CFAC

Community Liaison Panel

Columbia Falls Aluminum Company Community Liaison Panel Minutes
July 9, 2015
North Valley Hospital
Teakettle Community Room
6:00 p.m.

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CITY OF COLUMBIA FALLS

CLP Members Attending: Don Barnhart, Nino Berube, Senator Dee Brown, Jessy Coltrane, Chief Rick Hagen, Virginia Loranger, Lyle Mitchell, Phillip Mitchell, Ray Negron, Susan Nicosia, Chief David Perry, Kyle Schmauch, Stacey Schnebel, Erin Sexton, Anna Stene, Nikki Stephan, Clarence Taber, Bev York

CFAC Representatives: Haley Beaudry, Cliff Boyd, Cheryl Driscoll, Andrew Otis, Steve Wright

Guests: Dayna Swanson and Chad Campbell, Senator Tester's Office, Bill Baum, Debbie Carter, Greg Carter, Colleen Owen, Becca Parsons, Dave Peterson

Facilitator: Mary Green, Ann Green Communications, Inc.

Minutes: Kristi Moore, Ann Green Communications, Inc.

The regular meeting of the Columbia Falls Aluminum Company Community Liaison Panel (CLP) was called to order by facilitator Mary Green at North Valley Hospital Teakettle Community Room, beginning at 6:03 p.m. on Thursday, July 9, 2015.

Mary welcomed everyone. She asked each member to introduce himself or herself, and the community or organization each represents. The following guests were present: Bill Baum, Chad Campbell, Debbie Carter, Greg Carter, Colleen Owen, Becca Parsons, Dave Peterson, and Dayna Swanson.

Mary reviewed the agenda and meeting materials. She mentioned that the *Citizens' Guide For Environmental Issues* is a document of environmental terms prepared by the National Institute for Chemical Sciences in the late 1990's. Copies of a section of the document were shared in response to members' request for a glossary of terms. [**A copy of the handout is attached to these minutes for those not in attendance.**]

Mary confirmed that all members received a copy of the June meeting minutes. The

minutes were accepted as distributed.

New Business

Mary introduced Andrew Otis, who has worked as a consultant to Glencore for the past 15 years. Prior to going into private legal practice, Andrew worked at the EPA for nine years. The focus of Andrew's presentation was the Superfund National Priorities Listing (NPL) process, the preliminary site investigation, and RI/FS. Mary noted that EPA Remedial Project Manager Mike Cirian was unable to attend the meeting, because he was on vacation and he said since an agreement between CFAC and EPA was not yet reached, he was unable to participate in the discussion without EPA's attorney. Mike did, however, send handouts related to the Superfund Process. [**A copy of the handouts is attached for those not in attendance**.]

Andrew stated that the Superfund NPL is a list developed by EPA of the highest priority contaminated sites in the United States. The Superfund itself is a pot of money designated under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The money is used to investigate and cleanup sites where owners and other Potentially Responsible Parties (PRPs) are not addressing the site... The EPA states that the NPL serves primarily as an information and management tool to determine which sites warrant further investigation; to identify which federally financed cleanup options might be available; and to notify potential responsible parties that EPA may initiate a Superfund-financed cleanup.

A site gets on the NPL if the Hazard Ranking System (HRS) site score, a mathematical calculation used to determine risk, is above 28.5. Andrew noted the number is not intended to predict risk, and a higher site score does not necessarily mean more risk at the site. The HRS is based on information gathered from a preliminary assessment of site contamination, based on sampling results of soil, groundwater and surface water. Andrew added it is not a full site assessment; however, it evaluates several possible exposure pathways including groundwater, surface water, soil and air for human health and environmental exposure. The site assessment scores sites from 0-100. Those above 28.5 are eligible for NPL listing. EPA proposes a site for listing on the NPL, takes comments from the public and makes the final determination whether to list the site on the NPL.

Andrew touched on the role states play in regard to NPL. He said for sites exceeding the HRS score of 28.5, the USEPA will consider the position of the governor or environmental secretary of the state in which the site is located before adding a site to the NPL. He added that the EPA is much more likely to list a site on the NPL if the governor formally requests listing.

Once a site is listed, Andrew discussed the process for deletion. He noted that a site may be deleted from the NPL when the EPA and the state determine that no further actions are necessary at the site to protect human health and the environment or when a Remedial Investigation /Feasibility Study (RI/FS) shows that a site does not pose a threat to human health and the environment and remedial measures are not appropriate. Andrew mentioned that in some cases, parts of sites may be deleted from the NPL when the EPA has divided the site into parts, or

operable units, and determines that some operable units warrant deletion.

Prior to deleting a site from the NPL, the EPA may determine that construction of the site remedy is complete and that conditions at the site are being monitored to determine whether the remedy effectively reduced the risk to human health and the environment identified in the RI/FS.

EPA will designate certain sites as "ready for use" (RFU) if EPA determines the site can be used for certain purposes without threatening human health or the environment. Andrew noted this usually occurs after construction is completed. He said this does not affect liability of any party at the site or prospective site owners or developers. RFU is intended by EPA to gather information about the technical status of the site in one document and facilitate redevelopment. Andrew noted that RFU requires state consent. He added that it is not required for site re-use; however, sites may be re-used without an RFU designation.

Phil Mitchell inquired as to why CFAC is not working with MDEQ. Andrew replied that CFAC had discussions with the State of Montana and could not come to an agreement. When asked why his tax dollars would be used to address the site via the Superfund, Andrew replied that CFAC is in discussions with the EPA to enter into an Administrative Order on Consent (AOC) to assess the site. If CFAC does enter into an AOC with EPA, that AOC will likely require CFAC to pay for site activity, EPA's costs and will likely provide for financial assurance to complete the assessment in the unlikely event that CFAC does not complete its obligations under the AOC.

Andrew reviewed the status of NPL listed sites. Currently, there are 1,322 sites listed on the NPL nation-wide. Of the 1,322, 62 sites have been fully deleted from the NPL and 81 partial deletions have occurred. He added that some sites had multiple operating units and count for more than one. Andrew added that construction has been completed at 1,141 sites. Referring to NPL sites in Montana, Andrew said there are 16 NPL sites and two, including CFAC, that are proposed. None of the 16 sites have been deleted and some have been on the NPL for more than 30 years. He added that four sites have completed construction and two have been designated for re-use (Mouat Industries in 2009 and Idaho Pole in 2010). Three other Montana NPL sites have been redeveloped (Anaconda Golf Course, the Milltown Reservoir Sediments site that is now a state park, and the Butte-Silver Bow Creek has developed a sports and recreation complex).

Andrew addressed stigma associated with NPL listing. He said the literature is mixed. Most of the studies are academic and focus econometrics analyses. He added that some studies of industrial sites, depending on the type of site and stage it is within the process, show a drop in property values; however, one recent study shows that designating a site "construction complete" or deleting it from the NPL can have a slight positive impact on home prices. Andrew added that perceptions are harder to study, but some do feel that NPL listing stigmatizes a site and the surrounding area.

Andrew shared an alternate process, Superfund Alternate Process (SAP), which provides for EPA supervision without NPL listing. The SAP criteria are the same as NPL; however SAP is for sites qualifying for NPL listing in which a party is willing to enter into an agreement to assess the site. Andrew noted that CFAC is eligible and qualifies for SAP.

Andrew shared an update on the status of CFAC NPL listing. EPA proposed to list the CFAC site on March 26, 2015. The EPA's HRS score is 68.39. EPA received letters of support for NPL listing from Governor Bullock and Senator Tester; Congressman Zinke opposed the listing. Andrew added that CFAC and prior owner ARCO also opposed the listing. CFAC re-calculated the HRS to be 20.75; ARCO's calculation was 25.5. Andrew noted that both CFAC and ARCO's HRS scores are below the threshold for listing. CFAC is willing to assess the site and is willing to discuss Administrative Order on Consent (AOC) with EPA so no NPL listing is necessary.

Andrew discussed why CFAC and ARCO's HRS scores differ from EPA. He noted that EPA's scores are not consistent with the data and EPA guidance. CFAC's comments are available on the docket for review. He noted suspect cyanide and manganese results. EPA found cyanide upstream in the Flathead River where there are no known sources. He added that substantial testing of residential wells found no cyanide. Andrew mentioned that two residential wells tested positive for cyanide; however, subsequent testing at those wells showed no detection of cyanide. Nino Berube asked if chemicals at the plant are found in Aluminum City wells, if CFAC would automatically put remedies in place. Cheryl Driscoll said CFAC will address that concern in the future if circumstances warrant action. Andrew added that the RI/FS work plan developed by Roux will test groundwater on the site up gradient of Aluminum City. Andrew also noted naturally occurring manganese. He said EPA did not consider high background soil concentrations of manganese. He added that EPA did not attribute manganese in the Flathead River to CFAC industrial activity.

CFAC received a General Notice Letter and Draft AOC from EPA dated June 9, 2015. The letter invited CFAC and ARCO, to enter into negotiations with EPA regarding an AOC to assess the site. CFAC agreed to enter negotiations with EPA and provided comments regarding AOC on June 15. ARCO did not agree to negotiate with EPA. CFAC and EPA will meet the first week of August to discuss the AOC. Andrew noted the AOC includes the development of an RI/FS work plan.

Andrew reviewed the Superfund Process handout provided by Mike Cirian. He said CFAC is focusing on the first three steps of the process: Preliminary Assessment, NPL Listing Process, and RI/FS. Phil Mitchell asked Andrew to share an approximate timeline for these steps. Andrew replied that CFAC's timeline for steps one through three will take approximately 4.5 years; however, CFAC's timeline did not include regulatory review, because the EPA letter had not yet been received. Andrew added that 4.5 years is fast as some sites in Montana have taken 13 years to get to the RI/FS.

Referring to the superfund process handout, Erin Sexton asked at what point in the process the site is determined to be clean. Andrew replied that CERCLA designates applicable, relevant and appropriate standards. Identification of material is done through the RI/FS process. Then, a record of decision defines a remedy based on the CERCLA standards. A remedial plan is then developed to clean up the site and to implement the plan. A construction complete designation is applied when the construction of the remedy is finished. The final step is site monitoring. Erin asked where community input is taken regarding how clean the site is. Andrew said community

input is sought throughout the process. He added that the RI/FS has a community input component. Andrew mentioned that the RI/FS plan can be accessed at the Columbia Falls library, or on the web at www.rouxinc.com/Cfac-draft-ri-fs-work-plan-available-for-public-comment/ . He added that comments can be or emailed to CFAC-Comments@rouxinc.com. Susan Nicosia added that EPA's documented testing is available on the DEQ and EPA website as well as at the library.

Mary asked the panel if there are any questions based on the presentation.

A member asked about the requirements under the superfund alternate process (SAP). Andrew said under the SAP, CFAC has the same obligations to assess and clean up the site. A primary difference is that the site is not listed on the NPL and no funding is used from the superfund pot of money.

Susan Nicosia asked how long negotiations are expected to take given the different HRS scores. Andrew said CFAC is not negotiating over the HRS numbers. The negotiations will be related to the RI/FS work plan.

Andrew was asked if it affects CFAC given that ARCO did not agree to negotiate. He explained that it does, because there is one less party. He said there are potential contribution claims against ARCO; these claims and how to proceed to the next step will be evaluated. When asked about Broussard, Andrew said he is not involved at this point; however, all former owners could be involved in the future.

Erin Sexton asked if EPA requires that past PRP's participate in the process. Andrew noted that EPA has legal authority to require past owners to become involved to ensure the site is cleaned up.

When asked where CFAC will get funding for the work, Cheryl Driscoll responded that funding will come from Glencore.

Ray Negron asked if anyone will determine where the cyanide originated, given the disagreement in HRS scores. Andrew replied that CFAC believes there was a problem with the test.

Stacey Schnebel asked if there is no designation and CFAC and Glenore proceed with their commitment to clean up the site, will the area where cyanide was found upstream be remediated. Andrew said it was not clear that there was cyanide contamination upstream. Investigations will determine whether or not it flowed from the site.

Erin Sexton asked if the panel will hear from EPA. Mary said Mike had vacation planned and the EPA's attorney was not able to attend because of short notice. Therefore, EPA was not present at the meeting. Erin noted that she would like to hear from EPA about the process to date. Cheryl Driscoll said she wanted an objective person to present the information and thought EPA was going to present in conjunction with Andrew. Mary said EPA has a formal process that must be followed and until the AOC is in place, Mike has agreed to be a guest at the CLP meeting.

Jessy Coltrane said EPA has not yet agreed to the work plan. She noted that the Remedial Investigation is an in-depth study.

Kyle Schmauch asked Andrew to confirm that the EPA used upstream sites as a control group. Andrew explained that the agency did. Kyle asked how many locations were tested. Andrew said sites in Aluminum City were tested for groundwater and river testing was conducted for surface water. Andrew noted that river testing was conducted to compare down river results to up river results.

When asked why CFAC did not work with the State of Montana, Andrew said CFAC didn't feel like it was an arrangement that would work for CFAC. When asked about some of the sticking points, Andrew said that CFAC felt that the EPA would be a much better partner than the state. He added that ultimately, the site has to be assessed.

Senator Dee Brown said a meeting was convened in April with the governor's policy advisor Tracy Stone-Manning. There were long discussions regarding NPL versus non-NPL. Senator Brown said CFAC's position is to not list the site. She added that the governor wrote a letter in support of NPL listing to keep CFAC's feet to the fire so that they would negotiate. Senator Brown said she sees this as a win-win for Montana and Columbia Falls. She said she would like to see the site cleaned up and see people employed. She is pleased to see CFAC at the table and negotiating.

Andrew concluded by saying that CFAC cannot negotiate NPL listing; however, they can comment. CFAC will discuss how to move forward with the assessment, which would be done either way.

Mary opened the floor for guests' questions.

Andrew was asked if CFAC agreed to the SAP as part of their comments to EPA. Andrew said CFAC did not specifically mention SAP, but discussed their interest in pursuing that route with the EPA's attorney.

A guest mentioned the stigma associated with NPL and said they would prefer the site not be listed. Clarence Taber agreed and said the majority of citizens in the Valley believe there is a stigma associated with NPL listing.

One of the guests mentioned that EPA makes the final decision regarding NPL listing. The guest noted that cyanide has not been found in many wells or at an alarming level. Andrew said two detections were well below EPA's maximum contamination level for cyanide in drinking water of 200 parts per billion. When asked if there is cyanide at the plant site, Andrew said yes. He added that for the past 30 years, CFAC has had a permit to discharge cyanide to the Flathead River.

Andrew added that the purpose of the RI/FS is to determine where the material is located

on the site and where it originates. Clarence Taber reminded the CLP that Roux mentioned the number of new wells being drilled as part of the assessment. Erin Sexton said one data point from one place does not give a full idea of what is going on with the environmental study. She added that a fuller data set provides better data.

Don Barnhart asked if CFAC will work with EPA regardless of listing. Andrew said CFAC and past PRPs would have been governed by CERCLA, regardless of listing. The difference is that EPA would have provided the site for listing.

When asked about a timeline for EPA to determine listing, Andrew said there is no specified timeframe. He added that NPL material is published in the fall and spring of each year.

Public Availability Session

Mary said she has heard the community's desire to make this a more open process. She shared the concept of a Public Availability Session, which is an informal event. She said stations are set up by project representatives from different areas of work to provide one-on-one information to the public. She suggested the following booths be available for the community to gain more information:

- Community Liaison Panel
- Calbag/Roux
- Agency
- CFAC History

Mary asked the members if they would be interested in hosting this type of event. Phil Mitchell said the CLP has not done enough to conduct this type of event. He suggested waiting until a determination regarding NPL listing has been made. Clarence Taber disagreed and said the community has a lot of questions. He said the information provided at the meetings has been valuable and would be beneficial to the community.

Nikki Stephan suggested we consider multiple events to bring the community into the process. She said possibly as many as quarterly or bi-annually.

Susan Nicosia said timing is critical. She suggested the event be conducted in October to maximize interaction among community members. She added that September is a very busy month as school resumes and fall sports are underway.

Project Update

Cliff Boyd said structure demolition and wrecking has not begun. Calbag is cleaning structures in preparation of demolition. He added that structure demolition will begin in mid-September after the auction contents have been removed.

Cliff shared details related to the three-day auction that will take place July 28-30. A

variety of items from the lab, metal shop and fabrication, and rolling stock are some of the items available. Auction details can be found at www.rabin.com

Cliff mentioned reported that 36 residents of Columbia Falls have been hired for the project. He added that Calbag is utilizing several local vendors.

Donations

Steve Wright mentioned that scrap steel donations will be made to the Columbia Falls High School and Flathead Community College. Cliff noted that donated items will be removed from the auction list. Steve mentioned that an ore truck and an aluminum tapping crucible were donated to the Public Works Office to be displayed at the welcome park. Display cases were donated to the Columbia Falls Historical Society.

Mary reminded the CLP that a toll-free community information line has been established to answer questions from the community about the project. The toll-free number is 877-384-7036. She mentioned that this number appears on the project brochure.

Expectations from Ann Green Communications

Mary Green will follow-up on a request by panel members to invite MDEQ to participate.

Next Meeting and Adjournment

The meeting was adjourned at 7:42.m. The next meeting will include a presentation on Hydrogeology. The meeting will take place on Thursday, August 13 at North Valley Hospital Teakettle Community Room located at 235 Nucleus Avenue, Columbia Falls. The meeting will begin at 6 p.m.; a buffet dinner will be available at 5:30 p.m.

NEXT MEETING: **Thursday, August 13, 2015**
5:30 p.m. – Dinner
6:00 p.m. – Meeting
Location: North Valley Hospital Teakettle Community Room
Topic: Hydrogeology