BACKGROUND PAPER - ANACONDA SMELTER SUPERFUND SITE VISIT (7 SEPT)
DATE PREPARED: 8/31/18

Objective: At the request of Senator Daines, EPA is providing a tour and update on the progress being made at the site. On July 28, EPA, Atlantic Richfield (AR), the State of Montana along with Anaconda Deer Lodge County reached a conceptual agreement to complete cleanup at the site and to provide the community with economic development opportunities. The agreement will allow us to reach the goal of deleting the site by 2025.

Location: Anaconda, Montana

Site Background:
In 1977, Atlantic Richfield purchased the Anaconda Copper Mining Company, including the smelter. Operations at the Anaconda Smelter ceased in 1980 and the smelter facilities were dismantled soon thereafter. Due to ore processing operations, wastes, soil, groundwater and surface water are contaminated with arsenic, copper, cadmium lead and zinc, which are hazardous substances under the Superfund law. The Anaconda Smelter Superfund Site was placed on the Superfund National Priorities List in 1983 to address contamination from former smelting operations. The 300-square-mile Anaconda Smelter Site is located at the southern end of the Deer Lodge Valley in Montana. EPA is the lead agency with Atlantic Richfield conducting site activities through administrative orders.

There are five operable units (OUs) with final decisions at the site:

- **OU 15 – Mill Creek**, a former suburban community located adjacent and downwind of the smelter, impacted by high arsenic levels in soils and dust.
- **OU 11 – Flue Dust**, a by-product of copper smelting containing very high levels of metal and arsenic, stockpiled at nine locations in the East Anaconda Yards and on Smelter Hill.
- **OU 7 – Old Works/East Anaconda Development Area (OW/EADA)** consists of historic milling and smelting areas located immediately east of Anaconda, including former smelter properties conveyed from Atlantic Richfield to Anaconda-Deer Lodge County for redevelopment.
- **OU 16 – Community Soils (CSOU)** includes soils within residential and commercial properties, including Anaconda, Opportunity, and adjacent rural areas within the site.
- **OU 4 – Anaconda Regional Water, Waste & Soils (ARWWS)** consists of all remaining waste areas, including the Anaconda Ponds, Opportunity Ponds, Slag and Smelter Hill as well as the adjacent 300-square miles of soil, surface and ground water impacted by smelter emissions.

We plan to begin deleting OU 15 – Mill Creek and OU 11 – Flue Dust very early next year. The remainder of the site will be delisted beginning in 2025.

Cleanup Status:

Remedial actions have been completed at more than 80 percent of the site. Remaining work will be completed on the following OUs by 2025 under the currently negotiated consent decree.

- **OU 7 – Old Works/East Anaconda Development Area**. Cleanup is mostly complete on this OU, including the construction of a Jack Nicklaus designed golf course. While the cleanup provided for nearly 20 new businesses, remaining efforts will focus on redeveloping properties adjacent to the golf course.
- **OU 16 – Community Soils**. To date, over 1,000 residential and commercial properties have been cleaned up. Under the consent decree, an additional 1,500 properties will be tested and

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cleaned up where necessary. Institutional controls will also provide for interior and attic dust remediation.

- **OU 4 – Anaconda Regional Water, Waste and Soils.**
  - Cleanup is mostly complete for major waste source areas within the OU. This work includes the Opportunity Ponds, where over 3,500 acres of tailings have been capped and nearly 700 acres of new wetlands created; Smelter Hill and the Anaconda Ponds where another 1,000 acres of the former facility have been capped. Remaining efforts will focus on the slag piles to prevent off-site migration while allowing the slag to be reused for industrial purposes.
  - For the remaining outlying areas of OU4, more than 12,000 acres of mostly valley soil have been treated and reclaimed to date for the benefit of agriculture and wildlife. The remaining work will focus on the steeper upland areas to minimize contaminant loading to surface water.
  - Although surface water quality will be improved, it is likely that certain State standards will need to be waived. Additionally, groundwater standards have already been waived within the site. A domestic well program currently tests and, if necessary, provides homeowners with reverse osmosis treatment units or new wells.

Community Concerns/EPA Actions

- Since the Opportunity lawsuit, the community has expressed concerns about the protectiveness of the cleanup, especially in parks and schools. The current residential cleanup began in 2015. In 2017, EPA directed Atlantic Richfield to prioritize testing and cleanup of the community's parks and schools. Additionally, in 2018, EPA sampled the interior of schools and provided cleanup where necessary.
- In May 2018, the Agency for Toxic Substances and Disease Registry (ATSDR) along with local and state partners conducted a community listening session to understand the community's health concerns. In July 2018, ATSDR returned to the community to provide their findings and announce that an exposure investigation will be conducted. The study will evaluate blood lead and urine arsenic and will be completed in 2019.
- There is currently an active lawsuit against Atlantic Richfield brought by homeowners within the boundary of the Superfund site seeking restoration damages under Montana law. Late last year the Montana Supreme Court found that CERCLA did not bar application of Montana's state restoration law contemporaneous with an ongoing Superfund cleanup. The Montana Supreme Court decisions allowed for a trial later this year to move forward in Montana district court. Plaintiffs are seeking monetary damages to fully restore their property to pre-mining conditions. DOJ filed a brief with the Montana Supreme Court arguing that Superfund is a bar against any other remedial activity at a Superfund site, an argument with which the Court did not agree. Additionally, we have sent a letter to the plaintiffs' attorneys explaining that performing restoration work on a CERCLA site could make homeowners financially responsible for any damage to the existing remedy. Atlantic Richfield has also filed a cert petition with the United States Supreme Court asking it to take up this matter. That petition has not yet been acted upon.
- Homeowners (Kitchell) north of the town of Anaconda requested testing of their domestic well. Tests showed that their drinking water had arsenic levels approaching 700 ppb, well above the drinking water standard of 10 ppb. Homeowners were immediately placed on bottled water and arrangements were made for them to consult with ATSDR, which suggested ways to reduce their exposure to arsenic and get additional medical monitoring. Since a reverse osmosis treatment

system, as provided by remedy, could not effectively treat arsenic levels that high, Atlantic Richfield provided funding for a new well. The new, shallower well provides water that meets current drinking water standards. Because the original well is located well away from contamination sources at the site, is a deeper well, and all other domestic wells in the area are clean, we believe the contamination is localized and naturally occurring.

Enforcement Update

As mentioned above we have reached a conceptual agreement that will finalize cleanup and allow for deleting the entire site by 2025. Because consent decree negotiations are subject to a federal court order prohibiting parties from discussing the details of any negotiations, we cannot discuss the agreement that was reached. However, as in Butte, we will be approaching the court along with Atlantic Richfield and the State of Montana to lift this order. After the order is lifted, we will hold community meetings to outline the agreement and seek public comment. We anticipate approaching the Court in October 2018 to make this request.