The following are my suggestions as to improving community involvement in Superfund decision-making in the Butte area. These views are my own and do not necessarily reflect the views of CTEC.

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Improving Public Participation in Superfund Decision-Making: Some Suggestions

1. **There must be an articulated commitment on the part of the top management of EPA and MDEQ to the principle of meaningful and efficacious public participation in Superfund decision making**. By articulation what I mean is to spell-out, in as concrete and specific a manner as possible, what EPA and MDEQ see is the role of community involvement. Some of this involvement will be critical; not everyone will agree with what EPA and MDEQ does. EPA and MDEQ management must establish an organizational climate that welcomes and invites efficacious public participation in Superfund decision-making. (Expressed hostility and defensiveness serve no purpose as the EPA and MDEQ respond to public input.) **The first step would be to conduct an analysis of the basic ideas, beliefs, and attitudes that guide agency personnel with regard to public participation.** <u>What do EPA and MDEQ staff think about the role of public involvement in agency decision-making?</u> After this analysis, the Montana EPA and MDEQ, using a consensus decision-making process, should develop their own philosophy of public participation to which all personnel should agree. Finally, training in facilitating public participation should be provided to all organizational members. (The EPA has glowing statements about the role that public input should play in agency decision-making. Such statements mean nothing unless the EPA and MDEQ personnel really believe these statements.) One area of investigation of new hires should be their view of public participation. The EPA's *Superfund Community Involvement Handbook* notes: "Integrating community involvement into every phase of cleanup requires the commitment of all members of a Superfund Site Team." (p. 3) Personally, *I am not sure how the Montana Office of EPA and MDEQ view public participation in Superfund decision-making.* All too often I think the agencies see the role of community involvement as providing **<u>information</u>** to the public about what is occurring in terms of Superfund cleanup. While providing information is very important, seeing community involvement as limited to providing information is a very restrictive role for community involvement, is bad decision making and does not adhere to the EPA's own community involvement mandate. EPA guidance

documents specifically address this issue and state that community involvement is more than providing information and engaging in PR to sell an agency decision to the public. Community involvement is supposed to involve the community in the decision making process in a meaningful way. The Superfund decision-making process mandates public involvement and numerous institutional mechanisms are provided for public comment. The EPA has a policy mandate that holds that it is: "imperative that EPA pay close attention" to citizen input and that citizens need to be "involved in the decision-making process." (OSWER 9230.0-18- "Incorporating Citizen Concerns into Superfund Decision-making.") The Introduction of the EPA's *Superfund Community Involvement Handbook* (April 2002) notes that the EPA is committed to "early and meaningful community participation during Superfund cleanup." The agency goes on to say that community involvement and participation in decision-making is a "foundation" of the Superfund program. The *Handbook* talks about citizens "shaping" Superfund decisions. The *Handbook* further notes: "Superfund community involvement is not a public relations effort to sell the Agency or its plans to the community, nor is it just the communication of information. Community involvement is the vehicle EPA uses to get community concerns and interests to the decision-making table." EPA endorses the core values of the International Association for Public Participation that in part include "the promise that the public's contribution will influence the decision." Community concerns should be reflected in agency decisions. (OSWER 9230.0-99, "Early and Meaningful Community Involvement") In its description of the Superfund process in the January 2000 booklet *This is Superfund,* the statement is made that there is community involvement throughout the Superfund process. (p. 8) The above comments present a rather strong commitment on EPA's part to the efficacy of public participation. I would be interested in learning how the leadership of the Montana Office of EPA interprets these provisions.

2. **Establish an ad-hoc citizen advisory committee to analyze and evaluate community involvement in Superfund decision-making**. This committee could have representatives of all the groups which are generally involved in Superfund decision making as well as a couple of representatives of the interested general public. For example, there could be representatives of Butte's low-income citizens, realtors, public health professionals, educators, elected officials, etc. As is the case generally in this country, the most effective public participation is participation through a group. The requirements for effective public participation- awareness of proposed decisions; organizational ability; a knowledge of the opportunities available for participation; the ability to mobilize citizens; access to decision makers; the resources and expertise needed to make effective comments- generally mean that the most effective participation in environmental decision

making is done through groups. Groups can mobilize support or opposition to an agency decision, hold agency decisions up to public scrutiny, and, if necessary, appeal agency decisions. Perhaps not surprisingly, research indicates that groups are more effective than individuals in influencing agency decisions on environmental issues. Without groups, public participation would be of limited utility. CTEC can be a participant but the EPA and MDEQ cannot in effect say to CTEC: *You take care of community involvement*. This is not the purpose of TAG groups—do the agency's job. For example, CTEC's board does not have representation from all of these groups that I mentioned earlier. CTEC focuses on more than promoting community involvement.

3. **It would be good for all public meetings to begin with a discussion of the role of public comment and participation in the decision-making process: what is the role and what is not the role.** Citizens could then know up front what to expect from their participation. Citizens often think that the cleanup decision should be the result of public input and that the community has a veto over agency decisions. "You should always be clear about the respective roles of the participants to avoid creating unrealistic expectations about how decisions will be made." (OSWER 9230.0-99) Perhaps the EPA and MDEQ could develop a brochure explaining, in terms of Montana, the role that EPA and MDEQ see for public involvement.
4. **Make clear the extent to which local governmental entities' interests are considered to be part of the public participation process and the extent to which local government represents, in the Superfund decision making process, citizen concerns.** (I bring this up because a previous head of the EPA's Montana Office said that he viewed local government comments as being the primary mechanism of public input. This view does not square with EPA policy.) What per se is the role of local government in Superfund decision-making? Butte is unique in that local government is a PRP and sometimes acts more as a PRP than as the public's representative.
5. **Encourage TAG groups to do more than simply disseminate information to the public but encourage them to also be advocates of the public interest.**
6. **TAG groups could also provide training as to how to make participation in the public participation process more productive for citizens.**
7. **Greater use needs to be made of non-ritualized venues for public participation**. For example, public hearings and 30-Day Comment Periods, while important, do not effectively reach large segments of the public. Proof of this can be seen in the last public comment period and the open house regarding the release of the Phase 1 draft of the health study. Greater use needs to be made of electronic means of communication such as web sites, Facebook, etc.
8. **Agencies should provide public reports or assessments of what they are doing how well they are implementing their public participation programs.** <u>There also needs to be an independent evaluation and analysis of the EPA's and</u>

MDEQ's community involvement activities by people who are experts in the area of community involvement.

9. **Process**. **In general, citizens will be more accepting of a decision if they feel that the decision makers have genuinely listened to them and that their input impacted the decision**. Citizens may not agree with the outcome but at least they will respect the process. "The measure of success should not be whether the community applauds the remedy because EPA did what the community asked, but whether or not EPA honestly listened to people who participated and genuinely responded to their concerns." (*Superfund Community Involvement Handbook*, p. 6) Agencies need to demonstrate that they have listened to citizen concerns even if they have not agreed with them. For example, the agency could regularly have public meetings after a decision has been reached in order to explain the rationale for the decision and why citizen comments were rejected or accepted. (Not all citizen comments could be addressed at one meeting but if certain comments tended to have widespread support, those could be addressed.) Relying on a responsiveness summary is insufficient. (With that said, care needs to be given to make sure that responsiveness summaries are not perfunctorily done but represent a thoughtful, detailed response to citizen input.) It would also be useful to follow the recommendation of the International Association for Public Participation, which is endorsed by EPA, of allowing citizens to define for themselves how they will participate. (*Superfund Community Involvement Handbook*, p. 7)
10. **Agencies should be more pro-active in dealing with the media**. Rather than waiting for the media to contact an agency spokesperson, agencies should seek out media contacts and make appearances on informational media programs. Perhaps having a regular, periodic column in local papers updating the community on cleanup activities could be utilized. In short, there needs to be more media outreach to the affected communities beyond those who are regular participants in the Superfund process.
11. **Agencies could also be more proactive in reaching out to the communities**. For example, service clubs are always looking for speakers. Agency personnel could reach active citizens by speaking at such groups. My understanding is that this is occurring but the agencies could contact various service clubs directly offering to speak to them. Instead of waiting to be contacted, initiate the contacts.
12. **Greater attention needs to be paid to making reports, proposals, etc. user friendly.** To that end, the EPA "Summary of the Proposed Plan on the Clark Fork River" was a good example of having a user-friendly document. Documents need to be seen in more than just their legal or technical light but also as documents to inform and include and empower the general public. Little effort was made to do this in regard to the issuance of Phase I of the Health Study.
13. **Citizens also have a responsibility to be informed about the Superfund process, about what Superfund can do and not do and to offer reasoned comments about proposed plans of action.**
14. **Greater attention needs to be given as to how the different parts of the Superfund public involvement process fit together.** The public also has to be convinced that the public comment period will mean something or is it simply a legally prescribed exercise? We will see how the EPA reacts to public input

regarding Phase I of the Butte Health Study. From the EPA documents on community involvement that I have read, it seems clear that the public comment period is supposed to be more than just refining the details of the plan. In fact, according to the EPA's own document *Superfund Community Involvement Handbook,* it is during the comment period on a proposed plan of action that public involvement is most intense. (p. 34) It is during the public comment period on proposed plans that the most qualitative and quantitative opportunities are offered for public participation. Yet, is this time of maximum public involvement the time of least public participatory efficacy? In general, if the agency is successful in involving the public from the very beginning of the Superfund process, as it is supposed to do, and in some sense the proposed cleanup plan is a result of that early public involvement, what is the realistic, pragmatic purpose of the official public comment period after a proposed cleanup plan is issued? During the public comment period on a proposed plan of action, "the presentation of the preferred alternative should emphasize that the Agency has not made a final decision and is open to suggestion on how the preferred alternative, or the other alternatives might be modified to better satisfy the remedial objectives of the site. In other words, the Proposed Plan should clearly indicate that the Agency encourages public comments on all alternatives, not just the preferred alternative. The Agency may alter the preferred alternative or shift from the preferred alternative to another if public comments or additional data indicate that these modifications are warranted." (*Superfund Community Involvement Handbook,* p. 36) The above document sites with approval instances of where public comments actually lead to an alternative being scrapped. The relationship between the various parts of the Superfund process in terms of public involvement needs to be clarified. Hopefully the responsiveness summary that will be written regarding public comment on Phase I of the Health Study will clearly indicated how public input impacted that document. If public comment is rejected, hopefully the responsiveness summary will indicate why it was rejected.

15. ***OSWER Directive 9230.0-18* states that: "it is important that we demonstrate to citizens that they are involved in the decision-making process." How will this be demonstrated?** It needs to be made clearer how are citizens really involved apart from participation in the formal opportunities for public comment. There needs to be evaluation mechanisms developed for assessing the efficacy of public participation.
16. **In addition to the recommendations of #15, terms such as "meaningful participation," "shaping Superfund decisions," "influencing decisions" and other similar terms used by EPA need to be defined with some precision.** Currently, they are too imprecise and amorphous. What for example, constitutes "meaningful participation"?
17. **It would be beneficial to engage in a community visioning process wherever possible.**
18. **The agency needs to make a clear distinction between "community acceptance" as a modifying criterion in the remedy evaluation process and public participation throughout the process.** To me "community acceptance" is a <u>quantitative</u> expression of community preference and a function of whether or

not a majority of interested parties in the community support or oppose a proposed remedy. Community acceptance is a function of counting heads or hands. On the other hand, public participation is different in that it is qualitative. Public participation in a qualitative sense should impact the whole Superfund decision-making process. If one member of the public has a comment with merit, the agency should listen to that comment. The public participation element means that the public has the right and duty to understand, analyze, evaluate and recommend modifications, additions, or deletions to proposed plans of action. For example, the public can provide valuable insight as to the meaning of permanence or the relation of cost to the other criteria, etc.

19. **The use of jargon must be minimized.** All professions such as law and medicine have their jargon that mystifies those who do not belong to the profession. By limiting public comprehension, this mystification stands in the way of effective public participation. One reason that participation in reacting to Phase 1 of the Health Study was so scant was that the information was presented in a format that was difficulty for the public to understand.
20. **To accomplish all of the above sufficient resources need to be devoted to the community involvement process.** The EPA responsibility to provide for "meaningful" public involvement cannot be transferred to any other group; the EPA retains ultimate authority for community involvement related to Superfund.

Throughout the community involvement process, the agencies involved need to remember: "While EPA retains the final responsibility and authority to decide what will happen at a Superfund site, the Agency values and seriously considers community input." (*Superfund Community Involvement Handbook*, p. 1) For reasons already articulated, the public has a right to participate in Superfund decision-making. For reasons already articulated, public participation produces sound environmental decisions.

However, the public will only participate if we feel that our participation has some efficacy. I have been told time and again that the reason people do not attend agency meetings is that they have no sense that their attendance matters, that their comments will have any efficacy. It is essentially a cost benefit analysis will the cost of my participation in things such as time and energy benefit me—does the benefit outweigh the cost.