action would produce must be considered, not just cost; otherwise the focus would be too narrow. Take the example of a restoration action that would fully restore a given resource in a short period of time compared to another restoration action that would restore the same resource at less cost but over a longer period of time. Considering only that the second action is less expensive than the first action ignores the benefits resulting from a relatively shorter recovery period. In this example, since an accelerated recovery time is a benefit, it would need to be factored into a determination of cost-effectiveness.

Results of Response Actions: This criterion considers the results or anticipated results of response actions, actual or planned, underway or planned in OU3 after selection of the final remedy by EPA. Evaluation of this criterion requires assessment of response actions at an adequate level of detail in order to make projections as to their effects on natural resources and services. Because the final remedy for OU3 has not yet been selected, NRDP will need to evaluate the location of the proposed project in relation to EPA's identified areas for potential future response actions. This criterion will be considered when the comprehensive restoration plan is written, after the final remedy has been selected.

Adverse Environmental Impacts: This criterion weighs whether, and to what degree, a restoration action will result in adverse human or physical environmental impacts. Specifically, NRDP will evaluate significant adverse impacts that could arise from the restoration action, short term or long term, direct or indirect, including those that involve resources that are not the focus of the project. To do so, the dynamics of a restoration action and how that action will interact with the environment must be understood.

Recovery Period and Potential for Natural Recovery: This criterion evaluates the merits of a restoration action in light of whether the resource is able to recover naturally (i.e., without human intervention) and, if a resource can recover naturally, how long that will take. Given that the final response action at OU3 has not been determined, NRDP will consider the recovery period following response actions to evaluate potential restoration projects in OU3. (The term "recovery" refers to the time it will take an injured natural resource to recover to its "baseline," i.e., pre-injury condition.)

Human Health and Safety: This criterion evaluates the potential for a restoration action to have adverse effects on human health and safety. Such a review will be undertaken not only to judge a particular action but also to determine if protective measures should be added to the restoration action to ensure safety.

Federal, State, and Tribal Policies, Rules, and Laws: This criterion considers the degree to which a restoration action is consistent with applicable policies of the State of Montana and applicable policies of the federal government and Tribes (to the extent the State is aware of those policies and believes them to be applicable and meritorious). In addition, a restoration action must be implemented in compliance with applicable laws and rules, including the settlement agreement.

Policy Criteria

In addition to the legal criteria, NRDP will use the following policy criteria when considering prospective early restoration projects:

Normal Government Function: This criterion evaluates whether a restoration action involves activities for which a governmental agency would normally be responsible or that would receive funding in the normal course of events and would be implemented if recovered natural resource damages were not available. Settlement funds may be used to augment funds available to government agencies, if such cost sharing would result in the implementation of a restoration action that would not otherwise occur through normal government function. Based strictly on this criterion, a project involving activities that would fall within normal government responsibilities may be ranked lower than a restoration action that does not fall within this category.

Price: The State will evaluate whether the land, easements, water rights, or other property interests proposed to be acquired are being offered for sale at or below fair market value. Consideration of this criterion will likely require the State to conduct its own appraisal of the property. If the appraisal process for an acquisition was not subject to initial State review and approval, the State will, at a minimum, conduct a review appraisal and may conduct a full appraisal.

Location: Early restoration actions must be within Lincoln County but outside of OU3.

Supplemental Criteria

Additional evaluation criteria may be utilized at the Trustee's discretion. For Libby Asbestos OU3 early restoration, the following criteria will also be evaluated:

Match Funding: This criterion evaluates whether other entities have committed to match funding for the proposed project. Match could be cash, in-kind, supplying materials, etc. Projects that can bring match funding may be ranked higher than projects that cannot.

Long-Term Operations and Maintenance: Any recreational project that requires long-term operations and maintenance must have another entity responsible for funding and implementing that work. Operations and maintenance for non-recreational projects will be evaluated on a project basis as part of the total cost of the project using the legal and policy criteria outlined above.

Evaluation of Alternatives Under MEPA

Restoration actions undertaken in the State of Montana must comply with MEPA (§§ 75-1-102, MCA). MEPA requires an analysis of the direct, indirect, and cumulative impacts of each alternative and appropriate mitigations. Restoration alternatives should consider direct and indirect impacts on the following:

- Natural resources;
- Construction, sound, and air pollution;
- Threatened and endangered species and Montana species of concern;
- Water quality and sediment;
- Visual resources;
- Archaeological and cultural resources;
- Economic, historic, land use, and transportation resources;
- Regulatory restrictions;
- Climate change; and
- Cumulative impacts.