Chapter 60
Trust and stigma

The announcement of the permanent closure of the Columbia Falls Aluminum Co. plant in March 2015 ended 2 ½ years of murky oblivion and moved the site to a new chapter. Montanans by that time were familiar with giant industrial cleanups – the Butte-Anaconda Superfund site was one of the oldest and largest in U.S. history, and the Libby Superfund site had attained national notoriety. Montana had 18 federal Superfund sites and 180 listed under the state's own Superfund-like program. Eighteen of the state's sites were located in the Flathead Valley, including two former post-and-pole treatment plants in Columbia Falls. CFAC's closing left two Alcoa aluminum smelters in Washington State operational – the other seven Pacific Northwest plants were either partially dismantled or just completely gone. Other aluminum smelters across the U.S. had also closed and been cleaned up – aluminum production in the U.S. was dramatically shrinking, as power and raw material prices rose, metal prices fell and global competition increased by construction of new, giant, modern and efficient smelters located close to cheap power, raw material sources and ocean shipping.

The notorious story of industrial cleanups had been popularized for decades by Hollywood, popular novels and dramatic television shows, and the overseas transfer of U.S. manufacturing, from textiles and steel to automobiles and semiconductors, was likewise well known to Americans – candidates on the campaign trail typically howled over the loss of jobs. On top of all this was the tainted reputation of Glencore – the company with ties to the infamous criminal fugitive Marc Rich that bought CFAC in 1999 and then obfuscated its ownership of the smelter when talk of cleanup turned serious. Glencore didn't help its image when it broke off cleanup talks with the Montana Department of Environmental Quality in December 2014 – many opponents to Superfund listing initially said they wanted to see the DEQ have oversight of any cleanup project. With all this in mind, the degree of resistance to designating the Columbia Falls smelter site for a Superfund cleanup by some local and state politicians seemed bewildering at times. The federal and state agencies that would ultimately take responsibility for the site, with or without Glencore, meanwhile plugged away at preparing for the long haul to cleanup.

The bizarre scenario fueled harsh local criticism of Glencore, CFAC, the Environmental Protection Agency, the DEQ, and any other person, governmental agency or watchdog group that was linked to the smelter site. On June 22, 2014, the Daily Inter Lake published an opinion piece by Frank Hanson who wanted to know, “Why should taxpayers pay for CFAC cleanup?” Hanson provided a brief history of Glencore, referring to company founder Marc Rich and his conviction for tax evasion and his pardon by President Bill Clinton. Hanson wrote about the connection between Rich’s wife Denise Rich and the Clintons and Glencore’s dealings around the world with disreputable national leaders, from Fidel Castro and the Ayatolla Khomeini to Augusto Pinochet and the Sandanistas. He also wrote about the huge amounts of money Glencore made after merging with Xstrata, arguing that Glencore had enough money to pay for cleaning up the CFAC site. [1]

EPA or Glencore

Two anonymous comments posted to a Dec. 16, 2014 online story about the aluminum plant in the Flathead Beacon warned about the Swiss-based global commodities trading company. “Glencore is the most deceitful, deceptive and untrustworthy slime of a company I have ever witnessed,” a commenter called Substantia said. “The devil himself fears them. State and local jurisdictions should expect nothing but bad faith from Glencore in their relations and dealings. If prudence indicates a rifle would be appropriate in taking them down, then get several cannons, a tank and a battleship… even then you’ll probably find that to be too little armory. Don’t give them a millimeter of wiggle room.” A commenter called Fourweight cited large pollution sites in Montana abandoned by their owners. Another expressed cynicism about government. “Defund the EPA. Give corporations big tax breaks. Jobs – we need them. At any cost,” a commenter called Substantia said. “Don’t you dare make big companies comply with more ‘environmental regulation.’ Congrats – all of you who say that and vote for the nuts that say the same thing – you got all of it in spades in this one example. We will get stuck with the costs, the contamination and the mess. They get the millions in profits and skip town with a bankruptcy. Add this to Libby, Butte, Zortman, Anaconda… how long does the list need to be?” [2]

The cleanup process began with a slow movement toward deciding whether or not to officially propose putting the site on the Superfund’s National Priorities List, which was followed by 1 ½ years of deciding

whether or not to officially list the site. On March 24, 2015, EPA Assistant Administrator Mathy Stanislaus wrote to Sen. Jon Tester informing him that the EPA would propose putting the CFAC site on the Superfund list by publishing it in the Federal Register in the next few days. [3] According to the EPA website, the federal Superfund program investigated and cleaned up the most complex, uncontrolled or abandoned hazardous waste sites in the U.S. in order to protect public health and the environment. The Superfund law gave the EPA the authority to clean up releases of hazardous substances with the goal of returning contaminated sites to productive use. Contaminants that had been detected at the CFAC site included cyanide, fluoride and metals, including arsenic, chromium, lead and selenium. The contaminants were found at the site in soils, surface ponds and groundwater. The EPA said the contaminants posed a risk to nearby residential drinking water wells and to the Flathead River. [4]

The EPA and the DEQ had determined that a comprehensive investigation of the site was needed to develop effective cleanup actions to address the risks. “The EPA will continue to work closely with the local community, the state of Montana and the Columbia Falls Aluminum Company to ensure a comprehensive investigation of the site is completed,” EPA Region 8 Administrator Shaun McGrath said. “These efforts will identify cleanup actions needed to address human health and environmental concerns and will advance the community’s interest in the redevelopment of this important property along the Flathead River.” The National Priorities List, which included the nation’s most serious uncontrolled or abandoned hazardous waste sites, served as the basis for prioritizing both enforcement actions and long-term Superfund cleanup funding, the EPA said. Only sites on the list were eligible for such funding, but a site’s listing neither imposed a financial obligation on the EPA or assigned liability to any party. [5]

The question of whether the Superfund process would delay cleanup or stigmatize the CFAC site for future development had been raised by CFAC spokesmen and Rep. Ryan Zinke. Pat Munday, an historian at Montana Tech in Butte, talked to the Flathead Beacon about the Superfund program’s ability to hold corporations accountable in April 2015. “The corporate stance is always that they don’t want Superfund involved because they want the cheapest possible solutions,” Munday said. “You look at what happens when corporations do lead the cleanup, and they are often far more guilty of delaying the process than the EPA. But once Superfund is involved, there are pretty rigorous

human health and environmental standards that kick in. It's far from a perfect process and I have been critical of it in the past, but it is far better to have agency oversight than it is to allow and trust corporations to do it on their own." [6]

Munday noted that after 16 years of work funded with $87 million from the Atlantic Richfield Co., clean up was nearing completion for the 27-mile long Silver Bow Creek that was used as an industrial wastewater channel for Butte's mining, smelting, industrial and municipal wastes for more than a century. "This has been a superb cleanup," Munday said. "They have hauled away a tremendous amount of tailings, the stream was completely rebuilt, the natural resources have been returned to full recreational use, and now they have a native cutthroat fishery. That's pretty significant given how badly contaminated it was." He noted there had been delays in the cleanup. "But it takes 50 to 100 years to create these Superfund sites, so it takes a fair amount of time and work to characterize them so that you know what you're dealing with," he said. The ongoing cleanup of the Whitefish River and BNSF Railway site in Whitefish, where Zinke grew up, were taking place under EPA oversight, Munday said. [7] In April 2019, ARCO announced it had spent $1.4 billion on the Butte Superfund cleanup project, with plans to spend $100 million more. Since the site was declared a Superfund site in 1983, more than 600 acres of land had been remediated and reclaimed, according to Butte-Silver Bow officials. [8] The Whitefish River cleanup was ordered under the federal Clean Water Act as amended by the Oil Pollution Act, while the BNSF Railway cleanup was a Superfund project.

Rep. Zinke had taken a hard and fast position against listing the CFAC site. "Given EPA's track record of not being timely and efficient, I would prefer that we agree upon a plan founded on private enterprise to get it done quicker," he told local media in March 2015. "I think they need to sign a contract, that is the process, and that contract should be between Glencore and the state of Montana or another public entity." Columbia Falls Mayor Don Barnhart disagreed with Zinke about this. "It would attach a stigma to us if we just let it go on," he said. "That would say that we're not concerned. Waiting on Glencore so far has just not been a good deal." EPA Site Assessment Manager Rob Parker addressed the claim that Montana's Superfund sites never got delisted. "It depends on the terminology," he said. "It's accurate that none of the sites that have been listed on the Superfund list for Montana have been delisted. But the key message is that, although the sites are still

on the list, that certainly doesn't mean cleanup is still waiting to happen. Cleanup is happening as the site is listed, and there are lots of opportunities for redevelopment and cleanup while the site is still listed." [9] The EPA's proposal to place the smelter site on the Superfund's National Priorities List was published in the Federal Register on March 26. The 60-day public review and comment period would end on June 2. [10]

Zinke reiterated his position during a town hall-type meeting at Flathead Valley Community College in Kalispell on April 2, 2015. "The problem with designation as a Superfund site is there are 18 Superfund sites in Montana and not one of them has been removed," he said. "My fear is that once it goes on Superfund, it will never come off and property values will plummet." Near the end of the meeting, Columbia Falls Area Chamber of Commerce President Stacey Schnebel asked several questions about Zinke's position. "The community supports (cleanup) and we would love it if you could get behind the people and not the company," she said. "Based on the tone of your letter (to Gov. Steve Bullock opposed to listing), it seems to us that you have the best interest of Glencore in mind." As for the idea of Glencore taking the lead in a thorough cleanup of the CFAC site, "I think that's pretty pie in the sky," Schnebel said. "What we would like to see as your constituents is for you to stand behind the people of Columbia Falls and not the interests of a corporation." Zinke responded by citing the poor record of Superfund listing. "What I advocate for is to return the site to a clean status," he said. "What I don't like about Superfund is it's open-ended and the record of getting out is not good." [11]

Schnebel noted that some Superfund sites have been cleaned up and repurposed prior to delisting as they progressed through cleanup stages. "They are being used for other purposes," she said. Zinke stuck to his position. "If the EPA is faster and there's a record of that, I will jump on whatever train can accomplish that," he said. [12] "We don't have a lot of faith in Glencore," Schnebel told him. Zinke said he wanted to hold Glencore accountable for the cleanup. He also acknowledged that a government agency might need to be involved to pressure Glencore, but the state of Montana could do that best. He also said he would be willing to help restart talks between Glencore and the state, "but what I ask is that people at the table don't come in with an agenda." [13] Zinke also touted the economic significance of the CFAC site, with a large gas pipeline, railroad spur and access to the Bonneville Power Administration power grid. "It could revitalize

Columbia Falls," he said. "The Superfund process will delay that." Zinke said he had talked to Glencore and wanted a third party to conduct the environmental survey, but he reiterated his point about delays caused by the Superfund process. Schnebel noted that it took decades to get the CFAC site to where it was. "If I believed that the EPA was the fastest way to clean up the site, I would go that way," Zinke said. [14]

Four days after the town hall meeting, the Columbia Falls City Council approved a letter to be sent to the EPA requesting that the CFAC site be placed on the Superfund list for cleanup. The council said they recognized the importance of the process, especially conducting a remedial investigation and feasibility study of the site, and took note of failed negotiations between the DEQ and CFAC. "As the owner of the property elected to end negotiations… DEQ and EPA must ensure that remediation and cleanup will occur in a timely manner," the letter said. The council expressed concern about groundwater contamination and providing safe drinking water to its residents. "While the testing of the city's wells have not revealed that the known contaminants from the CFAC site have made their way into the city's drinking water supply as of now, the city would not like to see cleanup and remedial action delayed until the city is faced with costly emergency measures to protect the city's water supply," the letter said. The council also said they wanted redevelopment of the site "to provide long-term, sustainable employment and development in the community." [15]

The council noted that the decision to put the CFAC site on the Superfund list would in large part be determined by the comments received during the 60-day public comment period. Councilor Mike Shepard told the council he spoke with Rep. Zinke following the town hall meeting. "We both agreed we'd be dead before the site is completely cleaned up," Shepard said. "It'll cost hundreds of millions of dollars, and I don't expect Glencore will do it." Shepard, who worked at the CFAC plant in the past, pointed out a big difference between Libby and CFAC – "Here, the Superfund site is out in the county." That said, he also noted that the Flathead County Commissioners so far had not supported a Superfund-type cleanup for the site. "They said something like, 'It's private property and none of our business,'" Shepard said. Noting that he agreed with some of Zinke's points against placing the CFAC site on the Superfund list, he added, "But with so much contaminants working their way downstream, it is our concern. So I will sign this letter." Mayor Don Barnhart also weighed in on the cleanup

process. “By going to the EPA and National Priorities List, we’re forcing Glencore to move forward,” he said. Barnhart noted that under Superfund law, portions of a site could be redeveloped while the rest of the site was being cleaned up. [16]

Public comments

The EPA’s designated public input website soon received a second round of comments addressing the agency’s decision to propose listing the site. In her April 9, 2015 letter to the EPA, Lynda Fried said she opposed putting the CFAC site on the Superfund’s National Priorities List. “This is not supported by several of the community leaders in Flathead County,” she said. “This type of listing is not warranted and has not been well thought out.” Fried said she wanted Glencore and the DEQ to handle remediation of the site. [17] Carol Pike, the past executive director of the Columbia Falls Area Chamber of Commerce, stated her opposition to listing the site in a June online comment. “Please do not give the Flathead Valley the black eye of having a Superfund site at CFAC in Columbia Falls,” she said. “CFAC has begun cleanup of the site with a professional cleanup company. They will be supervised by the state. We all want the site cleaned up but not with the bad name of Superfund site.” [18]

But many comments to the EPA were supportive of listing the CFAC site. In an April 22 letter, Linda Christensen supported listing. “I worked at the plant, but I have more loyalty to the environment,” she said. “The blatant pollution for profits is no longer an acceptable concept. The toxins should be cleaned up by the EPA, who will do an honest job.” Christensen noted that opponents to the listing claimed the owner would do a better job than the EPA, and that the owner could be trusted to do a good job of cleaning up the site. “We trusted the corporation to not pollute in the first place,” she said. “Several owners are now accountable for the pollution and toxins at the CFAC plant and the surrounding environment. None have corrected any of the problems at any point. They have no incentive to clean up the toxins. A corporation by definition is an entity with the goal of profit. This would be contrary to the concept of spending money to clean up anything.” [19] Jennifer Buls wrote to the EPA in support of listing the site on June 8. Buls, who worked for the Glacier Guides Montana Raft Co., expressed concerns about toxins from the plant entering the Flathead River, including cyanide, fluoride, arsenic, chromium, lead and selenium. She claimed links had already been observed between contaminants from

the aluminum plant and elevated cases of autism and cancer in the Flathead Valley. She also pointed to the visual impacts of Teakettle Mountain caused by the plant. [20]

Kathy Beckstrom also supported the listing in her April 22 letter. She said she grew up in Columbia Falls and her father worked at the plant's laboratory until he retired. "While growing up, I listened to my father describing some of the hazardous materials which the aluminum smelting process used and produced," she said. Beckstrom noted that when the plant was built in the early 1950s, fewer environmental laws existed and knowledge was limited about the proper handling and disposal of hazardous materials. "Because the facility has changed hands multiple times since it was built, I have no confidence that any documentation regarding the hazardous materials used, or disposed of, would be complete," she said. She specifically expressed concerns about PCBs, aluminum fluoride, hydrogen fluoride, perfluorocarbon gas, tetrafluoromethane, hexafluoroethane, sulfur oxide, sodium aluminum fluoride, caustic soda, petroleum coke, carbon, pitch and vermiculite. Beckstrom said her father described seeing alumina, coke and carbon spilled onto railway tracks when it was delivered. "Some of it also blew away during and after unloading in the wind that blew through the area often," she said. Beckstrom said she had little confidence in Glencore or the company it hired to investigate the site for a cleanup. "I am concerned that Glencore may have a vested interest in the results of that company's investigation, and thus the investigation may not be thorough," she said. "Glencore may also have a profit interest in seeing the cleanup being done as quickly as possible, which may lead to not everything necessary being done to properly clean the facilities." [21]

In an April 28 letter, Mary Reed Kuennen said she worked as a wildlife biologist for the Forest Service and had lived in the Flathead Valley for 30 years. In addition to concerns about human health, Kuennen cited nearby rivers with Wild and Scenic River designations, and the presence of elk, loons and bald eagles in the area and bull trout in the Flathead River. "Once cleaned up, I would hope a combination of Land and Water Conservation funds and BPA mitigation funds could be used to purchase the property outright, or as a minimum to purchase a conservation easement on the property," she said. [22] In a June letter, Corrie Holloway cited the need to preserve water quality in the aquifer used for drinking water and in the Flathead River, and to protect fish and wildlife in the area. "Few rivers allow us the opportunity to glimpse

a grizzly bear, bull trout, river otter, mountain goat and westslope cutthroat trout on a regular basis," she said. Holloway also criticized the plant's owner. "Glencore has proven to be an irresponsible neighbor," she said. "Glencore's persistent efforts to mislead the community and stall the investigation/cleanup of contaminants such as cyanide, fluoride, arsenic, chromium, lead and selenium is reckless." She also addressed the idea of a Superfund designation negatively impacting the local community. "I am not concerned about the label of living in a Superfund town, but I am concerned about unknown toxins slowly extending their reach throughout this valley," she said. The cleanup needed to ensure that future development could take place. "No sane business would be willing to incur the current environmental liability and personal risk of redeveloping this site for use," she said. [23]

Pat and Ron Wood, a retired couple who had lived adjacent to the plant for more than 27 years and owned some nearby rental properties, sent an April 28 letter in support of listing the site. "While the health effects of living next to an aluminum reduction plant may not be known for many years, the emotional and economic impact of the activities by various current and former owners of the plant are undeniable," they said. The Woods recounted how they agreed to have their well tested by the EPA and CFAC's contractor, Hydrometrics, in fall 2014. "While the test results on our well have been reassuring, the verified presence of contaminants in residential wells south of us is a cause for concern," they said. The Woods had additional health concerns. "In September of 2007, we documented one event of extended release of some sort of vaporous effluent from the plant," they said. "While this had happened periodically in the past, that particular event was worrisome because of the length and density of the release. Our call to the plant on that occasion was somewhat brushed aside with the explanation that they were changing the scrubbers (whatever that means)." The Woods said they didn't believe a Superfund listing would adversely impact the tourism industry, but there could be an economic impact on the market value of properties like theirs near the CFAC site. They cited the case of a nearby property where the appraisal fell from $75,000 to $25,000. [24]

The EPA received several online anonymous comments in May and June. "We currently have toxic chemicals leaching into the Flathead River and then Flathead Lake," a commenter stated in support of the listing. "These chemicals are reaching our drinking water and threatening our natural resources. And this is unacceptable for me, my

family and neighbors. This needs to change. Glencore has not kept promises on various issues in the past and has dropped the ball on many talks with the state of Montana regarding this cleanup. This is unacceptable and needs to change. There is no reason to believe that they will clean up this site properly on their own." [25] Another anonymous commenter opposed the listing. The writer, a fourth-generation Montanan, warned that listed sites "would never expire and linger on for decades after the sites are cleaned up." Listed sites would "remain under the oppressive and economically debilitating control of the EPA with no realistic prospect of being put to beneficial use," the writer warned, and the EPA's control over the sites would eventually extend beyond the boundaries of the site and impact the nearby community's use of natural resources. The writer claimed 16 communities in Montana had experienced this impact. [26] Another anonymous commenter in support of listing the site cited the need to protect fish in the Flathead River and the clean air and water needed by the recreation tourism industry. The writer wanted the site cleaned up with a focus on future redevelopment. [27]

Columbia Falls resident Bill Dakin sent a letter in support of listing the site in June. "The people of this community have spoken with clarity – in person at meetings, by written comment, and through our elected city leaders," he said. "We have spoken unanimously that, based on preliminary findings and factual historic records, the site should be scientifically investigated and, if necessary, remediated, and that we are very weary of the obfuscation and deliberate, deceptive stalling of CFAC, its hired spokespeople, and its multi-national conglomerate owner." Many locals were aware of the hazardous materials buried at the site, Dakin said, which needed to be investigated by a Superfund-type cleanup effort. "There is an undercurrent of advocacy for the company's line – those who want to duck the issue, minimize any 'stigma' and allow years and more years to go by stalling, misleading and doing nothing, while toxins potentially leach and percolate through the ground and into the adjacent Flathead River drainage," he said. Locals have had six years of "empirical proof" that Glencore and CFAC will do "exactly, explicitly, profoundly nothing," Dakin said. He felt he had no reason to trust that Roux Associates, the company Glencore hired to investigate the site, would do the work objectively. "It's just more of what we have come to realize are unending shell games and superficial pretenses of concern," he said. Dakin noted that Glencore had been dishonest in the past with its employees, the community, Sen. Tester, the BPA and the DEQ. He noted that when Glencore broke

off negotiations with the DEQ, it was forced to deal with the EPA. “Their own choices put us on this course to federal Superfund listing,” he said. Dakin warned that money Glencore would receive for scrapping out the plant would be used to “buy years of litigation.” He also said that a Superfund listing would bolster property values, because knowing that unknowns at the site would be cleaned up would be an incentive for investment. [28]

Hilary Hutcheson, the co-owner of Trout TV, Outside Media and Larys Fly & Supply in Columbia Falls, wrote in support of listing the site in June. “It is crucial that the toxic site is cleaned up thoroughly and efficiently,” she said. “In Columbia Falls, we don’t trust Glencore. We want to trust our federal government leaders and were counting on our elected officials to consider the hard-working, good-living people who at this point can only hope our grandchildren will live here, or at least visit and listen to our stories of the good old days.” She said she hadn’t spoken to anyone who had a good argument for not listing the site. Talk about the negative stigma that came with listing didn’t last long once people understood that it would be worse to leave the pollution to fester, she said. [29] Her husband and business partner, Shane Hutcheson, also wrote in support of listing the site. “The hesitation to add the CFAC property to the National Priorities List and attempt to work side by side with one of the largest companies in the world would be incredibly short-sighted and a failure to this amazing place,” he said. “This is not this company’s first time dealing with proposed remediation, and in each example it has either gone poorly or nothing has happened at all. Glencore’s reputation even to their home nation and community leaves them as unwanted neighbors due to their business handlings and reputation. Do not allow ignorance of their past to supersede an intelligent and passionate decision for this special place.” [30]

The Superfund debate also found its way into the local newspapers’ opinion pages. In a March 25 column in the Flathead Beacon, Dave Skinner described the aluminum plant’s place in local history. “There was a time when everyone in the Flathead had friends working at Anaconda,” he said. He contrasted the difficult working conditions with the community benefits – “a huge plus for us” that included family-scale wages, “scads of taxes that supported local government services and quality schools,” summer jobs for college students, and money flowing into the local economy. While he prided himself in being a pro-business Republican, the aluminum smelter “is a screaming example

of how Big Corporate America, or Big Corporate Transnational, is utterly amoral, with no loyalty to anything except money," Skinner said. As for the cleanup, Skinner said ARCO, Duker and Broussard, and Glencore "will be on the hook for cleanup costs – as they darn well should be." Skinner noted that the buildings shouldn't be torn down but used by a new company. [31]

Clarence Taber, an outspoken and pro-business Columbia Falls resident, warned about the negative impacts of making the plant a Superfund cleanup site in a May 6 letter to the Hungry Horse News. Taber said he agreed with Rep. Zinke's concerns, and he questioned the Columbia Falls City Council's decision to support listing the site. "Many folks don't want to jump on the Superfund band wagon that rolls through town," he said. "City councils can become a circle of friends, with mutual respect between them, and they can come together, reaching conclusions and making decisions that do not align with our residents. It should never be 'how dare you question our knowledge, dedication, conclusions and decisions.'" Taber warned about the impact on real estate values by having a Superfund designation. "Would you want to purchase property just two miles from a Superfund site?" he asked. People in the area agreed that "significant issues" needed to be addressed, "but we can deal with these issues without having the Superfund stigmatism," he said. Taber called for more discussion on the matter before listing the site. [32]

Martin City resident Bill Baum's opinion piece on the CFAC site was published in the Missoulian on June 18. "This is my third attempt at trying to inspire ordinary citizens to quit being apathetic and take responsibility for your own lives by mobilizing and taking action," he began. Baum said pollution from the CFAC site "still lies on the ground and in the water table you drink from and bathe in… from Columbia Falls all the way downstream along the Flathead River to Flathead Lake." Baum categorized the situation as dangerous and "another Libby." He claimed recent meetings about the plant cleanup were "all for show" and government officials attended "only in order to lend their names to pleasing voters or increasing commerce for their respective businesses." Baum said he received a letter from Gov. Bullock "promising to enter the fray and participate in obtaining EPA Superfunding to solve the cleanup project effort." Baum also criticized Rep. Zinke's concerns about a Superfund designation adversely affecting property values and local business. "Human and wildlife

health and longevity would have to become secondary to commerce," Baum said. "It is the Republican way of doing business." [33]

Agencies and organizations

Government agencies also weighed in on the EPA's proposal to list the site. Glacier National Park Superintendent Jeff Mow wrote to the EPA on April 23, noting that Park personnel still monitored aerial deposition of fluoride from CFAC on the Park and impacts from fluoride on vegetation and wildlife. He noted that documented groundwater and water well contamination from the CFAC site raised concerns about water quality in the Flathead River with potential impacts on bull trout, a threatened species, and westslope cutthroat trout, a Montana species of concern. Both fish species migrated in and out of the Park, he said. Mow also expressed concern about water quality impacts to communities downstream of the CFAC site, where Park employees lived. Finally, Mow noted that the Park supported placing the site on the Superfund list because Glencore was no longer negotiating with the state of Montana to address contamination from the site. [34]

On May 26, Andrea Stacy at the National Park Service's Air Resources Division, sent information about air pollution by the CFAC smelter since 1955 to the EPA. She said the Park Service was not supporting or opposing placing the site on the Superfund list but was offering to work with the EPA in a future remedial investigation and feasibility study. Stacy noted that the Hazard Ranking Score the EPA calculated for recommending listing did not evaluate air migration pathways for hazardous materials that could have left the site and ended up in Glacier Park and other places. Stacy noted that the smelter emitted polycyclical aromatic hydrocarbons and hydrogen fluoride, and that damage to the Park's vegetation by fluoride was documented from 1971-1978 before air pollution control equipment at the smelter was improved. Stacy also included a nine-page attachment summarizing the findings of the 2002-2007 Western Airborne Contaminants Assessment Project, which inventoried and analyzed the concentration and biological impacts of airborne contaminants in 20 western national parks. The study included data on air, snow, water, lake sediment, lichens, conifer needles and fish, and specifically data collected from Snyder and Oldman lakes in Glacier Park. According to Stacy, "The studies have shown that transport of airborne contaminants, such as PAHs and fluorides, are reaching watersheds in Glacier National Park and affecting resources, and several lines of evidence point to

aluminum smelting operations in Columbia Falls as a major source of these pollutants." [35]

Flathead Basin Commission Chairman Thompson Smith wrote to the EPA in support of listing the site on May 5. The 23-member commission was established by the Montana Legislature in 1983 to protect the water quality and resources of the Flathead watershed. Smith was concerned about the site's eligibility for remediation. The benefits of listing included greater availability of funding for assessment and remediation and the "threat of treble damages" should the potentially responsible parties refused to contribute to cleaning up the site, Smith said. He noted that the city of Columbia Falls and its residents wanted the site cleaned up, that hazardous materials posed a risk to the community, and that economic development opportunities depended on the site being cleaned up. As a result, the commission supported listing, he said. [36]

Former Glacier Park Superintendent Chas Cartwright wrote to Gov. Bullock on behalf of the Flathead Basin Commission on July 8 calling for the CFAC plant site to be placed on the Superfund list. Cartwright recalled meeting with the governor on June 4, 2014, to discuss the commission's work. He summarized recent news about the closed aluminum plant, noting that a preliminary site assessment by the EPA indicated the site was eligible to be listed. "The benefits of EPA NPL listing includes greater availability of funding for site assessment and remediation, and the threat of treble damages in the event that the primary responsible parties (PRPs) refuse to contribute to the cleanup efforts," Cartwright wrote. He went on to mention that the city of Columbia Falls and its residents "unanimously agreed that site remediation is of the highest import." He noted that negative impacts by the plant to human health and the surrounding environment "is of grave concern" and that "the reuse and economic development opportunities that will accrue to the community and the state can only be achieved by undertaking comprehensive remediation efforts." Copies of the Cartwright's letter were sent to Montana's congressional delegation, the DEQ, the EPA, the Flathead County Commissioners and the city of Columbia Falls. [37]

In his May 26 letter to the EPA, Montana Fish, Wildlife and Parks Director Jeff Hagener did not state whether he wanted the site listed, but he outlined a number of concerns his agency had over potential impacts to fish and wildlife. Ample evidence existed in EPA reports

showing that the smelter emitted fluoride and other contaminants over surrounding lands for many years, and threats of contamination to groundwater and surface water had been identified, Hagener said. “The Flathead River and Cedar Creek support robust fish populations, including the federally threatened bull trout and a state species of concern, the westslope cutthroat trout,” he said. “Fish in these waters also provide angling opportunities, and some fish are harvested for consumption.” While the exact threats to aquatic and human life by contaminants from CFAC were unknown, “peer-reviewed literature and previous sampling in Montana demonstrate these contaminants are likely to have lethal and sub-lethal effects,” Hagener said. “The contaminants may also have serious human health implications for those consuming fish from these waters.” [38]

Hagener also wrote about the potential effects of the contaminants on wildlife. The abundance of wildlife near CFAC resulted from “the nexus of two large mountain ranges, the confluence of three forks of the Flathead River, and the diversity of habitat in this particular area,” he said. He acknowledged that “it is currently unknown if CFAC contaminants are found in wildlife species or if they present a health risk to wildlife populations or to people who consume harvest wildlife,” but the agency “urges the responsible parties and regulators to assess the level of contaminants from past activities.” Sampling of vegetation and soils “should be widespread and beyond CFAC ownership boundaries, as wildlife moves to and from this area on a seasonal basis,” he said. Hagener said his department would support a remediation process that assessed and remediated contamination on the CFAC site and other affected properties “so they can be used safely by the public,” removed any risk to fish and wildlife and/or public health, and maintained recreational opportunities on both private and public lands into the future. [39]

State Sen. Dee Brown, who was credited with initiating the Superfund process in December 2012, wrote to the EPA on May 28 in support of putting the CFAC site on the Superfund list. “It has long been known that there are pockets of contamination on the CFAC property,” she said. “Throughout the years of operation, some of the contaminants were hauled to sites approved by the EPA. Now we need the rest of the area to have a clean bill of health, especially since it sits next to the Flathead River, a source of pristine water flowing out of Glacier National Park to Flathead Lake.” She noted that she had talked to Gov. Bullock’s chief of staff, Tracy Stone-Manning, in March 2015 and

agreed “that the only way for Glencore and CFAC to come to the table was for a Superfund listing since they ignored requests by the Montana DEQ.” Hauling contaminants out of state was a good start. “Holding present and past owners accountable for further monitoring and cleaning will be the culmination of what everyone has wished for – an environmentally clean site which will be ready for repurposing or sale if/when the owners choose,” she said. [40] Tracy Stone-Manning headed the DEQ from 2012 through 2014, when Bullock made her his chief of staff. A member of the EarthFirst! environmental group in 1989, Stone-Manning had headed up several Missoula-based river watchdog groups before going to work for Sen. Tester from 2007 to 2012. [41]

A group with a special interest in the Superfund debate was the Gateway to Glacier Trail group, a local group that wanted to connect Columbia Falls to Glacier Park’s west entrance with a continuous paved bike path. The path through the Canyon area from Hungry Horse to the west entrance was completed by October 2016, but planning and fundraising continued for linking Columbia Falls to Hungry Horse. One route followed U.S. 2 from the Flathead River bridge to Bad Rock Canyon. An alternative route crossed the Flathead River highway bridge but then followed the river to a fishing access site near Bad Rock Canyon. The alternative route involved crossing land on the opposite side of the river from the smelter which was acquired by the Anaconda Company in November 1957, when the plant property increased from 750 acres to nearly 3,000 acres. “The 2,215 acres purchased may be a legal precautionary measure by Anaconda,” the Hungry Horse News reported at the time. [42]

By October 2014, the Gateway to Glacier Trail group was in talks with Glencore about obtaining an easement across the company land. “We’re hoping Glencore will step up,” Chairwoman Sarah Dakin told local media in October 2014. [43] With the Superfund debate heating up, the trail group found itself in a delicate position where members might have wanted to support listing the smelter site under the Superfund program but also wanted to maintain good relations with Glencore in order to obtain the easement. Sarah Dakin and fellow trail group leader Jamie Belt wrote to the EPA about its proposal to list the site in June. Neither took a position in support or opposition to listing the site and instead asked to be included in future talks about redeveloping the site after the cleanup. [44] Glencore granted a 10-year agreement to the trail group in 2017 to construct a single-track bike path on the land along the south side of the Flathead River. Seth Schnebel, the group’s

director, said they were ready to submit a plan to Glencore, and once it was accepted work on the trail would begin, including building a small bridge over a creek. [45]

The United Steelworkers were very familiar with the aluminum industry and Glencore – beginning with Marc Rich & Co., Glencore's predecessor. On June 2, the Steelworkers office in Pittsburgh sent an email to the Hungry Horse News with four attachments related to the EPA's proposal to place the CFAC site on the Superfund list. "I know that you have covered a number of stories on the Columbia Falls Smelter site and we've appreciated your work," said Diane Heminway, a safety specialist with the union. [46] The Steelworkers had sent a 13-page document to the EPA on May 19 expressing their strong support for listing the site under the federal Superfund program. The Steelworkers represented 850,000 workers in North America employed in industries related to metals, rubber, chemicals, paper, oil refining, glass and services. "In keeping with our philosophy that a sustainable economy is dependent upon a sustainable environment, we provide background data that may assist in site characterization at the CFAC Plant property," USW District 11 Director Emil Ramirez said. [47]

The document contained a history of the plant and a comparison of CFAC with three other aluminum smelters that used the Soderberg-type reduction pot – at The Dalles, Ore., Goldendale, Wash., and Massena East, N.Y. Data was provided from the EPA's Hazardous Ranking Score Documentation Record and the EPA's Toxic Release Inventory for a number of emitted pollutants over a decade or more, including fluoride, cyanide, polycyclic aromatic compounds and various metals. The union pointed out that whereas disposal areas were easy to identify, "the contribution of airborne contaminants can pose significant impacts far from the source of generation, as they accumulate on and in surface soils and vegetation." The document emphasized the case of airborne hydrogen fluoride and noted that when running at full capacity from 1955 to 1980, CFAC would have emitted about 11,700 tons of fluoride. The Steelworkers also cited asbestos concerns and recommended protective equipment for all workers at the site and the plant's proximity to Glacier Park. The union called for a more stringent level of cleanup. "Unless this site is listed on the Superfund National Priority List, it is not likely to be remediated to the level it deserves," the Steelworkers said. "Therefore, USW strongly supports including it on the NPL to ensure that it is adequately investigated and eventually cleaned up to a condition that is safe for

humans, protective of wildlife and supportive of sustainable economic growth." [48]

CFAC and ARCO speak

Representatives from two potentially responsible parties who could be held accountable for paying to clean up the CFAC site also wrote to the EPA about the proposed Superfund listing. Andrew Otis, an attorney representing CFAC, sent a nine-page letter on June 2, 2015, stating that CFAC opposed placing the site on the Superfund list. Otis criticized the Hazard Ranking Score calculated by EPA for determining whether the CFAC site was eligible to be placed on the National Priorities List. "Essentially, EPA's support for the site NPL listing boils down to detections of cyanide below drinking water standards in a single drinking water well where neither cyanide nor any other contaminant has been detected in subsequent tests and the presence in surface water of a ubiquitous, naturally occurring substance (manganese) that EPA does not connect to industrial activity at the site," Otis said. The EPA inappropriately assigned the CFAC site a 68.39 Hazard Ranking Score when the correctly interpreted score should have been 20.75, below the threshold of 28.5 for placing a site on the Superfund list, Otis said. Incorrectly using data from the residential drinking well had "inflated" the groundwater migration pathway score, Otis said, which was "arbitrary, capricious and abuse of discretion because there is no actual contamination" of the well. He noted that no cyanide or other contaminants were detected in 19 nearby wells nor at the residential well with the initial detection in two subsequent samplings. [49]

Furthermore, Otis said in his letter, the EPA's April 2014 site assessment report indicated the presence of cyanide in three background surface water samples. "It is extremely unlikely that the Flathead River, considered to be a relatively pristine river, would contain detectable concentrations of cyanide; and it is even less likely for the Flathead River to contain concentrations of cyanide far in excess of the acute aquatic toxicity water quality criteria," Otis said. "The more probable explanation for the anomalous data are laboratory errors or interferences resulting in false positive detections." As for the EPA claiming that a manganese release had occurred from the site to the Flathead River, Otis said the EPA had "failed to distinguish manganese in surface water from ubiquitous, naturally occurring sources of manganese," noting that the concentrations the EPA

reported were well below background manganese concentrations, both on the site and in the surrounding area of Montana generally. [50]

Otis also claimed the EPA failed to follow its own guidance policy when selecting sampling locations for the Flathead River, and that its choice of sampling a “backwater wetland area adjacent to the site, not within the main channel of the Flathead River” was arbitrary, capricious and abusive of its discretion. The EPA reported finding manganese concentrations three times the background level in this backwater wetlands area. Finally, Otis noted that the Superfund list “is intended primarily to guide the EPA in determining which sites warrant further investigation,” but CFAC had contracted with Roux Associates Inc. to conduct a remedial investigation and feasibility study. “Given that the NPL is intended to primarily guide EPA in determining which sites warrant further investigation, and CFAC, a private party, is ready, willing and able to perform such an assessment, listing the site on the NPL now would serve no useful purpose,” Otis said. [51]

ARCO Vice President Patricia Gallery wrote to the EPA about the proposed listing on May 29, 2015. ARCO had taken over ownership of the smelter plant in Columbia Falls when it merged with the plant’s original owner, the Anaconda Company, in 1979. ARCO sold the plant to Brack Duker and Jerome Broussard in 1985. In her letter to the EPA, Gallery said ARCO opposed putting the site on the Superfund list because the company disagreed with how the EPA scored the site on the Hazard Ranking System and because CFAC, “a wholly-owned subsidiary” of Glencore, “has publicly stated its willingness to investigate the site and assess the nature and extent of public health and environmental risks associated with any releases of hazardous substances. Under these circumstances, listing is unnecessary since it will not result in a more prompt or effective cleanup.” Noting that Glencore was one of the world’s largest diversified natural resource companies in the world and a major producer and marketer of more than 90 different commodities, “Glencore’s ownership of CFAC should allay any concerns EPA may have about CFAC’s longevity or the potential need to access the Superfund,” Gallery said. The National Priorities List should be used to prioritize sites which present the greatest hazards, Gallery said, advising the EPA to consider an “alternative” to putting the CFAC site on the Superfund list. [52]

Gallery said ARCO had hired Copper Environmental Consulting to review data collected at the site by Weston Solutions, the EPA

contractor who drafted the 2014 site reassessment report, and to review sampling collected by the EPA in the Aluminum City residential area in November 2014. Gallery included Copper Environmental's report with her letter to the EPA. According to Gallery, Copper Environmental recalculated the Hazard Ranking System score for the site and scored the site at 25.6, which was below the Superfund-listing eligibility threshold of 28.50 and far below the EPA score for the site of 68.39. In addition, Copper Environmental had found "significant omissions and problems with the record EPA assembled in the HRS package," Gallery said. A key problem, according to Copper Environmental and Gallery, was the significance the EPA gave to a single residential well sample gathered in the Aluminum City area in October 2013 that showed a cyanide level above the detection limit but below the EPA's maximum contaminant level for drinking water. [53]

According to Gallery, the result from the October 2013 sample "was an analytical error or an anomalous result" because cyanide was not detected in Aluminum City wells in two subsequent rounds of EPA testing in April 2014 and November 2014 and because "cyanide analytical results are frequently anomalous due to interference from sample preservatives and background chemical constituents." This one bad sample had influenced the results, Gallery said. "Much of the HRS score is driven by a single erroneous cyanide sample that has not been replicated," she said. But "even if cyanide is present in groundwater at or near the site," other sampling results from the 2014 site reassessment report "show it is likely a background condition unrelated to releases from the site." For example, Gallery said, cyanide had been detected in background groundwater samples collected up gradient from the plant site above the Cedar Creek Reservoir, and cyanide had been detected in background surface-water samples collected in the Flathead River upstream from the site. But cyanide had not been detected in other residential wells in Aluminum City near the well, she said. [54]

Gallery also said the EPA had made broad assumptions about the CFAC site. She noted that the EPA described groundwater moving parallel to the river because of a "ridge" far beneath the plant site, between the site and the river. "But there are no groundwater elevation data reported in the HRS package to support the presence of a groundwater ridge in this area," Gallery said. "Nor is its presence consistent with EPA's own conclusions regarding the groundwater-to-surface-water pathway, which assumes that groundwater must flow due south from

the site towards the Flathead River." Gallery also noted that the EPA's score for groundwater-to-surface-water migration relied on manganese concentrations, which were not only unreliable results but didn't pose a risk to human health or the environment. Gallery noted that manganese "is an essential nutrient for human health, a vital micro-nutrient and a non-priority pollutant." She also noted that the EPA's criterion, in its own words, "is not based on toxic effects, but rather is intended to minimize objectionable qualities such as laundry stains and objectionable tastes in beverages." Gallery noted that "neither EPA nor Montana has established an aquatic life criterion for manganese." She also said the EPA overestimated the hazardous waste quantities in the percolation ponds at the CFAC site. "EPA's decision to list the site based upon the HRS package would be arbitrary and capricious and not in accord with CERCLA (the Comprehensive Environmental Response, Compensation and Liability Act) and the NCP (the National Contingency Plan)," Gallery concluded. [55]

Health and development

On April 16, 2015, the Flathead City-County Health Board listened to a presentation by two EPA representatives with information about contamination at the CFAC site and a Superfund type of cleanup. A sharp discussion followed about the need to gather more information – but not necessarily by the Superfund listing route. Rob Parker recapped previous investigations at the plant and sampling at domestic wells in Aluminum City and north of Aluminum Drive. Two wells had detectable levels of cyanide which were below the maximum contaminant level, Parker said. The EPA had re-sampled 20 domestic wells in April 2014 and 10 in November 2014 and did not detect any contaminants, he said. "So after three rounds of investigation, we know quite a bit about the site," Parker said. He pointed out that there were "lots of unknowns," and the EPA didn't know the extent of the contamination underground. "We don't know if there's a plume of contamination," Parker said. "There's a need for more investigation." He also noted that while the Superfund listing proposal was in the public comment stage, EPA officials needed to be careful about what they said in public. "We can't direct the process," Parker said, suggesting board members send their questions and concerns to the EPA as part of the public process.[56]

That didn't sit well with board member Dr. David Myerowitz, who wanted to know if the public's health was endangered by

contamination from the smelter site. “You should have these answers now,” he said. Parker explained that detectable levels at the CFAC site did not warrant an emergency response, and any further investigations would come after the site was put on the Superfund list. Flathead County Commissioner Gary Krueger was critical of that process. “I question why we designate the plant as a Superfund site and then go on to prove how much of a Superfund site it is,” he said. Myerowitz pointed out the lack of “consistency” in the results of sampling at domestic wells near the CFAC site. He also wanted to know why the EPA got involved now and why the site needed to be placed on the Superfund list. “If the plant was still running now, then no one would have rung the bell,” he said. Parker explained that, like many industrial plants, CFAC operated under a wastewater discharge permit from the DEQ. He also said he knew of no instances where CFAC had violated its permit. Myerowitz pressed on. He acknowledged that groundwater beneath the plant was contaminated, but he wanted to know if the contamination had reached the Flathead River. “I’m on the health board,” he said. “I’m not a ‘greenie.’ I’m not trying to clean up the earth.” Krueger said he preferred to rely on science and numbers, and he expressed concern about how a Superfund listing would impact the Flathead’s important tourist economy. “When I hear people ask, ‘Can I swim in Flathead Lake?’ — it scares me,” he said. “I’m really nervous about what I’m hearing here.” [57]

Myerowitz responded harshly to Krueger’s comment, noting that as a health board member he was concerned about public health. He accused the commissioner of “throwing a wet blanket” over the issue. “I find that a little disturbing,” Myerowitz said. “As a county commissioner, you should be getting the DEQ here to investigate.” When Krueger responded that he wanted more information, Flathead County Public Health Officer Joe Russell pointed out that Myerowitz and Krueger seemed to want the same thing — more information. “This is why we need more investigation,” Russell said. “We don’t know where the plume is or how big it is, so this is why I invited the EPA here today.” Parker pointed out to the health board that there was no evidence that contamination had left the CFAC site and endangered public health. “It is important that we get a thorough assessment of the site and take proper steps to make sure we don’t end up with a larger public health problem,” Russell later told local media. “My main concern is groundwater pollution and migration to drinking water wells in the area.” Russell also said he didn’t blame the DEQ for Glencore breaking off talks on a state Superfund process. “I wish this was being

handled as a CECRA site (the Montana Comprehensive Environmental Cleanup and Responsibility Act) and DEQ and CFAC were still working together to assess the site," he said. "We have several CECRA sites around Flathead County, and these sites don't seem to be 'stigmatizing' Flathead County." [58]

The health board listened to DEQ Remediation Division Administrator Jenny Chambers talk about the CFAC site cleanup on June 25, 2015. Some of the board members were not happy about the DEQ's oversight of the plant. "What annoyed me to death (when the EPA came to give a similar presentation in April) was that this business has been here for 50 or 60 years," Myerowitz said. "How, regardless of what rules you may have, your division of state government could allow them to have so contaminated the site?" Chambers said there was one major way to reduce contaminated sites such as CFAC. "Environmental regulations," she said. "That company had been in business since the '40s and '50s. If you look at regulations, they were established in the 1970s. There is a lot of pre-environmental contamination that went on." Chamber's explanation didn't satisfy some board members. "Why didn't we make them clean it up" in the 1970s, Myerowitz asked. "There is a disparate view between shutting down America's coal industry and the soft hand you use on CFAC." Dr. Wayne Miller, another board member, chided the DEQ's bluster and lack of action. Board Chairman Dr. Glen Aasheim said the lack of oversight seemed like a simple fix. "It seems like (inspections are) something that could be done every year or two while they are in business, not when they are trying to close," he said. Chambers found herself caught between health board members who wanted to hold the government accountable and a company that had yet to cooperate with the state. "Further investigation is required to determine the level of contamination," she said. "Glencore refused to be part of an agreement of consent, and in December of 2014, CFAC pulled out of AOC negotiations." Chambers said the overwhelming response from the community was to do something now and worry about holding Glencore or CFAC responsible later. [59]

While the site investigators were gathering data and government agencies were collecting public opinion, CFAC Spokesman Haley Beaudry and CFAC Environmental Manager Steve Wright were lobbying local organizations to oppose Superfund listing, including attending the board of directors meeting of the Montana West Economic Development Corp. on April 22, 2015. The quasi-public organization

promoted economic development in Flathead County. Beaudry and Wright asked the board members to consider writing a letter to the EPA requesting that the CFAC site not be put on the Superfund list. According to minutes from the meeting, “When asked what guarantees we have that the work will get done without Superfund designation, Mr. Beaudry said the clean-up requirements are the same whether or not the site is on the National Priority List, and it will be quicker and less costly without the designation.” [60]

Columbia Falls City Manager Susan Nicosia, a member of the development board, pointed out that her city council had unanimously approved putting the plant site on the list “to protect water quality, to keep the community economically viable, and because the designation will ensure the work is completed.” Flathead County Commissioner Pam Holmquist, who also sat on the board, said she supported remediation and wanted to see the cleanup done as quickly as possible, but she didn’t know which way would accomplish the task most effectively. [61] Beaudry returned to speak to the development board on May 27 and again asked them to send a letter to the EPA requesting that the CFAC site not be placed on the Superfund list. He also presented the board with a four-page “fact sheet” presenting numerous reasons for not putting the CFAC site on the list. [62] According to board president and CEO Kellie Danielson, the development board decided after Beaudry left not to send a letter to the EPA as requested by Beaudry. The city of Columbia Falls and the local Chamber of Commerce “have determined what they believe is in the best interest for their community,” she said. [63]

The “fact sheet” Beaudry provided the Montana West Economic Development Corp. board noted that the EPA never found cyanide or fluoride in the Flathead River in sufficient quantities to justify listing the site; that DEQ testing over the past three quarters had found no aquatic toxicity associated with CFAC in the river; that for nearly 30 years the wastewater discharges from CFAC were approved and regulated under a Clean Water Act permit issued by the DEQ; that CFAC had hired Roux Associates, a nationally recognized environmental consulting firm, to develop a work plan for a cleanup, which was expected to be ready in draft form by the end of May 2015; that Glencore had made certain that CFAC could pay for Roux’s work and other activities at the CFAC site; and that CFAC tried to reach an agreement with the DEQ about how to proceed with a cleanup at the CFAC site, but instead of providing CFAC with a “whitepaper” that

would list alternative approaches to assess the site, the DEQ presented "an unreasonable draft administrative order on consent" under the state's CECRA law "and said that it was 'take it or leave it.'" [64]

According to the fact sheet, "CFAC preferred to meet directly with the DEQ to discuss issues. The DEQ communicated with CFAC through the press. This also delayed and complicated the process." Beaudry also claimed that "DEQ wanted CFAC to commit in the AOC to perform any task ordered by the DEQ in the future, regardless of whether it made sense or not, with CFAC's only recourse being an expensive and time consuming court process." Beaudry said CFAC asked for a meeting with Gov. Bullock in December 2014 and never received a response. "With the DEQ's position and the stance that the governor appears to have taken, CFAC had no choice but to approach the EPA to discuss entering into an agreement to assess the site," Beaudry said. CFAC tried to negotiate an administrative order on consent with the EPA "but the EPA won't respond," Beaudry said. He also provided a breakdown on the lack of progress for cleaning up 18 Superfund sites across Montana. "Even EPA admits that NPL listing can hinder development," Beaudry said. [65]

Demolition contract

Word leaked out to the press on March 5, 2015, that a large demolition and cleanup company with headquarters in Portland, Ore., and Tacoma, Wash., had visited the CFAC site in late February. According to the leaked information, Calbag Metals had offered Glencore $9 million to demolish the plant site in exchange for keeping valuable materials for reuse or recycling. Calbag had been around for about 100 years and served about 5,000 customers. In an off-the-record interview, Calbag's director of asset recovery said he had worked on the demolition of the aluminum smelters in The Dalles and Goldendale, at two nuclear reactors in Washington that were never completed, and most recently at an oil refinery in Wyoming. He was currently traveling around the U.S. sizing up coal-fired generating plants headed for demolition. About 30 contractors had looked over the CFAC site, he said. Calbag typically took the role as general contractor in such projects with numerous subcontractors, he said, and if Calbag got the contract, they might hire about 30 local workers – not a huge impact on the local economy. The focus for the company was on steel more so than nonferrous metals. "If a magnet sticks to it, that's what we want," he said. Whether Calbag would issue press releases as it worked on a

project depended on who hired them. He noted that the Fortune Top-10 company which owned the Wyoming oil refinery didn't want any publicity. [66]

CFAC's deal with the demolition company was officially announced in an April 29 press release from Haley Beaudry. CFAC had entered into a contract with Calbag Resources LLC, a privately owned salvage and repurposing firm, for the decommissioning and removal of certain structures, machinery, equipment and waste materials at the aluminum plant, the press release said. CFAC selected Calbag after thoroughly vetting several potential contractors. "Calbag, a wholly owned subsidiary of Calbag Metals, is an industry leader in decommissioning industrial sites," Beaudry said. "Calbag has successfully decommissioned and 'repurposed' other aluminum smelters, including in The Dalles, Ore., which is complete and repurposed for commercial, business and retail development." CFAC's plan called for Calbag starting work at the site in spring 2015 and completing its contracted scope of work within two to three years. "CFAC is pleased to be moving this process forward," Steve Wright said in the press release. "We understand the people of Columbia Falls want to see action at the site, and this is our first major step in that direction." [67] Beaudry provided local media additional information. "There are several pieces of the contract," Beaudry told local media. "They're being paid directly, like a construction company, to do some work, and they're recovering salvage to do other pieces of work." [68]

The press release also noted that CFAC had retained Roux Associates, an environmental consulting firm, to prepare a remedial investigation and feasibility study work plan for investigating the CFAC site. "This work plan will describe the types and amount of testing and analyses the site investigation will entail, the schedule of the work, and the range of possible remediation actions," Beaudry said. "The development of the RI/FS work plan is ongoing, and CFAC will distribute the work plan to governmental agencies and the public. Specialists will conduct the site investigation according to the RI/FS work plan. Through these separate efforts, CFAC will remove waste and salvageable materials from the site and begin to characterize historic contamination to be able to address it appropriately." Wright supported the plan in the press release. "CFAC is both fortunate and pleased to have been able to involve these two recognized leaders in their respective fields," Wright said. Beaudry added that CFAC is "committed to complying with all applicable laws, rules and regulations

during the closure and decommissioning process, especially those relating to health, safety and the environment." He noted that Calbag and Roux were committed to the same standards and practices. "We look forward to working through this next chapter in as timely a manner as possible always with an eye to making the CFAC site available for redevelopment with the potential for commensurate good jobs to Columbia Falls," Beaudry said. [69]

Calbag began as a family business in 1907 in Portland under the name Northwest Junk with a focus on recycling burlap bags. It changed its name to California Bags and Metal Co. in 1929 and to Calbag Metals Co. in 1965, with an expanding business in recycling nonferrous metals. The privately owned salvage and re-purposing firm had been involved in tearing down the ASARCO smelter in East Helena, the Smurfit-Stone pulp mill in Missoula and several aluminum smelters in the Pacific Northwest. A sister company, Transformer Technologies, had torn down numerous high voltage switchyards, and several large demolition companies had subcontracted with Calbag on cleaning up large industrial sites. Glencore dealt with Calbag in the past during the cleanup of the Evergreen Aluminum plant in Vancouver, Wash. The DEQ said it was looking into what type of permits would be needed for the demolition work, Remediation Division Spokeswoman Jeni Flatow said. The DEQ was currently working on an administrative order on consent with Glencore that would contain more specific information, she said. "As you can imagine, it is a very complicated site," she said. "We expect they will need to do an inspection for asbestos and hazardous materials. After these are quantified, a complete plan for demolition and removal that is protective of the environment will have to be approved. We are currently working on an administrative order on consent with the company. When approved, it will contain much of the details about the specific requirements they will have to meet." [70]

The complexity of the demolition project was not an exaggeration. In 2015, as Calbag began to plan for demolition work at the CFAC site, a total of 451 reduction pots were still in place in the potlines rooms and needed to be removed. On average, each reduction pot weighed 110 tons and about 60 tons were contaminated spent potliner waste designated as K088. Three disposal sites capable of handling K088 waste existed in the U.S., and Calbag planned to use the U.S. Ecology site in Idaho or the Chemical Waste Management site in Washington. In April, the DEQ's Asbestos Control Program was put in place at the CFAC site to provide compliance assistance and permitting. Asbestos

removal work at the site was divided into manageable phases to allow for a thorough accounting of waste materials. [71]

By May 14, 2015, crews from Calbag Resources had already begun to remove equipment from the closed smelter in preparation for an auction. Cliff Boyd, the company's site manager, said he had nine workers with him who had worked previously on the demolition of the aluminum smelter in Goldendale. "Some of these guys worked at the smelter there before hiring on with Calbag and have stayed on with the company," he said. Boyd said he had plans to hire about 20 workers for the two to three year duration of the CFAC plant demolition, and perhaps as many as 100 during peak times. Benefits to the local economy would include payments for food and lodging for his workers, oxy-acetylene and other supplies for demolition work, and hundreds of thousands of gallons of vehicle fuel, he said. "I plan on renting six houses for my workers," he said. "They can't live in motels for that long, and they can't stay in an RV camp during the winter." Locals reported seeing lowboy trailers passing through town bearing giant pieces of heavy equipment headed for the CFAC plant. Boyd said he brought in a 700-ton shear capable of cutting huge I-beams in half. "It took me two days to take it apart for shipment and it'll take me more than that to put it back together," he said. Metal salvaged from the CFAC plant buildings would be cut into pieces and stored in different piles east of Potroom 10 before being loaded onto railroad cars. Boyd also planned to have about half a dozen giant nippers to cut I-beams and pipes as the buildings were demolished. Boyd also said he had buyers for just about all the specialized materials at the plant – carbon from anodes, coal tar pitch, petroleum coke and alumina. [72]

Boyd provided an update on the demolition project on June 11, 2015. Calbag had 22 employees and seven security guards at the site. Plans called for repurposing the warehouses, fabrication shop, engineering building, main office and fire shed rather than tearing them down. The current scope of work included the potlines, rectifier buildings, areas north of the plant, the laboratory and the rod mill. Over the past three weeks, Calbag had mobilized a 700-ton shear to cut and process 4,500 tons of steel in the East Plant that was transported by gondola to the rail lines. So far, Calbag had recycled 24,000 tons of concrete and 19,000 tons of steel. The concrete would eventually be used to fill in the basements or any topographical irregularities at the site when it was repurposed. Water was used to keep down the dust, and Calbag had asbestos abatement permits from the DEQ. Asbestos abatement

work had started in the West Rectifier building three weeks earlier. Mercury had been found in the East Rectifier building, and the plan called for taking down the rectifier buildings by hand. About 250 people had signed up for an equipment auction scheduled for July 28-30, Boyd said. Some CFAC equipment had been given away – Columbia Falls Fire Chief Rick Hagen said his department had received a fire truck, Hazmat trailer and other items valued at $25,000. CFAC had also donated some historic equipment for display at the new Columbia Falls Welcome Park, including an alumina truck and a tapping crucible. Pictures and other items were given to the Columbia Falls Historical Society, Boyd said. [73] On Nov. 5, 2018, the Columbia Falls City Council reached a consensus not to take an alumina delivery truck from CFAC for use in a city park because it would cost too much money to make safe for children to play on. The council agreed to take a molten metal crucible from CFAC to put on display in a city park. [74]

Calbag needed a special administrative order on consent to handle hazardous materials while cleaning up the plant site. The DEQ announced that the state had agreed to an order on consent with CFAC and Calbag Resources for the demolition project on June 16, 2015. The main item of discussion in the waste removal plan was the spent potliner in 451 reduction pots sitting in place in the potlines buildings. Spent potliner contained K088, a listed hazardous waste that could contain cyanide, lead, arsenic, mercury fluoride and heavy metals. According to the contractual agreement, Calbag could store the spent potliner waste in the potrooms for up to 90 days without needing a permit. CFAC and Calbag would provide the DEQ with a plan for the proper removal of the K088 material and other regulated hazardous wastes for shipment to an off-site disposal facility. All the K088 and other hazardous materials were to be removed from the potrooms within two years of the DEQ approving the waste removal plan. The consent order did not address the demolition of any building, structure or equipment associated with aluminum processing. Staff from the DEQ's Asbestos Control Program also provided direct compliance assistance and regulatory permitting for demolition of the facility. [75] Violations of the agreement could lead to a $1,000 fine per day per reduction pot. "That's the hammer over their head," DEQ Enforcement Division Chief John Arrigo said. "A year ago, when we began these negotiations, we couldn't envision how they would remove such a large volume in such a short amount of time, but now with the involvement of Calbag, they are taking responsibility of removing it in a timely

manner, with an ultimate deadline of two years for the entire removal project." [76]

The consent order exempted CFAC from facing fines up to $10,000 per day under the Montana Hazardous Waste Management Act. The consent order did not address the issues related to Superfund pollution. "This only deals with pot liners and other residual waste," Arrigo said. "It has nothing to do with the potential Superfund site or groundwater contamination. It does not deal with past releases, but only the disposal of spent potliner." Arrigo said the EPA would work in close consultation with the DEQ through a separate process to ensure a protective cleanup of the CFAC site under the federal Superfund program. [77] The goal of the consent order was to give the companies "a chance to prepare an adequate plan that we can approve before they go ahead and start removing waste," DEQ Spokeswoman Lisa Peterson said. CFAC and Calbag had 60 days to submit a plan for removing the spent potliner within a 90-day window. Arrigo said the plan would keep the DEQ informed about how Calbag handled inventory, a safety plan, financial requirements, containers and trucking. "There is no hazardous waste storage permit, but they have to meet all the substantive requirements of that permit," Arrigo said. Beaudry said Calbag would be responsible for submitting the plan for removing the spent potliner. Peterson said the plan would not be subject to a public comment period but would be reviewed by the DEQ. [78]

Demolition difficulties

On Aug. 27, 2015, the BPA concluded that the sale of certain assets at the Conkelley Substation by the BPA to CFAC could be categorically excluded from further NEPA review. The BPA proposed selling certain substation assets to CFAC, including footings, support structures, buss work, jumpers, transformers, disconnect switches, surface rock and appurtenances. The BPA planned to terminate the point-to-point contract that served power to the smelter from the Conkelley Substation, but that would leave the BPA with stranded assets at the substation. Selling the assets to CFAC would avoid creating stranded investments and would satisfy the provisions of the BPA's 1996 Policy for Sale or Lease of Delivery Facilities. [79]

On Nov. 2, 2018, however, the Hungry Horse News reported that CFAC warned in a press release that it needed to keep the BPA Conkelley

substation in working order to enable CFAC to sell the former smelter site. “We already have been told by one party, which was interested in the site because of access to BPA power, that they will likely pull out if Conkelley closes,” Glencore-Xstrata Mining Environmental Engineer John Stroiazzo said. “We expect that if the BPA proposal goes through and BPA closes Conkelley, the CFAC site will be much less attractive to other industrial and commercial users. This affects the entire community by reducing the opportunity for industrial or commercial site redevelopment that could bring good jobs to the community and add to the tax base.” Several weeks earlier, Stroiazzo said a company that repaired rail cars had expressed interest in the closed smelter site because a railroad track still ran to the the machine shop building, which also was still standing. Stroiazzo said CFAC had asked the Montana congressional delegation, including Sens. Jon Tester and Steve Daines, to urge BPA not to close the Conkelley substation. [80]

Demolition picked up by mid-September after countywide Stage 1 and 2 fire restrictions had been lifted and Calbag could resume using cutting torches for outside demolition at the CFAC site. Work in the potlines was delayed until the final waste management plan was approved. Calbag planned to recycle 200 tons of concrete by crushing it for use as “suitable structural fill” later in the demolition process. Rebar removed from the concrete would go to a steel mill. Cliff Boyd said he had 23 workers from Kalispell and 35 Calbag employees he had brought in. Monthly payroll ran to about $175,000 per month, while local expenses such as fuel, food, hotels and rent ran to about $95,000 per month. [81] On Oct. 29, the DEQ issued an open-cut mining permit to CFAC so it could excavate material from an area on the CFAC property east of the potlines building. The material from the pit would be used as backfill following demolition of the buildings at the site. [82]

By late October, however, the DEQ claimed it had not received an approvable plan for the removal of hazardous waste from Building 1 – the potlines building and north crane bay – as required in the administrative consent order. The DEQ sent a violation letter to CFAC and Calbag on Oct. 26, and Calbag halted all demolition work in Potroom 1 until the violation was resolved. [83] CFAC had until Nov. 20 to respond to the citation. “We told them we needed a plan that we can view and approve before they can start moving things off of that site, and they have not done that,” DEQ Spokeswoman Lisa Peterson said. CFAC had submitted a plan to the state in August, but the DEQ asked CFAC to revise the plan on Sept. 7 before the agency would approve it.

Any waste material, including spent potliner inside the potline buildings, legally could not be taken off-site until a plan had been approved and a full analysis of the contaminants in the waste materials had been completed, Peterson said. “It’s more than a paper violation,” she said. “We really need the company to give us a plan that we can approve.” The DEQ also asked CFAC to provide an inventory of materials at the site, saying the inventory that had been provided was incomplete. Haley Beaudry told local media CFAC was allowed to move some materials off the smelter site under an existing agreement between the state and CFAC. “The stuff that’s being shipped off-site is recycled material,” Beaudry said. “I’m sure that when the guys at DEQ look it over, I’m sure they’re going to say also that there’s no big problem.” [84] The final version of the waste management plan for the cleanup of the CFAC potrooms was not published until a year later in June 2016. [85]

Word in the local newspapers that hazardous materials from the smelter might be going to the Flathead County landfill – particularly asbestos – contributed to a heightened awareness by Columbia Falls residents of the numerous trucks leaving the plant site. City Councilor Mike Shepard reported seeing a flatbed truck heading down Railroad Street in Columbia Falls carrying what he described as asbestos siding with dust blowing out the back of the truck. He said he later saw an overloaded belly-dump trailer near the Plum Creek timber mill hauling what he described as large black chunks of anode carbon. Shepard said he made some phone calls and was told that Calbag was hauling the material without proper permission. [86] The Hungry Horse News reported on Nov. 20 that locals had expressed concern about dust coming off trucks hauling materials out of the CFAC site. Some worried that the dust might contain asbestos. [87]

Cliff Boyd told the newspaper that the material was alumina that had been stored at the plant’s rod mill and was not a hazardous substance. He said the alumina had been wetted down and put in self-tarping trucks. With Alcoa’s recent announcement that it was shutting down its Intalco and Wenatchee plants, the alumina could not be sold to Alcoa, so 2,950 tons of the material was sent to the Flathead County landfill. “I would like to tell you we’re never going to make any dust,” he said. “That’s not going to happen.” Boyd said Calbag had collected more than 3,000 samples at the plant to address the DEQ violation notice, but the DEQ said it needed to determine if carbon anodes, aluminum buss bars, alumina and basement sweepings were not hazardous. Boyd

said he expected test results soon and a revised plan would be sent to the DEQ that week. Boyd said he hoped to have a final agreement for the removal of spent potliner by early 2016. In the meantime, Calbag had suspended transporting materials out of the CFAC site. [88]

All asbestos materials were sealed in plastic packaging before it was loaded on a truck with special sealing measures, Boyd told the newspaper. Asbestos materials would be hauled away by a subcontractor, Chemical Waste Management, to an EPA-approved landfill in Oregon, including all the asbestos-laden roofing. Calbag had purchased most of the above-ground assets at CFAC and expected to spend two years completing the demolition. Steel was cut by torch and shear, while the giant aluminum buss bars in the basement were cut using chainsaws with a special blade. About 80% of the demolition material would go to recycling centers by rail. [89] By December 2015, a total of 28,340 pounds of regulated asbestos waste and 454,180 pounds of non-regulated asbestos material had been removed from the site. Demolition work so far had taken place in the West Rectifier, Rod Mill, Paste Plant, Quonset Hut, West Aluminum Unloader, Compressor Building, East Rectifier and Potline Complex. An asbestos removal project permit was in place through 2016 for the East Rectifier building. Demolition notifications remained in place for the East Rectifier, West Rectifier, Rod Mill and Paste Plant buildings. [90]

About 80 demolition workers were at the site by January 2016, including 36 locals. About 70% of the work force was former CFAC employees, he said. “This has been the best labor pool I’ve ever drawn from in my 25 years,” Boyd said. “These crews are the most knowledgeable, hard working and responsible crews I’ve ever had.” Workers familiar with the plant were beneficial. “These are very technical projects,” Boyd said. The boost to the local economy included renting 15 motel rooms and five houses for crews and purchasing 4,000 gallons of fuel per week. “I think we’re good for the community,” he said. The amount of asbestos discovered at the site was more than expected – crews found 45 weeks’ worth of asbestos-removal work after testing 1,400 samples across the plant site. “You don’t know where anything is until you tear it down, and before you tear it down, you test it,” he said. The asbestos his crews removed was transported to the Flathead County landfill, where it could be disposed of properly. About 70% of the asbestos that crews were aware of had already been removed by January 2016. [91] On Jan. 28, 2016, Shepard reported that a recent survey of the amount of asbestos removal work remaining at

the plant had increased by six months to a year, increasing the removal costs. Calbag had hired another asbestos removal company to assist in the work, he said. [92]

Waste determination

In January 2016, Calbag and Tetra Tech completed a report for the DEQ on the hazardous conditions of materials in Building 1. Calbag wanted to sell most of the materials for reuse, repurposing or recycling. Anticipated end-users included equipment wholesalers; steel, aluminum, brass, nickel and copper mills; and remelt facilities. Assets indentified for resale, reuse or repurpose included rolling stock, transformers, electric motors, electrical components, concrete, anode carbon, virgin alumina and saleable unused products in buildings or warehouses. Ferrous and nonferrous metals included carbon steel, cast iron, electrical iron, rebar, various brass alloys, copper wire, copper buss bar, aluminum conduit, aluminum buss bar and aluminum heels. Aluminum metal that had hardened and was left in the reduction pot cathodes after the potlines were de-energized were called heels. According to the report, alumina could be sold for reuse at another aluminum smelter or disposed of at a solid waste landfill. Anode carbon would be resold to steel mills to produce new carbon steel and rebar. Calbag did not purchase any assets below ground level or below the basement. [93]

According to the January report, Calbag hired Mountain Consulting Services and IRS Environmental in July 2015 to collect samples of alumina, non-structural concrete, structural concrete and dust debris from throughout Building 1 for testing – from the rafters, ground-level, basement, carbon anodes and one aluminum heel. Mountain Consulting collected 87 solid media samples from Building 1 and used a man-lift to reach the roof rafters, which were coated with several inches of dust – much of it alumina contaminated by Soderberg anode emissions that was carried upwards over the decades by strong convection currents produced by hot reduction cells. Alumina, concrete and dust debris samples were tested at Anatek Laboratories in Spokane and analyzed for the presence of RCRA 8 metals (under the federal Resource Conservation and Recovery Act, which regulated the management of hazardous waste), cyanide and fluoride. Five alumina samples were also analyzed for the presence of sulfide, as requested by the Flathead County Solid Waste Department for disposal purposes at the county landfill north of Kalispell. [94]

Calbag began removing anode carbon from Building 1 in September 2015, which was sold to Pacific Metals Group of Kent, Wash. IRS Environmental collected three bulk samples of anode carbon from Building 1 in October 2015, which were tested for RCRA 8 metals, cyanide and fluoride. IRS Environmental also collected a sample from an aluminum heel in October 2015 and had it tested for RCRA 8 metals, cyanide and fluoride. For testing purposes, it was necessary to determine as a matter of policy whether the alumina, concrete and debris materials in Building 1 were RCRA-defined hazardous waste, and whether the materials were hazardous in terms of toxicity and reactivity. [95] In addition to posing a threat to human health over the long-term, some materials might pose a threat of corroding containers, catching fire or even exploding. Combining wastes also might pose the risk of initiating a chemical reaction that could create a dangerous waste.

Spent potliner was considered an RCRA-listed hazardous waste, labeled K088. Spent potliner consisted of 50% refractory material and 50% carbon. Over the lifespan of a reduction pot, the carbon lining became impregnated with aluminum and silicon oxides, fluorides and cyanide compounds. According to former plant engineer Bob Smollack, the lifespan of a cathode at the CFAC plant was three years until about 1980, at which point the plant switched to the Sumitomo process and extended the lifespan of cathodes to seven to nine years. CFAC removed spent potliner from cathodes that had been removed from the potlines on the solid concrete surface in the North Transfer Crane Bay at the ends of Potrooms 6, 7 and 8. A full cathode with an estimated weight of 110 tons could not be placed in an area with a basement because the ground-level floor slabs would likely fail. Cathodes were moved from the potlines to the North Transfer Crane Bay using two 50-ton potroom cranes. Cathodes could be moved between potrooms in the crane bay by using a 150-ton transfer car that rode on track rails. Cathodes were dug out in the crane bay, where repairs to the concrete floor were occasionally required as a result of abrasion and hammering that took place to remove spent potliner. After 1986, an engineered digging area was built in the North Transfer Crane Bay for this work. After spent potliner was removed, steel cathode shells were moved to the pot rebuild area to be refurbished and placed back into service. Spent potliner was immediately loaded into trucks and moved to on-site locations until 1986, when CFAC began disposing of spent potliner offsite at various

out-of-state hazardous waste landfills. Spent potliner was never stored in the North Transfer Crane Bay area, Smollack told the DEQ. [96]

According to the January report, Calbag and the DEQ agreed that "knowledge of process" would be used to determine whether materials removed from Building 1 would be considered K088 hazardous waste that had to be shipped to a special out-of-state landfill. It was determined that all alumina, concrete and dust that was not contaminated by spent potliner removed from reduction cells or located in the North Transfer Crane Bay area where cathode-digging had taken place would be evaluated as non-K088 waste. Components of the cathode shell that were not considered K088 waste but might contain K088 waste included the steel shell, steel collector bars, cast iron used to fuse collector bars to pre-baked carbon blocks, thermal insulation composed of insulating brick or aluminum, silicon-carbide brick sidewalls and end walls, frozen aluminum metal pads or heels, and frozen electrolytic bath. A total of 87 samples were tested for the presence of cyanide, but the EPA recently had withdrawn an RCRA chapter on guidance and analytical methodology for determining reactivity of materials suspected of containing cyanide. Instead, Calbag had the materials tested for total cyanide and used "knowledge of process" to determine if the materials were reactive. CFAC Environmental Engineer Steve Wright said he had never heard of a case where cyanide gas was an issue in Building 1. Calbag and the DEQ also needed to determine whether cyanide gas might be released under heat because Calbag planned to use cutting torches for demolition of Building 1. No evidence was found of this occurring, and the DEQ accepted Calbag's prior demolition experience at other aluminum smelters. [97]

According to the January report, some cyanide had been found in alumina samples, but none exceeded the regional screening level. The origin of the cyanide in the alumina was uncertain but was believed to be either naturally occurring, related to mining and shipping, or a result of wind-blown contamination in Building 1, as some cyanide may have been emitted into the potroom air as fugitive emissions from the reduction cells. None of the 87 samples demonstrated reactivity by the presence of cyanide. Testing also determined that no sulfide had been found in the alumina debris samples. The 87 samples were also tested for fluoride, but because there were no RCRA hazardous waste action levels or treatment standards for fluoride, the action level for the samples was established under the EPA Region 3 Regional Screening

Level for fluoride in industrial soil. None of the samples exceeded the 47,000 milligrams per kilogram level for fluoride. The presence of some fluoride in the materials was attributed to fugitive hydrogen fluoride gas emissions from reduction pots and not to contamination by spent potliner. Following a conference call on Dec. 23, 2015, Calbag and the DEQ agreed that all alumina, concrete and dust debris from the North Transfer Crane Bay area at the ends of Potrooms 6, 7 and 8 would be considered hazardous and would be disposed of at the chemical waste management landfill in Arlington, Ore., and all alumina, concrete and dust debris from elsewhere in Building 1 would be considered non-hazardous and would be disposed of in an appropriate disposal facility or reused. Calbag agreed to erect a 40-foot tall high-strength polyurethane barrier around the area in the North Transfer Crane Bay where cathodes would be dug out during demolition. [98]

The DEQ authorized Calbag in January 2016 to begin transporting aluminum buss bars removed from the basement and other aluminum from the plant site. More truck traffic was expected as the 600-pound bundles of metal were shipped out, Boyd said. According to the DEQ, about 28,340 pounds of regulated asbestos waste and 454,180 pounds of non-regulated asbestos waste had been removed from the plant. Non-regulated asbestos waste contained asbestos that was not likely to become airborne. The asbestos waste came from the West Rectifier, Rod Mill, Paste Plant, Quonset Hut, West Aluminum Unloader, Compressor Building, East Rectifier and the potlines complex. To date, 12 buildings had been removed from the site, but Calbag and the DEQ were still resolving a permit for the removal of spent potliner. [99] By late February, about half the plant's buildings had been torn down, Boyd said. Of those remaining, several warehouses and the front office would remain intact, but the status of the machine shop had not been determined. [100] Next up was demolition of the Paste Plant, known to workers as the "Black Castle," and after that the 1.75 million-square-foot potlines building. [101]

The extent of asbestos cleanup had added about a year to the project, Boyd told local media. "Nobody knew that asbestos was there," he said. "We went and drilled through the roofs – there may be six or seven layers on it. The original layer, from the '50s, tested for asbestos. Nobody would have known that was there unless you drilled for it." Calbag was still awaiting approval by the DEQ of a hazardous waste removal plan before it could deal with the 40-acre potlines building – no demolition could take place there until the spent potliner

was removed. “If the plan gets completed in a timely fashion, we’re ready to start removing all the hazardous materials in Potrooms 1 through 4 right now,” Boyd said. “We then dig all the spent potliner out of the pots, put it in a truck the very next day to transport it off site.” The plan called for removing all the hazardous waste within 235 days of the plan’s approval. Calbag expected to be done with demolition of most of the buildings by the end of 2017. That work was separate from the landfills at the site. Boyd said he was focused on demolition work, but Calbag was considering bidding on the landfill cleanup. “We’ve obviously suggested to the owners that we have some skill sets, and we’d like to bid on some work, but we don’t have any current contracts,” Boyd said. [102]

Demolition politics

Heavy overhead loads, loose or falling debris and airborne carcinogenic materials posed serious hazards for demolition workers at the former smelter plant. On March 3, 2016, a Calbag employee was seriously injured while cutting steel with a torch. The 40-year-old man was going into shock when first responders were notified. He was released the next day with some stitches and was expected to return to work, Boyd told local media. [103] CFAC’s March 2016 project update newsletter reported on Calbag’s “pot digging” plan for removing spent potliner, which had been submitted to the DEQ for review and approval. Calbag reported that it was revising the plan based on input from the DEQ and would submit the plan again for approval. Calbag also reported that the Rod Mill, Compressor House, Coal Tar Pitch Unloading Shed and other smaller structures had been demolished. Future demolition would include the Laboratory Building, Alumina Silos and Paste Plant. Meanwhile, Glencore’s environmental consultant, Roux Associates, planned to begin work on reconnaissance, geographical survey and gas soil screening in April. Plans called for drilling for new sampling wells to take place in May through September. The first round of groundwater sampling would begin in September and conclude in October. The Phase 1 summary draft report and the draft screening-level ecological-risk assessment report would be sent to the EPA by February 2017. [104]

The DEQ had issued Calbag an administrative order on consent in June 2015 so it could go ahead with demolition of some CFAC plant buildings even though they contained hazardous wastes, but the DEQ held the line on requiring a complete hazardous waste management

plan before allowing Calbag to proceed with demolition of Building 1. The administrative order also set deadlines for when spent potliner needed to be removed from Building 1. The delay in approval of the plan eventually became political when news about Calbag's negotiating problems with the DEQ was brought to the attention of the Columbia Falls City Council in April 2016. "He is having trouble getting his OK to start on the actual pots themselves," City Councilor Mike Shepard said following a phone conversation with Boyd. "They even claim that the hardened aluminum may be hazardous." Shepard said Boyd also was having problems negotiating a plan for demolishing concrete in the potroom basements. Boyd had told him the DEQ had "no idea" about how to identify potential hazards in the concrete. "He said the original plan was to take the potlines down to the concrete, break it so no water will pool and leave it at that," Shepard said. "Now it is up in the air." By April, demolition work at the CFAC site had slowed down – Calbag had only 10 trucks working at the CFAC site on April 29, and Boyd was working at the Hanford Nuclear Reservation in Washington, Shepard said. [105]

On May 2, 2016, the Columbia Falls City Council approved sending a letter to Gov. Bullock expressing concerns about delays in demolition work at the CFAC site. The council said they had learned that Calbag had run into difficulties getting permits from the DEQ for removing reduction pots at the site. As a result, about 30 local workers had been idled and demolition work was delayed. Mayor Don Barnhart and Shepard spoke in favor of the letter, which would urge Bullock to help get the permits issued. Demolition work was already six months behind schedule because of the amount of asbestos found at the site. Calbag Resources said documents relating to the demolition work had ballooned to 700 pages. [106] On May 16, however, Boyd told the city council they didn't need to send the letter to Bullock. Media publicity may have prodded the DEQ into issuing the permit Calbag needed, he said. The same permit only took 45 days to obtain in Washington and Oregon, Boyd told the council, but in Montana it took seven months and the permit ran to 1,600 pages. Boyd expected to have the permit in hand within a week or two, and his crews could get back to work, seven days a week in overlapping shifts. Boyd said about 90% of the asbestos in the plant had been removed and the Paste Plant had been torn down and was being scrapped out. The demolition job could be completed by January 2018, he said. [107] DEQ staff personnel Mark Hall, Cory Mikita and Mike Rieger responded to Calbag's claims on May 27. The work plan was only 21 pages long and only 200 pages long with

appendices, they said. Calbag needed a reuse and recycle report to show that aluminum, steel and other materials were not contaminated, which took several months to complete. Calbag also needed a closure plan and a hazardous waste plan, which were rolled into the overall work plan. But DEQ also wanted a $9 million bond posted to assure that Calbag and CFAC properly completed the work. Hall said the issues were being ironed out and a final work plan could be completed by early June. [108]

About 75 local residents and former plant workers toured the CFAC site on May 27. By that time, the 130-foot tall Paste Plant was gone. “A lot of buildings are gone,” Shepard told local media. “A lot of memories in those buildings.” Shepard said he was concerned about the DEQ’s holdup in providing the permit needed for removing the reduction cells in the potlines building. “I don’t know if DEQ even knows what they’re doing out there,” Shepard told local media. “This is not rocket science.” Shannon Stringer, another former employee, noted that the local community did not have a lot of faith in Glencore. Looking further forward to cleaning up the rest of the plant site, EPA Project Manager Mike Cirian explained that completing a remedial investigation was the first step. “We can’t start the cleanup until we know what’s there,” he said. “It’s a long process unfortunately, but we can’t clean up what we don’t know is there. We don’t have a crystal ball.” [109]

Mike Ritorto of Roux Associates told local media that three monitoring wells had been installed and soil samples were being gathered down-gradient from the landfills. When completed, 43 monitoring wells would be installed averaging 80 to 100 feet deep, with some extending down 200 to 300 feet. Some soil samples were gathered 12 feet underground. According to several plant workers in the tour group, some of the landfills were never engineered and just covered over with dirt. Stringer noted that the “black pond” above the plant contained sludge from the wet-scrubber air pollution system from the plant’s early years. “We capped it with what’s on the ground,” he said. Cirian noted that the complexity of the landfills was the reason why the site needed such a thorough investigation. “This is a good example of why we don’t just clean it up,” he said. “You’ve got to find out what’s under the ground.” A company called Test America would handle the groundwater sampling and analysis, and results could be made public by winter. [110]

The potlines plan

On June 20, 2016, Cliff Boyd informed the Columbia Falls City Council that his company's hazardous waste management plan for dealing with spent potliner and other contaminants at the CFAC site was very close to being approved by the DEQ. The hold-up had been financial bonding, which had been worked out, he said. Calbag was awaiting word from its bank. "It's insured until the cows come home," Boyd told the council. Boyd said it would take about a year to clean up all the hazardous waste, so work could begin on tearing down the potline buildings. Calbag had drained about 300,000 gallons of non-hazardous oil from transformers and shipped it out in tanker cars to a recycling facility which would convert it to No. 2 diesel fuel. Next up was to take down the laboratory building, which he said contained a significant amount of asbestos. [111]

Prepared by environmental consultant TetraTech Inc. of Helena, the final version of the waste management plan included detailed descriptions of how spent potliner would be removed from the 451 remaining cathode shells at the plant and how other wastes found in the potrooms would be handled. The plan also included schedules for characterization, determination and handling for spent potliner and other waste materials. According to the plan, Calbag had a contract with CFAC and Glencore to purchase Building 1, including above-grade assets exclusive of real property, for demolition and reuse. In September 2015, Calbag entered into an agreement with Pacmet, of Woodburn, Ore., to sell 1,707 tons of anode carbon to be reused to make new carbon steel. The anode carbon was removed from Building 1 in September through mid-October. The West Plant's four potrooms had 94 cathodes remaining out of 240 spaces, of which 22 still had an aluminum heel. The East Plant's six potrooms had 356 cathodes remaining out of 360 spaces. One additional cathode remained in the cathode rebuild shed. Calbag planned to remove the cathodes at the rate of two per day for seven days per week so the West Plant cathodes would be removed in about 50 days. Calbag planned to remove the cathodes from the East Plant starting in September 2016 and have the work completed by March 2018. All the cathodes in the plant would be removed within two years, which conformed to the schedule in DEQ's June 2015 administrative order on consent. [112]

According to the approved plan, all K088 waste would be hauled away in trucks by Chemical Waste Management to their landfill in Arlington,

Ore. The K088 listing was specific to spent potliner. Other materials in the cathode shell, including brick, iron collector bars that connected to the electrical buss works, and the steel shell itself could be contaminated by K088 waste. Other materials in Building 1, including materials found in storage sheds and lockers, such as ore debris, dust and concrete, could be considered hazardous waste. The DEQ agreed to let Calbag and CFAC use their "knowledge of process" to determine if those wastes were K088 wastes. Total fluoride was not regulated under the Resource Conservation and Recovery Act (RCRA) and so was not covered under the DEQ's approved waste management plan. Cyanide, which was found in spent potliner, was regulated by the RCRA. Through "knowledge of process," it was found that cyanide produced in the aluminum reduction process at CFAC did not react with water or generate toxic gases, vapors or fumes, so K088 waste was not considered "reactive" or listed as D003 waste. "Through knowledge of process, the concentrations of cyanide found in the waste debris piles are non-hazardous," the waste management plant stated. "However, cyanide and fluoride concentrations may be required for wastes being sent to a disposal facility." In other words, the materials were safe to transport and would be moved to an approved off-site disposal facility. The waste management plan also stated that materials located in a reduction pot above the aluminum "heel" were not K088-listed waste, while some materials beneath the heel could be K088-listed waste and the heel itself was not K088-listed waste. K088 waste was described as a "brittle, black, slag-like material." [113]

According to the final waste management plan, removal of the cathodes in the potlines would begin with construction of a containment area made from a retractable reinforced polyethylene curtain equipped with an industrial Hurricane Vacuum 500 with bag filters and high-efficiency particulate air (HEPA) filters. Each "super sack" on the vacuum was capable of holding 3,000 pounds of waste. Cathodes would be moved to the containment area by overhead crane, where the aluminum heel would be removed and set aside. The steel cathode walls would be divided into four sections by torching the bolts and removed from the cathode bottom. A hydraulic hammer on an excavator would be used to break up the spent potliner into smaller pieces, which a second excavator would load into a lined hauling truck or temporary storage bunker. A hydraulic hammer would be used to knock spent potliner off the collector bars, while the bottom of the cathode would be dug out with hand shovels, hand scrapers, a HEPA vacuum and, if needed, a hydraulic hammer. All recyclable materials

would be cleaned by brushing and vacuuming, including the aluminum heel, steel collector bars, the steel cathode wall and the steel cathode bottom. The recyclable materials would be re-vacuumed until visibly free of all carbon. Trucks hauling K088 waste to the landfill in Oregon would be securely covered, and drivers were required to be licensed to haul hazardous waste. [114]

Calbag hired Chemical Waste Management to lab-pack and transport all non-K088 waste materials found in lockers and sheds as hazardous waste rather than profile the contents of each item. Universal wastes included batteries, pesticides, mercury-containing equipment and light bulbs that contained hazardous substances. Capacitors and other electrical equipment that might contain PCBs would be consolidated in a separate holding area. PCBs were not regulated under RCRA. All waste debris and dust collected from the basements and the concrete removed from the basement, ground-level floors, walls and the battery room floor would be sampled and analyzed for RCRA-listed metals, total cyanide, fluoride and PCBs. Motor oil, hydraulic fluids, non-regulated oil and transformer oil would be packed and disposed of by Emerald Recycling and Disposal of Dorr, Mich. Once all the wastes were removed, Calbag would begin demolition of the 10 potrooms one at a time, starting from the west. Concrete would be sampled first to see if it could be pulverized and stored outside Building 1 for reuse as fill. Any concrete that was deemed hazardous would be shipped to an appropriate landfill. [115]

The DEQ’s administrative order on consent did not describe a required process for demolition, but a description of the process was contained in the waste management plan. The North Crane Transfer Bay would be left temporarily standing as the potrooms were taken down. The concrete ground-level floor slabs, support structures, walls and “hammer heads” that supported the anodes would be pulverized and stored outside Building 1. Once the basement floors were clean and certified for closure, the foundation floors would be fractured to allow for drainage of rainfall, snow and spring snow melt. The outside walls of the basements up to ground level would be left standing. “At this time, Calbag is not under contract to fill the basements,” the waste management plan stated. “Filling the basements is a contract option that both Calbag and CFAC have to agree to. If CFAC decides to fill the foundation, it will be upon evaluation of the sample results and approval of the regulatory agencies under the site-wide remediation program. As mentioned above, the demolition is not part of the AOC.

Decisions involving using the concrete as fill at the building site are between CFAC and the regulatory agencies." [116] By July 2017, DEQ confirmed that large piles of dirt stored on the south side of the CFAC site had been mined on site and would be used to fill the potline building's basements. The fill material was not contaminated, DEQ stated. Demolition of the potline buildings was expected to be completed by December 2018. [117]

For insurance and bonding purposes, Calbag estimated the total cost of removing all the reduction pots and all associated hazardous wastes, hauling, transportation, disposal and the Montana waste-generator fee at $9.12 million. The cost of transporting and disposing the spent potliner from the 451 remaining cathodes was estimated to be $7.45 million. The estimate was based on Calbag's experience in cleaning up the aluminum smelter at The Dalles, which was similar to CFAC in design and size, where each cathode averaged about 59 tons of K088 waste. Using that figure, the total amount of K088 waste at the CFAC site was estimated to be 26,609 tons. Chemical Waste Management set a fixed price for hauling and disposing of the K088 waste at their landfill at $280 per ton. Calbag estimated the cost of pulling cathodes, dismantling them, loading K088 material in trucks and cleaning the recyclable materials at $1.49 million. On top of that, Calbag estimated the transportation and disposal costs for three truckloads, or 75 tons, of wastes found in lockers and sheds, including paints, automotive chemicals, solvents, PCB-tainted equipment and other wastes, at $135,000. Calbag estimated the Montana waste generator fee over the two-year period at $50,000. [118]

Public relations

While demolition and remedial investigation was underway at the plant site, Glencore took steps to deal with local politics by hiring a public relations firm familiar with Superfund-type issues. The CFAC site had not yet been placed on the Superfund's National Priorities List by May 2015 when Ann Green Communications, a public relations company hired by Glencore, facilitated their first community meeting in Columbia Falls. The EPA's final decision on whether to list the aluminum smelter site could be swayed to some extent by support or opposition to listing from the city of Columbia Falls and the Flathead County Commissioners. According to their website at the time, the South Charleston, W.Va., public relations firm "creates solutions to solve communications issues that stand in the way of our clients'

social, environmental and economic goals." Past solutions utilized by Ann Green Communications had involved understanding a host community; identifying and engaging stakeholders, including employees, retirees, neighbors and elected officials; establishing communication plans and programs to reach stakeholders; media relations and training; holding open houses, facility tours, public forums and information sessions; crisis communications plan development or evaluation; crisis communication training and drills; and communication strategies for remediation sites. [119]

Testimonials on the website supporting Ann Green Communications came from the former communications director of SunCoke Energy, the senior director of government relations for Chesapeake Energy Corporation, the public relations manager for Luke Paper Co. and the chairman and CEO of Laurel Renewable Partners. Ann S. Green, the company's president, reported 30 years of experience consulting with 100 companies in 32 states. She helped develop Community Advisory Panels to provide two-way communications between businesses and stakeholders, and had worked with major coal and chemical companies in pioneering comprehensive crisis management plans. Before founding Ann Green Communications in 1991, she was president of the Chemical and Environmental Affairs Division of Charles Ryan Associates, in Charleston, W.Va. She had a master's of science in journalism and behavioral science from West Virginia University. Mary Green, the company's director of business development, created strategic outreach plans for clients in the chemical, paper, oil and natural gas, coal, coal-fired energy and wind energy industries. She was a member of the Ohio Oil and Gas Association, a member of the West Virginia Chamber of Commerce's Environmental Committee, and a member of the West Virginia Manufacturers Association's committees on government affairs, environmental and chemical industry. [120]

Stakeholders selected by Ann Green Communications gathered for the first meeting of the Columbia Falls Aluminum Company Community Liaison Panel on May 14, 2015. Panel members included local and state government officials, former plant workers and interested community members. Glencore, CFAC and Calbag were represented by CFAC Corporate Secretary Cheryl Driscoll, Glencore-Xstrata Mining Environmental Engineer John Stroiazzo, CFAC Environmental Manager Steve Wright, CFAC Spokesman Haley Beaudry, and Calbag Site Manager Cliff Boyd. The purpose of the first meeting was to introduce

the parties, establish organizing principles, accept a mission statement and choose topics to pursue. Mary Green, the facilitator, said Ann Green Communications selected the members of the panel after conducting a community assessment in March 2015 and speaking with 20 community leaders about who should be on the panel. The panel was intended to serve as a cross-section of the Columbia Falls and Flathead County community in order to provide a forum for a two-way dialogue and to share factual information with the community, with a focus on the CFAC site, Green told the panel. In introducing herself, Driscoll acknowledged negative feelings about Glencore in the past but said the company had evolved since its merger with Xstrata. Glencore had invested in the Columbia Falls aluminum plant while CFAC operated the site, Driscoll said. CFAC was responsible for the cleanup of the site and Glencore wanted to make sure the work was completed, she explained. Among the topics chosen for future meetings of the panel were responding to Sen. Jon Tester's letter regarding classification of the CFAC site, a review of the site's history and how material was handled and disposed, Glencore's plan for the site after cleanup, the EPA's community visioning, and the issue of whether the site should be listed under the Superfund program. [121]

The community liaison panel expressed an interest in cleanup plans and timetables, site redevelopment and environmental monitoring. Among the selected panel members were Columbia Falls Mayor Don Barnhart, City Manager Susan Nicosia and Police Chief Dave Perry; Flathead County Commissioner Phil Mitchell; Sen. Jon Tester field representatives Virginia Sloan and Chad Campbell; Rep. Zinke field representative John Fuller; Columbia Falls Area Chamber of Commerce President Stacey Schnebel; and Flathead County emergency planner Nikki Stephan. Private citizens included former school superintendent Michael Nicosia, former CFAC engineer Nino Berube, former CFAC employee Shannon Stringer, retired Forest Service employee Clarence Taber, restaurant owner Ray Negron, insurance broker Lyle Mitchell and Bev York, a minister at St. Richard's Church. Erin Sexton, a research scientist at the University of Montana's Flathead Lake Biological Station, was also on the panel. Stroiazzo, a project manager responsible for closing industrial sites for Xstrata, the giant mining company that merged with Glencore two years earlier, said he recently headed up site remediation at Xstrata's zinc and copper mine in Timmons, Ontario. "I'm here to help Steve Wright with the remedial investigation and demolition," he said. Two state legislators who were

not invited to sit on the panel showed up and were given a seat — Sen. Dee Brown and Rep. Zak Perry. [122]

Green told the panel that her firm had surveyed community representatives, elected officials, former CFAC employees and others over the past month to select 27 panel members. They were given a tour of the CFAC site in a bus and then taken to Freedom Bank in Columbia Falls for an introductory meeting to set up ground rules. “The idea is to create a cross-representation of the community,” Green said. “We want to be here to serve you. We will be here to create a forum that serves everybody.” Also present were two local reporters who were not members of the panel and, as Green noted, not invited to the meeting. But according to state law, the presence of city and county officials required the meeting to be kept open to the public, a point acknowledged by the city representatives. Virginia Sloan, one of Sen. Tester’s field representatives, asked that the meetings be kept open, a request that Green and the panel accepted. Speaking as the facilitator for what was a Glencore-hosted entity, Green said the reporters could sit in as guests but could not participate. [123]

Driscoll introduced herself by saying she would work to change Glencore’s local image. “I’m committed to helping through this process,” she said, noting that she was surprised that government agencies overseeing fish and wildlife issues didn’t have a seat at the panel. Barnhart, who had been critical of Glencore in the past, later told local media he was impressed that the company appeared sincere about reinventing its role in the community. “I’m always in favor of working with them and getting it cleaned up,” he said. “We didn’t feel that they were very straightforward in some of our dealings, and hopefully that will change. I was very impressed that they brought management out.” Brown told local media she was supportive of the process and thought the meeting was productive. “I think it’s moving forward right now,” she said. “They’ve come to the realization that the EPA is involved, and they’re going to be held responsible. That’s what everyone in the community has always wanted.” [124]

Green told the panel that having Driscoll and Stroiazzo at the meeting proved how serious Glencore was about the cleanup process. “We are very fortunate that Cheryl is sitting here,” she pointed out. “This is exceptional.” Berube asked what the community would get from the panel and if Driscoll and Stroiazzo were decision makers. Stringer pointed out that the last time Glencore sent someone from CFAC’s

Connecticut office, it led to community distrust. “I agree, the past you experienced was not good,” Driscoll replied. “I knew I had to come. I love Columbia Falls. I worked on the CFAC acquisition in 1998.” Green backed up Driscoll’s comment. “We know about the trust issues,” she said. Driscoll noted that Glencore had hired Roux Associates to develop a remedial investigation and feasibility study for cleaning up the CFAC site, Calbag Resources to begin demolition, and Ann Green Communications to improve relations with the public. “I know there has been a lot of bad feelings about Glencore,” she said. “But a lot has changed at Glencore since the initial public offering (in 2011) and the merger with Xstrata (in 2013).” Driscoll said Xstrata brought a lot of operational and engineering expertise to Glencore, which was primarily a commodities trading company. “We can now be more proactive in dealing with the CFAC site,” she said. Green noted that with so much interest in the panel, their next meeting might be held at a larger venue. “By that time, demolition will have started,” she pointed out, raising local concerns about increased traffic and dust. Green also asked for a serious commitment by panel members -- the group could end up meeting once a month for several years. [125]

The panel and the issues

The community liaison panel met again on June 11, 2015. New panel members included a wildlife biologist from the Montana Department of Fish, Wildlife and Parks and representatives from Montana West Economic Development, Flathead City-County Health Department, the EPA, Roux Associates and Sen. Steve Daines. Cliff Boyd updated the group about the demolition project at the CFAC site. About 250 people had signed up for an equipment auction scheduled for July 28-30, he said. Driscoll said Glencore was working with the Gateway to Glacier trail group to draft a licensing agreement for a bike path on CFAC land on the south side of the Flathead River. Andrew Baris, a project manager for Roux Associates, explained the process involved in drafting a remedial investigation/feasibility study work plan. He said Roux had been doing that kind of work for 34 years, that he had been with Roux for 26 years, and that Roux had 20 years of experience working with the aluminum industry on environmental projects. He described federal CERCLA law and the general purpose of the remediation work plan. He also presented an aerial photograph that highlighted areas of potential concern, including landfills, percolation ponds, the main plant area and other operational areas, and surface

water features. Baris also described potential exposure pathways, such as groundwater, surface water and soil. [126]

Baris explained that one of the first steps was to identify chemicals of potential concern, including cyanide. Roux planned to study groundwater and surface water interactions for at least a year. The scope of work for the Phase I Site Characterization would include 126 soil borings, 51 gridded sampling locations and 43 new monitoring wells, of which 17 would be deep monitoring wells, in addition to the 25 existing monitoring wells and 16 surface water and sediment sampling locations. In all, about 750 analytical samples would be taken, he said. According to the company's schedule, a feasibility study for the actual cleanup work could be finished by 2019, but Baris cautioned that the timeline could change as regulatory agencies became involved. "We know some areas are contaminated for sure," Commissioner Phil Mitchell said. "Are you going to wait 4 1/2 years to do something about those?" Baris said he didn't have a direct answer to Mitchell's question. Other panel members asked about the stigma resulting from a Superfund designation for the plant site and the need for transparency. When Berube asked that Aluminum City be included on the map, Baris responded by saying that the residential neighborhood near the plant boundary was not part of the remediation work plan. [127]

Driscoll emphasized that CFAC and Glencore were committed to the project, so funding would be provided for the investigative work. When Shannon Stringer asked if soil samples would be taken from beneath the potline basements once they were removed, Baris said that was not part of Phase I but that he and Steve Wright had been looking at those areas for future sampling. Following the Phase I Site Characterization, a baseline risk-assessment work plan would be prepared followed by a Phase II site characterization, final remedial investigation and risk assessment report. A screening-level ecological risk assessment would be conducted as part of Phase I, Baris said. Glencore and EPA were in talks about drafting an administrative order on consent, a binding legal document that would commit Glencore to the project and give the government regulatory oversight and review of the cleanup process. EPA Project Manager Mike Cirian said the EPA was considering recommending that the CFAC site be placed on the Superfund's National Priorities List. Haley Beaudry told the panel that CFAC was the owner of the project, not Glencore. He said Glencore was

supporting CFAC financially and with executive personnel as necessary. [128]

The community liaison panel met for a third time on July 9, 2015. Mary Green handed out copies of the “Citizens Guide for Environmental Issues,” which was prepared by the National Institute for Chemical Sciences in the late 1990s, and which contained a glossary of technical terms for panel members. The panel also received handout material from the EPA. Green also said that until an administrative order on consent was signed, Mike Cirian would appear at the panel meetings as a guest. [129] Andrew Otis, a Glencore consultant for the past 15 years who had worked for the EPA for nine years before going into private legal practice, said CFAC had agreed to work with the EPA under an administrative order on consent, but ARCO had refused to negotiate with the EPA on the matter. Otis said CFAC and the EPA would negotiate the exact legal framework for the order in August. He also described the Superfund program process, noting that a site with a Hazard Ranking System score of more than 28.5 was eligible for Superfund listing. Otis said EPA had given the CFAC site a 68.39 score, but both CFAC and ARCO had calculated the data to reach a much lower score in the 20s. “EPA did not interpret data correctly,” he said “They found cyanide where it shouldn’t be.” Otis said CFAC didn’t believe cyanide found upstream from the smelter site was related to activities at the plant. He also noted that a Superfund designation would stigmatize a site. [130]

CFAC would work with the EPA whether or not the agency put the site on the Superfund list, Otis told the panel. Clarence Taber said the local community didn’t want the site listed, and Commissioner Phil Mitchell asked Otis why CFAC chose not to work with the state of Montana. “We didn’t feel like it was an arrangement that would work best for us,” Otis said. “We thought the EPA was a much better partner.” [131] Both CFAC and ARCO opposed designating the site for a Superfund cleanup, Otis said. The EPA had reported finding cyanide upstream in the Flathead River, where there were no known sources, and cyanide was not consistently found in residential drinking wells at Aluminum City, he noted. Cyanide was present at the CFAC site, but CFAC had a permit to discharge cyanide into the Flathead River over the past 30 years, he said. In addition, the EPA did not consider that high background manganese levels could be caused by naturally occurring minerals when compiling the Hazard Ranking System score, he said. Otis also explained how a site or a portion of a site could be removed from the

Superfund list. Before that could be done, the EPA would determine if construction of the site remedy was complete and conditions were monitored to determine if the remedy effectively reduced the risk to human health and the environment. When asked about the role of ARCO and former owners Jerome Broussard and Brack Duker in the cleanup process, Otis said he didn't know the details but all former owners could be involved in the future. He noted potential contribution claims against ARCO existed. [132]

Otis also addressed the potential for a community to be stigmatized by a nearby Superfund site. He noted that of 1,322 sites across the U.S. that had been placed on the Superfund list, only 62 had been fully removed from the list, 81 had been partially removed, and construction of a remedy had been completed at 1,141 sites. In Montana where 16 sites were on the list and two more were proposed, including CFAC, none had been removed after 30 years, remedy construction was completed at four sites, two sites had been designated for re-use, and three sites had been redeveloped for recreation purposes. Otis said some academic studies on the stigma that could come from being a Superfund-designated site showed property values declined. Otis then suggested another type of designation for the CFAC site called the Superfund Alternate Process, which provided for EPA supervision without Superfund listing. The cleanup criteria would be the same, but the Superfund Alternate Process could be used when a potentially responsible party was willing to enter into an agreement to assess the site, Otis said. The CFAC site was eligible and qualified for such a designation, he noted. The soonest one could expect the remedial investigation and feasibility study to be completed would be 4 1/2 years, Otis said. Dee Brown said she was happy to see CFAC and the EPA negotiating after Gov. Bullock signed a letter asking that the CFAC site be put on the Superfund list. [133]

The community liaison panel met for a fourth time on Aug. 8, 2015. Stroiazzo told the panel that CFAC had approached EPA about developing an administrative order on consent as a contract to direct the cleanup process. A 33-page draft document was currently being reviewed. Wright said recent sampling of 20 residential drinking wells in Aluminum City had detected 0.12 ppm fluoride in one well. The detection level was 1 ppm, and the drinking water standard was 4 ppm. Wright explained that a "big project" conducted at the site in the early 1990s pinpointed a source of pollution as the West Landfill, which was subsequently capped. Boyd said more than 600 people had

attended the auction and more than 2,200 items were sold. Transformers in the West Rectifier building were being drained, and smoke might be visible leaving the clamshells at the top of the potrooms as crews removed aluminum buss bars. Calbag had prepared a 700-page asbestos document and taken 1,400 samples for asbestos testing, Boyd said. Donations to the community included steel, a storage shed and welding and forming tables to the Columbia Falls High School; a lathe, drill press and forming machine to Flathead Valley Community College; and decorative boulders to the Great Northern Veterans Peace Park in Whitefish, which had been established by Rep. Ryan Zinke. About 400 unopened sleeping bags along with numerous cots and pillows had been discovered in the warehouse and could be donated to a nonprofit, Boyd said. [134]

Mike Ritorto, a hydrologist with Roux Associates, spoke to panel in general terms about groundwater in the area and described the drilling process for soil sampling and monitoring wells. He also presented a map showing the boundaries of the remedial investigation and feasibility study project and proposed monitoring wells. Nino Berube asked why monitoring wells were not being placed near Aluminum City, where he lived. Ritorto said the current plan was adequate for the Phase I investigation, and additional monitoring wells might be placed depending upon what was discovered. When asked if contamination could move in different ways at different times of the year, Ritorto said sampling would be conducted quarterly. Berube commented that there was no fact-based knowledge to choose the locations of the monitoring wells. He noted that cyanide was known to be in certain areas, but no monitoring wells were proposed for those areas. Mike Cirian said the locations for the new monitoring wells were selected based on a review of existing data. Berube also asked why no sampling was proposed within Cedar Creek. Ritorto said three to four surface-water samples were proposed for Cedar Creek, and the map he was presenting was for groundwater only. Monitoring wells would also be set up near the landfills, but they couldn’t be put in the landfills. [135]

Open house

The cleanup discussion went to a more public forum on Oct. 8, 2015, when representatives from the EPA, the DEQ, CFAC, Glencore, Roux and Calbag hosted an open house meeting in the Columbia Falls High School to present information about the future cleanup of the CFAC plant. A remedial investigation work plan was being developed, and

EPA representatives said they had eight comments and 94 questions for Glencore. The answers would be used to revise the work plan, and Glencore would send the updated document back to the EPA. A final review of the document was expected by the end of October. An administrative order on consent between EPA and CFAC was still on track for the end of November, the EPA representatives said. [136]

Mike Cirian said the CFAC site met the priorities listing under EPA criteria for Superfund listing, and the EPA was recommending that the site be placed on the National Priorities List. He said stigma associated with Superfund designation came from a lack of knowledge about the designation. “Nothing should change in Columbia Falls,” he said. “The drinking water doesn’t come from there. The site will be cleaner than it is now, so it will be better. Every Superfund site I’ve worked on, when we leave property values are better than before we started.” According to a Superfund timeline, about five years would pass before actual cleanup would begin. CFAC and the EPA first needed to agree by the end of the year on how to study the site. The study would look at how the site impacted human health and the environment and at options for future study. Roux next would begin collecting soil, groundwater and surface water samples for analysis. After that, Roux would draft a cleanup plan. “I would say that this is a fairly aggressive schedule,” Andrew Baris, a project manager for Roux, explained. “As people who know and understand these investigations, sometimes they take longer, and they very rarely can get done much quicker than that. So this is a fairly aggressive schedule.” [137]

Members of the public talked to Montana Public Radio after the meeting. “I wasn’t really sure what a Superfund site meant, and I talked with a lady over here and she says there are 30 people who aren’t really in favor of it,” Whitefish resident Richard Smith said. Flathead County Commissioner Phillip Mitchell cited disagreement in the community. “I personally don’t like the connotation of a Superfund site,” he said. “I think it is a deterrent to a community, and some people don’t feel it’s a deterrent. So we’ve got a division. I’m going to guess it’s 50-50.” A former plant worker told the radio reporter what he had discovered at the meeting. “The only thing I learned is that they haven’t really started tearing it down yet,” said Rod Childers, who worked at the aluminum plant for 25 years. “It’s in the investigative part and getting the paperwork part yet together so they can do it.” [138]

Headwaters Montana Executive Director Dave Hadden told the Hungry Horse News he left the meeting with more questions than answers after talking at length with various representatives. “I understand now that Glencore does have the option to walk away from its obligations, and that the EPA also has the ultimate authority to list this as a Superfund site,” he said. Hadden said a Superfund designation for the site didn’t have to be negative. “I hope the community will embrace it and make it an advantage, because right now the community seems to be framing it as a disadvantage,” he said. Tammy Fox and Joe Hauser, co-owners of the Montana Vortex House of Mystery tourist attraction across the Flathead River from CFAC, were interested in the pros and cons of placing the site on the Superfund list. “I’m still not sure what would be the best way to go,” Hauser said. “I don’t know that you can trust the company to clean up their own mess,” Fox said. “Or if you can trust the EPA because their track record of cleaning up Superfund sites has been really bad,” Hauser added. Hauser and Fox said they didn’t want to see the CFAC property used as an industrial park after it was cleaned up. “Or some awful thing we need to hide away over there again and contaminate the valley with,” Fox noted. Fox said she believed the plant produced much more contamination than CFAC said at the open house. “I don’t trust them, I don’t believe them,” she said. Fox claimed cancer rates in the Flathead were higher than the rest of the nation, but citing data from the federal Centers for Disease Control and Prevention, the Hungry Horse News noted that the age-adjusted cancer death rate for the Flathead County was 161.1 per 100,000 people, while the U.S. median rate was 185. [139]

The Superfund alternative

The idea of a Superfund Alternate Process brought up by Glencore consultant Andrew Otis at the community liaison panel’s July 9 meeting quickly caught on with locals who liked the idea of having the EPA overseeing a cleanup at the CFAC site without the stigma of having a Superfund designation. The Columbia Falls City Council discussed sending a letter to Gov. Bullock and the state’s congressional delegation in support of the alternative process at their Nov. 16 meeting. The council decided to delay sending the letter until after CFAC and the EPA reached an agreement on an administrative order on consent that would establish a contract for cleaning up the site. [140] Mike Cirian reported that CFAC and the EPA were close to finalizing the administrative order during the community liaison panel’s fifth meeting in November 2015. Glencore and CFAC representatives promoted the

alternative approach at the meeting. Cirian said only one other project in the EPA's Region 8 district had used the alternative approach, but he said he believed CFAC could be a good fit. Cirian said the site would not be listed in fall 2015 and that he would advocate that it was not listed in spring 2016. Gov. Bullock and Sen. Tester, however, had advocated for Superfund listing, and most of the public comments received by the EPA called for Superfund listing. In an update, Stroiazzo told the panel that $4 million in bank-guaranteed funding would become available to CFAC to complete a remedial investigation and feasibility study. [141]

The community liaison panel met for a sixth time in the Columbia Falls High School cafeteria on Jan. 29, 2016. Cirian told the panel that the CFAC site could be placed on the Superfund list as early as spring 2016. The announcement came as a surprise to panel members who thought the EPA was leaning toward the Superfund Alternate Approach. Some county and city officials opposed listing the site because it might stigmatize the city. Cirian had said he believed the CFAC site would be a good fit, but the final decision wasn't his to make, he explained. Mayor Don Barnhart told the panel that city officials had pursued getting the site put on the Superfund list as a way to get CFAC to do something after the plant had sat idle for so long. "We used it as a hammer to get them going," Barnhart said. With the city's prodding, Sen. Tester supported placing the site on the Superfund list. But now that Glencore had put up $4 million to guarantee that the remedial investigation and feasibility study were completed, some city officials didn't want the site put on the Superfund list. "Let's push as a group for this alternative listing," Barnhart encouraged the panel. If the EPA chose not to list the site in spring 2016, it might do so in the fall. Rep. Zinke opposed Superfund listing, and Sen. Steve Daines was neutral. An aide to Tester encouraged panel members to write to Tester if they wanted him to take a different position. All three Flathead County commissioners opposed putting the site on the Superfund list. "I think this is a political decision," Commissioner Phil Mitchell said. "We think we can do (the cleanup) better and faster," Stroiazzo said. "No one wants the stigma of a Superfund site, but we all want it cleaned up," Ray Negron said. Meanwhile, Cheryl Driscoll said the liaison panel would meet less frequently in the future as each meeting was costing about $25,000 in travel and employee costs. [142]

Listing the CFAC site had become a polarizing topic in the local community. The EPA received 77 public comments in early 2015 after the site was proposed for listing, and the majority of the comments expressed support for a Superfund cleanup. But according to some officials and members of the public, the situation changed in fall 2015 after Glencore reached an agreement with the EPA for a remedial investigation and put up $4 million to back it up. “It seems the Superfund listing is unnecessary following the CFAC agreement,” Barnhart told the panel. Mitchell said he and the other two county commissioners opposed the listing, and he believed the entire community was opposed to the federal cleanup “unless it is absolutely necessary.” Cirian said a Superfund listing would ensure that the cleanup was properly completed. “When this site is done, it will be cleaner than it is now, and that’s what Superfund does,” he said. The investigation was expected to take four to five years, starting with 43 new monitoring wells drilled in spring 2016. Designating the site also couldn’t take place until 2016. “March is the first time they can list, but it’s looking like listing probably won’t happen until fall,” Cirian said, adding, “None of this is a done deal.” Cirian also noted that the Superfund stigma did not have to become a reality and that “the community will be better off after the (cleanup is) done.” [143] Stroiazzo told the panel CFAC expected to start drilling new monitoring wells by April and preliminary results from groundwater sampling wouldn’t be available until the third quarter of 2016. Barnhart said city officials had been kept up to date with the process and were told the entire cleanup could take up to 15 years. “I believe it’s moving forward at a good pace, I guess is what you would say,” he told local media. [144]

Much of the panel’s discussion on Jan. 29 focused on whether the CFAC site should be placed on the Superfund list. When a member of the audience said one of the community’s priorities was to avoid listing, Cirian responded by noting that most of the comments received by the EPA during the comment period favored putting the CFAC site on the Superfund list. The audience member responded by saying the general consensus from the community had changed and that the comment period was a year ago. Cynthia Peterson, the EPA community involvement coordinator, said the EPA was unable to characterize the proportion of the 77 comments that were in support or opposed to listing. John Fuller, representing Rep. Zinke, said things had changed a lot in Columbia Falls. He also wanted to know what would happen, hypothetically, if Glencore chose to walk away from the cleanup project once it was listed because that was the cost-effective thing to

do. Cirian said once a cleanup site goes to litigation, no one wins. Barnhart said he had been led to believe that if the current project continued forward, the site would not have to be listed. Cirian replied that he had never said the site would not be listed under the Superfund project. Clarence Tabor asked what if citizens didn't want the site listed – if Glencore was willing to do the work, why consider putting it back into the Superfund process? [145]

Nikki Stephan, an emergency planner for the county, noted that Glencore had demonstrated good faith by funding and supporting a remedial investigation and feasibility study, and she asked if another comment period could be held. Cirian said the EPA always accepted comments, and written comments would go a lot further than verbal comments. Chas Cartwright, a former Glacier Park superintendent, noted that the federal government based decisions on substantive comments and not a vote. Cartwright also noted that while the community liaison panel was a representative group, it did not officially represent Columbia Falls or other places. Phil Mitchell said he and the other county commissioners had changed their position and opposed listing the site. He added that the community didn't understand the process when it first got together and had demonstrated its real interests over the past year. [146]

Mitchell said he believed the decision would be a political one more than anything else. He noted that at different meetings he had attended, 80% to 90% of the people did not favor listing. He said he was struggling with where to go from here. A member of the audience warned that the EPA was bringing potential damage to the community because of its rules and deadlines even though the circumstances had changed. Cirian noted that the process here was very similar to Libby, where he oversaw the cleanup project for asbestos contamination – no one was helping with public image problems, and much of the stigma associated with Libby did not have to happen. He said Libby now needed to get past the stigma. Nino Berube said having an administrative order on consent in place between the EPA and Glencore or CFAC was mostly a good thing, but the process lacked a good critiquing. He said Cirian and Stroiazzo were never questioned, and the public only got one side of the story. Phil Mitchell said critiquing was up to the DEQ and the EPA because they were the experts, not the panel. [147]

Panel members were also told public involvement in the Superfund decision process was about to change, with an EPA-hosted community advisory group possibly replacing the Glencore-hosted community liaison panel. Cynthia Peterson said the Superfund's community participation process would begin with interviews by the EPA for a possible community advisory group, and Peterson thanked Ann Green Communications for providing their interview information. Options included maintaining the community liaison panel alone, transforming the panel into a community advisory group, establishing a new community advisory group, or maintaining the panel and a community advisory group at the same time. An important difference was that the community advisory group would be a self-governing group with bylaws and criteria for membership, Peterson said. Superfund legislation did not require that a community advisory group be formed, but community involvement in the Superfund process would enhance the EPA's work and provide a forum for two-way dialogue and information sharing, she said. The EPA would help communities get involved by providing educational materials, outreach activities, site information, training and technical assistance. Chas Cartwright said including outside people with current members of the panel would be representative. Cheryl Driscoll said CFAC would continue to fund the panel depending on the desire of the panel. Flathead County Health Officer Joe Russell said that as long as the members were working cooperatively, "CFAC should continue to drive the ship." [148] After the meeting, City Councilor Mike Shepard said he had a poor opinion of the community liaison panel and the public relations firm that had been handling the CFAC cleanup talks. "The group has really taken the Kool-Aid with these dinners from Glencore's PR firm," he said. "The only way to get this clean is the EPA Superfund. I am in the minority." [149]

The Superfund debate by the start of 2016 had narrowed down to two questions – should Glencore and CFAC be left alone to do their thing, or should the EPA oversee the cleanup without actually placing the property on the Superfund's National Priorities List? Most people didn't like either – the EPA had the ball in their court and that was where it belonged, they thought. A few politicians talked about handing oversight back to the DEQ, but it was too late for that – Glencore had offended Sen. Tester back when he tried to swing power deals for the smelter, and the company had offended the DEQ when it broke off negotiations in December 2014. The EPA was already heavily vested in the project by 2016 and not likely to step back. Too many locals felt a hammer was needed to guide Glencore into compliance, and that

meant putting the site on the Superfund list and letting the EPA take over.

While Montana's congressional delegation was divided over how to handle the CFAC cleanup, the fight in the Flathead was between the city and the county. The county commissioners sometimes debated the cleanup in philosophical terms – mostly focused on property rights and limited government – but the city had more practical concerns. CFAC was outside the city limits, but the city's municipal water supply came from deep aquifers downgradient from the contaminated groundwater flowing beneath the plant site. The idea of something called the Superfund Alternate Approach offered opponents to Superfund listing something to argue for, but it was never clearly defined and more of a will-o'-the-wisp than a realistic strategy for dealing with a contaminated industrial site. The facts were clear even if they were unacceptable to some – the cleanup was going to take many years, with scientific investigations taking up much of that time. The EPA didn't officially list the site in its Superfund program until Sept. 7, 2016.

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[20] Online comment by Jennifer Buls to the Environmental Protection Agency Docket Coordinator with comments on placing Columbia Falls Aluminum Co. site on the Superfund National Priorities List, June 8, 2015 [AL5121]

[21] Letter from Kathy Beckstrom to the Environmental Protection Agency Docket Coordinator with comments on placing Columbia Falls Aluminum Co. site on the Superfund National Priorities List, April 22, 2015 [AL5111]

[22] Letter from Mary Reed Kuennen to the Environmental Protection Agency Docket Coordinator with comments on placing Columbia Falls Aluminum Co. site on the Superfund National Priorities List, April 28, 2015 [AL5115]

[23] Letter from Corrie Holloway to the Environmental Protection Agency Docket Coordinator with comments on placing Columbia Falls Aluminum Co. site on the Superfund

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