# DEQ responds to CFAC, Zinke comments

**By JENI FLATOW | Posted: Wednesday, March 25, 2015 9:54 am**

The following e-mail from the Montana Department of Environmental Quality was sent to the Hungry Horse News in response to the comments made by Columbia Falls Aluminum Co. spokesman Haley Beaudry and Rep. Ryan Zinke that none of the 18 Superfund sites in Montana have ever been removed from the National Priority List.

The question from the Hungry Horse News was, "Has any large industrial site or mine in Montana ever been completely cleaned up by an owner without being put on the NPL?"

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I apologize for the delay in our response, but we felt the question delved into a gray area and we wanted to provide a bit more detail.

Unfortunately this question is not as straightforward as it may seem. If we interpret "completely cleaned up" as "delisted" or "no level of contamination," then with the level of contamination at large industrial sites and large mines that were in operation prior to environmental regulations, the answer is no, cleanup is ongoing.

However, at most of these sites surface contamination has been resolved, and this has allowed moving towards redevelopment. It is typically because of lingering groundwater issues that cause a site to remain active and not "fully cleaned/delisted." Remember, it took a long time for these sites to get this way, and it can take a long time to clean them up.

Sites with contamination such as at CFAC need to have an authority, whether state or federal, that assures cleanup is protective of human health and the environment. To allow CFAC to simply do what it wants with the site without a process for ensuring that the cleanup is adequately protective, meets applicable legal requirements, or addresses all the threats the site poses to groundwater, the Flathead River or other receptors, would leave citizens and the environment without the protection that is normally required under the law.

Whether the cleanup is done under the authority of the state of Montana or the Environmental Protection Agency, the process takes time. Determining where the contamination has come to be located and coming to agreements with the responsible parties to address the contamination is a very complex process that takes substantial time and resources.

The state has already tried to enter into an Administrative Order on Consent (AOC), but Glencore and CFAC would not agree with the state on the process. The point was to jump-start the process, but it would still take time. The NPL listing will provide resources, through the federal Superfund,


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that allow the process to move forward even in the absence of an agreement with the responsible parties. How fast it moves also depends on the cooperation of the responsible parties.

It is important to note that reuse of a site undergoing Superfund remediation is an important component of determining the overall cleanup strategy. At the national scale, the U.S. EPA has established numerous grant opportunities for remediated sites to assist communities to develop re-use strategies and create on-site infrastructure to support the re-use of brownfields.

Most Americans live within three miles of a Superfund site, and thousands of acres of land have been reclaimed and are being reused across the nation, i.e. back on the tax rolls. Having a voluntary, non-regulated cleanup performed may actually hinder re-use.

During any future site transfer, part of due diligence would uncover the history and the recommendations to list the site. Most future buyers will not want to take on that potential liability. Going through CERCLA or CECRA (Comprehensive Environmental Cleanup and Recovery Act, AKA State Superfund), will provide assurances to future owners and define, if any, liability that would transfer.

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