



MEMORANDUM

TO: MEMBERS OF THE INTERESTED PUBLIC

FROM: MONTANA NATURAL RESOURCE DAMAGE PROGRAM

DATE: OCTOBER 1, 2026

**SUBJECT: LIBBY ASBESTOS OPERABLE UNIT 3 INTERIM
RESTORATION PLAN, SOLICITING EARLY RESTORATION
PROJECT IDEAS**

INTRODUCTION

The State of Montana Natural Resource Damage Program (NRDP), on behalf of the Governor of Montana (Trustee), is soliciting proposals for projects that will restore the natural resources that were injured by the release of hazardous substances in or relating to Operable Unit 3 (OU3) of the Libby Asbestos Superfund Site.

In 2023, the State and W.R. Grace (Grace) entered a Settlement Agreement that resolved the remainder of the State's claim in Grace's bankruptcy. The Settlement Agreement include \$18.5 million in natural resource damages to restore, replace, rehabilitate, or acquire the equivalence of the State natural resources injured by the release of hazardous substances in or relating to OU3. This money is being paid to the State over 10 years and installments are placed in the Libby Asbestos OU3 Restoration Fund. In 2024, NRDP finalized the [Libby Asbestos OU3 Interim Restoration Plan](#) (IRP), which describes how these funds are managed before a final Restoration Plan is developed. The IRP allocated the \$7 million that had been received at the time to repay past costs incurred during the settlement negotiations (\$2 million) and to seven early restoration projects (\$2 million). The remaining \$3 million was reserved for allocation in the final Restoration Plan or in a future addendum to the IRP. Since the IRP was finalized, the State has received an additional \$4 million from Grace.

The State is considering preparing an addendum to the IRP to fund additional early restoration projects that can restore, replace, or acquire the equivalent of injured or lost natural resources, or their services, associated with Libby OU3. While final decisions on project funding are at the Trustee's discretion, NRDP anticipates approximately \$3-4 million available for restoration projects.



NRDP is seeking public input on the preparation of an addendum to the IRP by soliciting proposals for early restoration projects from interested individuals and entities.

This memorandum includes the following sections:

1. Introduction
2. Libby Asbestos OU3 Settlement Background and Natural Resource Damages
3. Purpose and Scope of Natural Resource Restoration
4. Initial Funding Available for Early Restoration Projects
5. Project Eligibility Requirements
6. Preliminary Projects
7. How You Can Participate

Attachment A – Libby Asbestos OU3 Early Restoration Proposal Instructions

LIBBY ASBESTOS OU3 SETTLEMENT BACKGROUND AND NATURAL RESOURCE DAMAGES

The State of Montana obtained NRD funds from the [2023 Settlement Agreement](#) with Grace, the owner of a vermiculite mine near Libby, Montana that operated from the 1920s to 1990. Contamination within the Libby Asbestos Superfund site is largely due to asbestos that was present in the vermiculite from the mine and released to the environment through the mining and milling process, tailings runoff, transportation of materials, and asbestos-containing waste. Additional contamination has also been found from the mining and milling operations, various chemical reagents used in processing, and a historic landfill.

The 2023 Settlement Agreement between the State and Grace included, among other provisions, \$18.5 million in natural resource damages to be paid to the State over 10 years. The first \$5 million was paid to the State in October 2023 and the rest is to be paid out in \$1.5 million annual installments (plus 4.19% interest) for 9 years. This money must be used to “restore, replace, rehabilitate, or acquire the equivalent of injured natural resources and services in or related to OU3” and support those actions (through development of a restoration plan and related costs).

The Comprehensive Environmental Response, Compensation and Liability Act, 42 U. S. C. §§ 9601 *et seq.*, (CERCLA) provides that prior to spending NRD funds, a state must prepare a comprehensive restoration plan that provides for the expenditure of such funds on appropriate projects that would restore, replace, rehabilitate, or acquire the equivalent of the injured or lost natural resources and services that were the subject of the NRD claim. However, the final remedy (cleanup) for OU3 is not yet known, so the full extent of the injury at OU3 is also currently unknown. Grace, with oversight by the U.S. Environmental Protection Agency (EPA) in consultation with the Montana Department of Environmental



Quality, is currently conducting a feasibility study to evaluate different cleanup options. The purpose of the feasibility study is to develop appropriate remedial alternatives to select an appropriate remedy. (40 C.F.R. § 300.430(e)(1)).

The State will not develop a comprehensive restoration plan until the final remedy is selected, at the earliest. Rather than implementing no restoration until that time, however, NRDP prepared an [Interim Restoration Plan](#) (IRP) that established a process under which early restoration projects can be funded prior to the development of a comprehensive restoration plan. Early restoration projects are beneficial in that they can begin to restore natural resources to baseline conditions (thereby reducing the overall time and extent of the injury) and compensate the public for lost use of natural resources and the services they provide. To be funded, early restoration projects must comply with CERCLA, NRD regulations, the [2023 Settlement Agreement](#), and state law, as well as meet certain eligibility requirements.

During this solicitation period, NRDP is requesting early restoration project proposals from the public. Selected early restoration projects will be included in a draft Addendum to the Interim Restoration Plan, which will go out for public comment before being finalized.

PURPOSE AND SCOPE OF NATURAL RESOURCE RESTORATION

The overall goal of the IRP is to identify actions that restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources and the services they provide. A summary of the injuries to State resources in or relating to OU3 was developed as [Exhibit E](#) to the [2023 Settlement Agreement](#). To summarize, NRDP has identified the following State natural resources and services injured by the operations at Libby OU3:

- Surface water
- Sediment and sediment pore water
- Seeps
- Groundwater
- Wildlife (mammals, birds, fish, reptiles, amphibians, aquatic and terrestrial invertebrates, etc.)
- Aquatic and terrestrial plants
- Aquatic, wetland, and upland habitats
- Recreation (fishing, wildlife viewing, etc.)

To address these injured resources, NRDP is looking for projects that fall into one or more of the following three restoration categories:

- Aquatic/Riparian Habitat;
- Terrestrial Habitat; and



- Recreation.

The 2023 Settlement Agreement provides damages for injury to natural resources in and related to Libby OU3, but this does not mean that all restoration actions must occur within the former mine site. In order to comply with the 2023 Settlement Agreement and avoid any potential interference with the cleanup operations, NRDP will not be performing restoration within OU3 until the final remedy is known or complete (unless the restoration is done in coordination with the remedy and with the approval of EPA and Grace).

In the interim, NRDP will consider “replacement” (similar to “offsite” projects for mitigation) projects for early restoration, or projects that are within Lincoln County, but outside of OU3, that can replace some of the injured resources or service losses or compensate the public for those losses until the resources are restored. For example, NRDP would consider projects that improve fishing access in the Kootenai River watershed, or projects that improve habitat for aquatic or terrestrial wildlife populations and the services these resources provide that were injured by the hazardous substances in or relating to OU3.

FUNDING AVAILABLE FOR EARLY RESTORATION PROJECTS

When the IRP was finalized, the State had received approximately \$7 million of the natural resource damage funds, which was allocated as follows:

- \$2 million used to repay past costs incurred during the settlement negotiations;
- \$2 million allocated to early restoration projects; and
- \$3 million reserved for future restoration (also used to fund NRDP project costs).

Since then, the State has received an additional \$4 million. The IRP contemplates reevaluating the need for additional restoration every 3 years and allocating half of the available funding to early restoration projects. NRDP is starting this process in 2026 with the goal of having funding available in 2027.

After receiving early restoration project proposals, NRDP will evaluate the proposals according to the eligibility requirements and evaluation criteria discussed in this document. The amount to be spent on early restoration will depend on the estimated costs of projects received that closely align with the criteria outlined in this document. NRDP will then make a funding recommendation to the Trustee.

NRDP anticipates that \$3.5 million could be available for early restoration in 2027, with the remainder of the funding reserved for the final restoration plan. However, the Trustee may decide to allocate funding differently between early restoration and final restoration. The Trustee has the sole authority over the use of these funds.



As described in the IRP, NRDP plans to solicit additional projects every 3 years until a final remedy is selected and/or all restoration funds have been received, so funding would next be available in 2030.

PROJECT ELIGIBILITY REQUIREMENTS AND PROPOSAL EVALUATION

All early restoration projects must comply with legal requirements for the use of these funds. The use of NRD funds is restricted by State and Federal Superfund laws to restore, replace, rehabilitate, or acquire the equivalent of the injured resources and their services. Also, the 2023 Settlement Agreement requires that natural resource damages from the settlement must be used “solely to restore, replace, rehabilitate, or acquire the equivalent of injured natural resources and services in or related to OU3 or the Lincoln County area, and support therefor, including costs for State restoration plan development and implementation, and administrative, program, legal, technical, and all other related costs, to the extent lawful under CERCLA or CECRA[.]” (2023 Settlement Agreement at 19).

Specifically, proposed early restoration projects must meet the following eligibility criteria:

- 1) Project restores, replaces, rehabilitates, or acquires the equivalent of the injured resources and services in or related to OU3.
- 2) Project is located within Lincoln County.
- 3) Project is time-critical and able to be implemented within 24 months of Trustee approval of funding. Applicants for early restoration proposals must demonstrate that their proposals merit an expedited funding decision ahead of completion of the final Restoration Plan.
- 4) Project will not impact remedial actions within OU3 or have the potential to be impacted by future remedial actions. The Settlement Agreement states that the design and construction of restoration projects within OU3 “may not begin until EPA has certified completion of all remedial action construction in OU3, except for projects that the State, EPA, and a Grace Party agree to integrate with remedial action.” Until the cleanup actions are defined, NRDP will not implement any restoration projects that could interfere with or be impacted by remedial actions that may occur in the OU3 area.
- 5) Project can be completed with the funding available.

NRDP will evaluate all eligible proposals according to necessary criteria, including those criteria outlined in CERCLA and the associated natural resource damage regulations. CERCLA criteria are provided in 43 C.F.R. § 11.82(d) and described in more detail in Attachment A. Briefly, CERCLA requires the following criteria be evaluated:

- Technical Feasibility;
- Relationship of Expected Costs to Expected Benefits;



- Cost-effectiveness;
- Results of Response Actions;
- Adverse Environmental Impacts;
- Recovery Period and Potential for Natural Recovery;
- Human Health and Safety; and
- Federal, State, and Tribal Policies, Rules, and Laws.

In addition, projects will have to undergo evaluation according to the Montana Environmental Policy Act (MEPA) and NRDP policy criteria (refer to Attachment A for more information).

HOW YOU CAN PARTICIPATE

NRDP welcomes the following participation from the public in this process:

Public Meeting

NRDP will lead a public meeting to share more about the proposed addendum to the IRP. This will include an explanation of the source of funding, the types of projects that are eligible, the proposal and funding process, and implementation guidelines. The meeting will be held at:

6:00 PM
Tuesday, October 27, 2026
Ponderosa Room, Libby City Hall
952 E Spruce
Libby, MT 59923

There will also be a remote option to attend the meeting via Microsoft Teams. See below for the virtual meeting information.

Join on your computer, mobile app or room device

Join: <https://teams.microsoft.com/meet/262666260369124?p=Q9TqpgmPEdXrcOVVtC>

Meeting ID: 262 666 260 369 124

Passcode: 72Xd9bY7

Dial in by phone

[+1 406-318-5487](tel:+14063185487), [886406823](tel:+1886406823) United States, Billings

[Find a local number](#)

Phone conference ID: 886 406 823#



Join on a video conferencing device

Tenant key: teams@mt.onpexip.com

Video ID: 119 459 226 6

[More info](#)

NRDP will make reasonable accommodations for persons with disabilities who wish to participate in this public meeting. For questions about accessibility or to request accommodations, please call Meranda Flugge at 406-444-0229 or email at meranda.flugge@mt.gov as soon as possible but no later than 3:00 PM Friday, October 23, 2026.

Drop-in for Discussion

NRDP will be available on October 28, 2026, to meet with interested members of the public and discuss project ideas or answer questions. Please stop by whenever you are available.

10:00 AM – 2:00 PM

Wednesday, October 28, 2026

Libby Memorial Center conference room

111 E Lincoln Blvd

Libby, MT 59923

Submit a Proposal

Submit an abstract for a restoration project idea. See the attached Libby Asbestos OU3 Early Restoration Proposal Instructions (Attachment A). Additional information can be found on NRDP's website, including a fact sheet about NRDP's work in Libby and Frequently Asked Questions (see links below).

LINKS



Learn more about NRDP's work in Libby: <https://dojmt.gov/NRDP-sites/libby-asbestos/>



NRDP fact sheet: <https://dojmt.gov/wp-content/uploads/2024/12/Libby-NRD-Fact-Sheet.pdf>



2024 Interim Restoration Plan: <https://dojmt.gov/wp-content/uploads/2024/11/2024.11.04-Final-Interim-Restoration-Plan-signed.pdf>



2023 Settlement Agreement: <https://dojmt.gov/wp-content/uploads/Libby-Asbestos-Settlement-Agreement-rs.pdf>



Exhibit E to the Settlement Agreement: <https://dojmt.gov/wp-content/uploads/Exhibit-E-NRD-report-1.pdf>