Brad Black, MD
CEO and Medical Director
Center for Asbestos Related Disease
214 East 3rd Street
Libby, Montana 59923

Dear Dr. Black:

This letter is in reply to your March 13, 2018 letter regarding the asbestos risk evaluation under the Toxic Substances Control Act (TSCA). First, I commend your commitment to public health and the caring treatment you provide your patients.

As you know, the U.S. Environmental Protection Agency (EPA) is extensively involved in Libby, Montana and has removed major sources of Libby Amphibole asbestos and/or mitigated the exposure pathways to many properties in and around Libby and Troy. The agency completed the last scheduled property cleanups located within Libby and Troy in November 2018. During this process, the EPA investigated 8,112 properties and completed cleanups at 2,611 properties. The EPA also developed guidance for consumers on how to manage vermiculite insulation[1] that may be contaminated with asbestos to help the public avoid exposure to asbestos.

That said, I understand your interest in continued EPA attention to the Libby Amphibole asbestos and its impacts on your community. Although the EPA has been actively engaged in Libby, I recognize that concerns remain and that the health consequences of asbestos exposure can be long lasting and severe.

In your letter, you expressed your concern about the exclusion of Libby Amphibole and legacy asbestos from the TSCA risk evaluation for asbestos. Section 6(b)(4) of TSCA requires the EPA to establish a risk evaluation process for existing chemicals, in which the EPA must "determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator under the conditions of use." Section 3(4) of TSCA defines "conditions of use" as "the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of." The risk evaluations we are conducting under TSCA, including the one for asbestos, focus on uses for which manufacturing, processing, and distribution in commerce in the United States is intended, known to be occurring, or reasonably foreseen to occur (i.e., is prospective or on-going). Legacy uses (uses that do not reflect ongoing or prospective manufacturing, processing, or distribution), associated disposal, and legacy

[1] This guidance is available at https://www.epa.gov/asbestos/protect-your-family-asbestos-contaminated-vermiculite-insulation.

disposal (disposal that has already occurred) are not considered "conditions of use" for purposes of TSCA risk evaluations. That is why the risk evaluations will~~do~~ not address legacy uses as conditions of use; however, we may look to other means, whether within the EPA or elsewhere, to understand and, if necessary, address risks from ongoing exposure to legacy uses of chemicals.

Although vermiculite contaminated with Libby Amphibole asbestos remains in buildings as an insulating material, because it is no longer manufactured, processed, or distributed in commerce for use in the United States and is not reasonably foreseen to be, the EPA did not consider it as a condition of use of asbestos in the TSCA problem formulation and scoping document.

In addition to the pending asbestos risk evaluation, on April 17, 2019, the EPA finalized an asbestos Significant New Use Rule[2] (SNUR), which addresses discontinued asbestos uses that are currently not regulated. This is the first time the EPA has taken such an action for asbestos. Discontinued asbestos uses identified by the SNUR are prohibited from restarting until EPA conducts a thorough review of the notice, makes an appropriate determination, and takes actions as required in association with that determination, including prohibiting uses, if appropriate.

Thank you for your letter. If you have further questions, please contact Tanya Hodge Mottley, Director of the National Program Chemicals Division, at 202-564-3152 or mottley.tanya@epa.gov.

Sincerely,

Jeffery T. Morris, Ph.D.
Director
Office of Pollution Prevention and Toxics

[2] The proposed rule may be found at https://www.federalregister.gov/documents/2018/06/11/2018-12513/asbestos-significant-new-use-rule.

Jan Ivers
Chair
Lincoln City-County Board of Health
418 Mineral Ave.
Libby, Montana 59923

Dear Ms. Ivers:

This letter is in reply to your March 15, 2018 letter regarding the asbestos risk evaluation under the Toxic Substances Control Act (TSCA). First, I commend your commitment to public health and the community of Libby, Montana.

As you know, the U.S. Environmental Protection Agency (EPA) is extensively involved in Libby, Montana and has removed major sources of Libby Amphibole asbestos and/or mitigated the exposure pathways to many properties in and around Libby and Troy. The agency completed the last scheduled property cleanups located within Libby and Troy in November 2018. During this process, the EPA investigated 8,112 properties and completed cleanups at 2,611 properties. The EPA also developed guidance for consumers on how to manage vermiculite insulation[3] that may be contaminated with asbestos to help the public avoid exposure to asbestos.

That said, I understand your interest in continued EPA attention to the Libby Amphibole asbestos and its impacts on your community. Although the EPA has been actively engaged in Libby, I recognize that concerns remain and that the health consequences of asbestos exposure can be long lasting and severe.

In your letter, you expressed your concern about the exclusion of Libby Amphibole and legacy asbestos from the TSCA risk evaluation for asbestos. Section 6(b)(4) of TSCA requires the EPA to establish a risk evaluation process for existing chemicals, in which the EPA must "determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator under the conditions of use." Section 3(4) of TSCA defines "conditions of use" as "the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of." The risk evaluations we are conducting under TSCA, including the one for asbestos, focus on uses for which manufacturing, processing, and distribution in commerce in the United States is intended, known to be occurring, or reasonably foreseen to occur (i.e., is prospective or on-going). Legacy uses (uses that do not reflect ongoing or prospective manufacturing, processing, or distribution), associated disposal, and legacy

[3] This guidance is available at https://www.epa.gov/asbestos/protect-your-family-asbestos-contaminated-vermiculite-insulation.

disposal (disposal that has already occurred) are not considered "conditions of use" for purposes of TSCA risk evaluations. That is why the risk evaluations will~~do~~ not address legacy uses as conditions of use; however, we may look to other means, whether within the EPA or elsewhere, to understand and, if necessary, address risks from ongoing exposure to legacy uses of chemicals.

Although vermiculite contaminated with Libby Amphibole asbestos remains in buildings as an insulating material, because it is no longer manufactured, processed, or distributed in commerce for use in the United States and is not reasonably foreseen to be, the EPA did not consider it as a condition of use of asbestos in the TSCA problem formulation and scoping document.

In addition to the pending asbestos risk evaluation, on April 17, 2019, the EPA finalized an asbestos Significant New Use Rule[4] (SNUR), which addresses discontinued asbestos uses that are currently not regulated. This is the first time the EPA has taken such an action for asbestos. Discontinued asbestos uses identified by the SNUR are prohibited from restarting until EPA conducts a thorough review of the notice, makes an appropriate determination, and takes actions as required in association with that determination, including prohibiting uses, if appropriate.

Thank you for your letter. If you have further questions, please contact Tanya Hodge Mottley, Director of the National Program Chemicals Division, at 202-564-3152 or mottley.tanya@epa.gov.

Sincerely,

Jeffery T. Morris, Ph.D.
Director
Office of Pollution Prevention and Toxics

[4] The proposed rule may be found at https://www.federalregister.gov/documents/2018/06/11/2018-12513/asbestos-significant-new-use-rule.