

Chapter 60

The Superfund debate

For three years following the end of smelting at the aluminum plant in Columbia Falls on Oct. 31, 2009, Democratic Sens. Max Baucus and Jon Tester continued to negotiate with the Bonneville Power Administration for a power contract that could keep the plant running. Only two other aluminum plants in the Pacific Northwest remained operational during that time. The regional industry had been decimated by the West Coast Energy Crisis and increasing global competition. Tester expressed his frustration with the plant's owner in August 2012, saying Glencore had not negotiated in good faith with the BPA and was to blame for the plant not reopening. ¹

For the next 2 ½ years, the Columbia Falls Aluminum Co. plant site sat ghost-like below Teakettle Mountain. Security guards watched for trespassers, including the hobos who hopped off the trains to enjoy the tranquil riverside site near the plant's percolation ponds. The consensus among locals was that the plant would never start up again – machinery was being ruined by sitting idle, and the knowledgeable workforce that had kept the plant competitive despite high power prices had moved on or grown too old to return. Finally the word came from CFAC Spokesman Haley Beaudry on March 3, 2015, that the plant was permanently closed. ² A new chapter in the plant's history was beginning – a politicized debate that pitted city, county, state and federal representatives against each other in a war of words over whether to list the smelter site as a Superfund cleanup project. Meanwhile, state and federal regulators plugged along, collecting data that would support a decision.

Kicking off the process

The aluminum plant had fallen off the media radar by December 2012 when a local politician put the smelter site back on the front pages. Dee Lyngstad Brown grew up in Columbia Falls, where her family survived the historic June 1964 flood. She graduated with a bachelor's in education from the University of Montana and taught at Canyon Elementary in Hungry Horse and other School District 6 schools. She

later received a master's in education from Montana State University-Northern. She and her husband Steve, who worked for a time at the CFAC plant, owned and operated the Canyon RV campground in Coram for 24 years. Brown served in the Montana House for four terms from 2001 through 2009, where she served in the Federal Relations, Energy and Telecommunications, and State Administration committees. She was elected to the Montana Senate in 2012, where she served as chairman of the State Administration and the Veterans Affairs committees and was a member of the Business, Labor, and Economic Affairs Committee. An active member of numerous business and civic organizations, Brown promoted herself as a conservative Republican. Her position on the aluminum plant put her in an unusual alignment with environmentalists and in opposition to some of her fellow Republican conservatives.³

On Dec. 17, 2012, Brown told local media she had talked to the Flathead County Commissioners about declaring the CFAC plant a Superfund site. She accused Glencore executives of "pretending" since the plant closed in 2009 that it intended to one day reopen the plant. "I don't think we'll ever see the CFAC I knew," she said. "They have no heartstrings to Columbia Falls and no obligations to the workers." Glencore was valued at more than \$60 billion, yet in mid-2011 the Swiss-based global trading company had petitioned the county and the School District 6 School Board to waive 95% of its 2010 property tax bill of \$462,140 at the same time it was planning a \$10 billion initial public offering. Brown said nobody knew how much contamination was at the plant, but she had heard anecdotal accounts from workers. Brown said she spoke with Sen. Jon Tester's office and learned Tester had not been able to get much information from Glencore officials about restarting the plant. "He's hitting the same stone wall," Brown said. "Them ignoring Sen. Tester is the ultimate slap." Flathead County Commissioner Dale Lauman agreed with Brown about getting the site cleaned up. "CFAC doesn't affect their bottom line," he said. "They'd just as soon let it sit and not address the cleanup because it could cost them some money." By taking action now to facilitate the cleanup, the site could be available for a different manufacturing business to operate there if Glencore sold the property, Brown said. "There are manufacturing interests that would love to be at that site," she said.⁴ About the same time Brown made her announcement, U.S.

Environmental Protection Agency officials initiated talks about the CFAC site with Mike Tombetta, bureau chief for the Montana Department of Environmental Quality's Hazardous Waste Site Cleanup Bureau. ⁵

Brown's action started the ball rolling. On March 5, 2013, Sens. Tester and Baucus wrote to EPA Region 8 Acting Administrator Howard Cantor urging the EPA to begin a study of the 120-acre CFAC smelter site and consider it for a Superfund cleanup program. "Due to the nature of the hazardous waste the plant handled, disposed and released on site, it is important to assure that contamination is assessed and re-mediated and that future leaks of cyanide, zinc, polynuclear aromatic hydrocarbons are contained," the letter stated. "Specifically, the Environmental Protection Agency (EPA) in consultation with Montana DEQ should assess the risks posed by the solvent landfills and percolation ponds which received effluent from the smelting operations until they were capped in 1980." Tester and Baucus asked the EPA to "swiftly commence" a site assessment of the site and the surrounding area, including the Cedar Creek drainage. "Due to the economic and environmental impact of this plant to the local community, we urge you to provide us with a timeline of action for analysis to prevent any delay in a process that can be highly time-consuming," they wrote. The senators also referred to their past efforts with the BPA and Glencore to get the plant operating again, but blamed volatile aluminum prices from preventing a restart. ⁶

Tester and Baucus issued a press release on March 11 announcing they had asked the EPA to conduct a study of the CFAC smelter site to see if it posed a risk to the community and future business and to see if it should be designated a Superfund cleanup project. "We are concerned about an indefinite delay in economic opportunities at the site and support the community's efforts to explore all options for remediation," they told the EPA. "Due to the complexity of the site, we urge the EPA to swiftly commence a site assessment of the CFAC production facilities for a listing of Superfund." ⁷ Flathead County Commissioner Pam Holmquist told local media the commissioners had not yet taken up the issue but were glad Tester and Baucus had taken the lead. ⁸

Two days after the press release, a person calling himself “tatonkapark” commented online about a Hungry Horse News article on Tester and Baucus’ letter to the EPA. The commenter recalled going to the top of Teakettle Mountain with an “air pollution specialist” to check equipment monitoring fluoride concentrations from the smelter. Numerous families were dependent on the plant’s economic impacts, and steps were taken to eliminate pollution, the commenter recalled, including warnings about fluoride impacts to leafy produce and bone structure. “Along with this warning was a theory that there would eventually be no wildlife older than 2 yrs. of age. I believe this was proven to be not true,” the commenter said. “I feel that major pollution can be kept under control, and the plant’s history should speak for itself.”⁹

It didn’t take long for the link to Marc Rich and Glencore’s past notoriety to become local news. On March 20, 2013, the Flathead Beacon published a front-page story on controversial international trading deals made in the past by Glencore under the heading “Glencore has been playing us,” in reference to attempts by Tester and Baucus to arrange power contracts for CFAC. “Lawmakers and local officials say the owner of CFAC has dishonestly strung the community along about its intentions,” reporter Myers Reece said. “Now they want to clean up the plant and say goodbye to Glencore, a massive commodities company with a history of controversy.” The article cited a Reuters story about Glencore supplying alumina to a firm linked to Iran’s nuclear program. A Glencore spokesperson told the Flathead Beacon the company had supplied alumina to Iralco before the European Union placed sanctions on Iralco in December 2012. Glencore also said they were not aware of Iralco’s ties to Iran’s nuclear program until later. The newspaper story also described the origin of Glencore in 1974 as Marc Rich & Co., Rich’s indictment for fraud in 1983, his decision to become a fugitive from the U.S., and his later pardon by President Bill Clinton in 2001. The story described Glencore as “secretive” and “shadowy.” Locally, the story reported that Tester felt frustrated in his efforts to help CFAC get a BPA power contract, and that he could no longer take Glencore representatives at their word. “We’d get them a power contract they asked for – they still wouldn’t open the plant,” Tester said. “This happened multiple times, not just once. After the second or third time, I told (former BPA Administrator)

Steve Wright, 'I'm getting played.'" Tester continued, "I was dealing with them like they were a straight-up company. That's obviously not the case."¹⁰

The Flathead Beacon story also included comments by Aluminum Workers Trades Council Vice President Dave Toavs. "They're a cold-blooded company," he said. "I can't blame them for closing the doors, with low metal prices and high power prices, but the thing is, if you're going to close the doors, you sever your employees. You treat your people right." Toavs said he asked the company for three months of insurance coverage for laid-off employees, which "isn't asking for the world," he said. "The answer was, 'No and don't ever call again.' Their exact words." Toavs described the impact of the plant closure on workers. "There are people who worked there their whole lives and all of a sudden their jobs are gone," he said. "I had people come up to me in the union hall in tears saying, 'What am I going to do? Who's going to hire somebody in their 50s? I'm too young to retire but I'm too old to find a new job.' It was a sad deal, I tell you." Toavs said he tried to work with Glencore on severance issues and noted that workers were now "pursuing other avenues" which he wouldn't discuss. He also said he didn't believe the plant would restart. "The day comes when you have to wake up and say, 'OK, it's over.' I don't know of a single person who thinks that thing is going to reopen. The dream is gone." Toavs had worked at the plant for 32 years and had found a job with the BNSF Railway.¹¹

Restart realities

Tester met with city officials, former CFAC workers and members of the public in the Columbia Falls City Council Chambers on March 26, 2013, to take input on the future of the plant and potential impacts of making the site a Superfund cleanup project. Tester recounted his frustration at trying to get a favorable power contract for the CFAC plant. Columbia Falls Mayor Don Barnhart pointed out that many of the skilled workers familiar with operating the plant were no longer around, and finding a viable workforce for a restart might be difficult. One local resident wanted to know whether a Superfund cleanup project, once started, would prevent the plant from restarting. Tester said a Superfund cleanup would largely depend on the local community's wishes. "If the community doesn't want EPA around... I

think (the community) can play a big role in that," Tester said. Freedom Bank President Don Bennett asked if the site should be cleaned up before it restarted.¹²

Former CFAC Operations Manager Robert Smollack explained to the group that after the Atlantic Richfield Co. sold the plant to Brack Duker and Jerome Broussard to form CFAC, strict directives were in place concerning waste material that needed to be hauled away, but he wasn't sure about waste buried onsite prior to that. Former CFAC Spokesman Haley Beaudry said a Superfund designation would make it difficult to restart the plant. Beaudry pointed out that the contract conditions for a new 10-year BPA power contract with Alcoa could become available to CFAC. Another person asked how Glencore could be compelled to pay for a cleanup if they were a foreign company based in Switzerland. Tester said it was possible Glencore could avoid paying for the cleanup and taxpayers would get stuck with the bill.¹³ City Councilor Mike Shepard, a former plant employee, handed out a document listing raw materials used at the plant and spoke at length about potential contamination by asbestos. In addition to alumina, cryolite, sodium fluoride and aluminum fluoride, the plant had significant quantities of chemicals used to make carbon paste. The smelter's paste plant could store 3,597 tons of petroleum coke, 419 tons of graphite, 2,018 tons of anode briquettes, 412 tons of pinhole briquettes, 28,130 gallons of cathode pitch, 457,000 gallons of anode pitch and 681 tons of anthracite coal.¹⁴

Tester recounted to the group his frustration at trying to get a favorable BPA power contract for CFAC. "At some point, you do feel like you're getting led down the road," he said. Barnhart and Bennett expressed similar frustration in their own dealings with Glencore. Bennett served on the board of the Flathead Economic Development Authority, which had tried to get a rail-served industrial park set up at the CFAC site after the smelter closed, but at some point Glencore stopped returning phone calls, he said.¹⁵ Barnhart noted that "Glencore cried wolf for so long." Tester acknowledged that favorable metal prices and favorable power prices don't always coincide, so CFAC needed a long-term power contract. A new 10-year power contract between Alcoa and the BPA opened up a new opportunity for CFAC, he said. "I'd still like to see it open," Tester said. The loss of

Glencore's alumina offloading facilities at Everett and Vancouver could force CFAC to get alumina from a refinery in Corpus Christi, Texas, Smollack said after the meeting.¹⁶

Beaudry told the group that aluminum plants had been closing all around the world, and restarting a closed plant was difficult. "These plants are designed to run all the time," he said. Bennett said he'd like to see the site cleaned up even if CFAC restarted in order to protect the Flathead River. Smollack said he believed the plant could restart. He said he had purchased some equipment from the former smelters at The Dalles and Goldendale, which used similar Soderberg smelting technology. The equipment was 2000-vintage and would replace CFAC equipment from the 1980s. "I don't buy junk," he said. The plant would need to run three potlines, the entire East Plant, to operate profitably, he said, considering all the related plant equipment that also needed to run - the paste plant, dry scrubbers, high voltage switchyard, rectifier building and the casting plant. Smollack estimated startup costs for 360 pots could be \$25 million to \$30 million, based on recent studies. That would include some repair work to the reduction pots, natural gas and electricity to heat up the pots, and creating about 20,000 pounds of molten aluminum in each pot before the pots could start producing metal for sale. The startup process could take months, he noted.¹⁷

On March 26, 2013, Howard Cantor responded to Tester's March 5, 2013 letter by saying the EPA had begun planning an assessment of the CFAC site to see if it should be a Superfund cleanup project. Cantor said his office conducted a preliminary assessment of the site in 1986 and a site inspection in 1988. He said the EPA and the DEQ agreed that site conditions had changed since 1988 and the appropriate next step would be a site reassessment using current protocols. "If an actual or potential threat to human health or the environment is identified, we will collect additional environmental data to verify the presence of hazardous substances or pollutants, determine if these substances are being released to the environment, and assess if these substances have reached populations or sensitive environments." If environmental remediation was found to be necessary, that information would "inform a conversation amongst stakeholders on potential next steps," he said. "Due to the smelter site's complexity and its location, it is difficult to

predict how long our site investigation activities might take. But it will be a priority for the EPA, and we anticipate completing our assessment within one year, depending on available resources.”¹⁸

Tester’s local field representative, Virginia Sloan, spoke to the Flathead Basin Commission on April 10, 2013, about the EPA’s response. After getting no response from Glencore about attempts to help them get a new power contract from the BPA, Tester and Baucus asked the EPA to evaluate the site for a possible Superfund cleanup, Sloan said. “We came close a couple times,” Sloan said about the negotiations. “Most recently, we had some Christmastime hopes that there was going to be an announcement that they would reopen. We’ve been disappointed several times when they led us down a path of hopefulness and it did not happen. Some folks say it has been idle too long.” She said a Glencore representative would visit the Flathead area later in April. “At least we know we’ve got their attention,” she said. “I hope there is a robust, transparent opportunity for the public to be very involved in this process. Communication is really key, and that is one thing that the EPA has promised.” The EPA would work closely with the DEQ and the city of Columbia Falls as the assessment was carried out. Julie Dalsoglio, the EPA representative on the Flathead Basin Commission, said that if a cleanup was initiated, past and present owners of the smelter site could be contacted to see if they should pay for the cost of the cleanup.¹⁹

Glencore responds

Two weeks later, three Glencore representatives talked with the Flathead County Commissioners, city of Columbia Falls officials and Tester and Baucus through video conferencing. Acknowledging that “they need to do a better job of communicating,” the representatives said there was hope the CFAC plant would restart someday. Glencore representative Matt Lucke said the goodwill blitz was prompted by negative press reports about Glencore “stringing the community along” with no intention of restarting. Tester had been particularly outspoken about Glencore, saying the company was only interested in making a profit. Lucke explained that global demand for aluminum was good, but there was a glut on the supply side and China continued to produce aluminum. “We’ve seen bankruptcies and shutdowns” of smelters in other countries, Lucke said. “It’s challenging. We’re faced

with a difficult environment.” Glencore representative Zach Mayer said the power supply picture was brighter. “We’re in a better position today than we have been in for some time,” he said, citing a potential nine-year power contract with the BPA. “We think we’re headed in the right direction. This could help us restart.” Mayer said a four-year BPA power contract was under negotiation in 2011, but a required National Environmental Policy Act review had bogged down the process. By the time the NEPA review was underway, aluminum prices had fallen again. “It all hinges on metal prices,” Mayer said. “Multiple markets need to come together at the same time. We’re constantly monitoring it.”²⁰

CFAC Environmental Manager Steve Wright, the only CFAC employee left at the plant, told the officials that EPA personnel were going through large amounts of CFAC-provided documents and were expected to arrive at the plant in June. Robert Smollack, who was helping assess the plant’s equipment, said 200 workers were on a recall list, but cleanup talk was not helping out. “This movement to force it to a Superfund site is one of the worst things that can happen,” he said. “Glencore has invested time and money to keep the plant ready for restart.” Haley Beaudry said community support for the plant was crucial. “The pin has been pulled” as far as an EPA review was concerned, “so the EPA has to run the course,” he said. “One impact they’ll look at is community support for restarting.” Beaudry said he believed the EPA wouldn’t find anything at the site that it didn’t find in 1988. “Rules and measurements change, but we should be OK,” he said. He continued to advocate for getting the plant restarted. “That’s the highest purpose of that property,” he said.²¹

On April 25, 2013, three representatives from Glencore met with city officials and members of the public in the Columbia Falls City Hall. Matt Lucke told the officials that Glencore had planned to visit the CFAC site in April to see if it was ready for a restart, and that coincided with recent media reports about the plant possibly becoming a Superfund cleanup project. He characterized the reports as “bad press and bad facts.” A major factor affecting a restart decision would be metal prices, which were down to \$1,900 a ton from \$2,500 several years ago, about the time they were negotiating with the BPA for a power contract, Lucke said. Demand for aluminum in the 40 million ton global

market remained high, but there was too much inventory, he said. China's output had increased from about 1 million tons in the 1990s to about 22 million tons. Lucke also discounted the idea that the CFAC plant was too run-down to restart. While the plant equipment was old, it restarted after being completely shut down following the West Coast Energy Crisis. With the alumina off-loading facilities in Everett and Vancouver no longer available, Glencore had been looking at shipping facilities in Portland and Longview. "Finding ways to move commodities, that's what Glencore is good at," he said. Weak smelters around the world lacked a strong trading network like Glencore had. Shipping alumina from Glencore's Sherwin Alumina Co. refinery in Texas would not be a deterrent to restarting, he said, noting that smelters in China and India are very far away from their alumina supplies.²²

Mayer told the officials that power rates in Europe were twice as high as the BPA's. The current BPA offer was for nine years, compared to four or five years in the past. "We need to strike when the iron is hot," Mayer said. Lucke said the NEPA process for a new power contract was basically completed, and he didn't foresee any difficulties in getting a new BPA contract. He also noted that the new BPA administrator, Bill Drummond, was from Montana and "is a reasonable guy" to work with. Mayer said Smollack and 10 to 15 workers had been "kicking the tires" at the plant to assess start-up costs. Smollack said he and the other contracted workers started looking at critical electrical and mechanical equipment on March 15 and found only minor issues. They started up 200 of the plant's 300 vehicles and found the plant might need new batteries for electrical vehicles, which could run more than \$200,000, Smollack said. CFAC couldn't compete with the North Dakota oil fields for wages, but many workers he knew in North Dakota wanted to come back to the Flathead, Smollack said.²³

Lucke told the officials that Glencore had offered the unions a piece of the plant's equity in exchange for a pay cut but they had turned it down. He also said a Superfund investigation would put a "negative shadow over the plant" and be a big "distraction" to operations. Beaudry asked the local community to support a restart - the plant needed to focus on operations, not a clean-up. Lucke noted that the EPA didn't have to continue down the Superfund path - they could

hand off the investigation to the state DEQ, which CFAC had worked with for decades. He also called the idea of using a Superfund clean-up to create jobs “short-sighted.” The Glencore representatives would not provide a “drop-dead” restart date. “We want to watch all the variables, and when they all come together, we need to move quickly,” Lucke said. “Our goal is to be well positioned when everything comes together.”²⁴

Five representatives from the EPA and one from the DEQ met with Columbia Falls City Manager Susan Nicosia on June 3, 2013, to discuss a plant cleanup. The EPA staff said they toured the smelter site on June 2 and planned to leave June 4. Their goal was to determine if any hazardous substances were migrating off the site and if the hazardous materials might endanger the city’s drinking water supply by contaminating the aquifer. They didn’t have much new to report and hadn’t conducted any sampling on the trip. A site assessment report could be completed by spring 2014, and the EPA planned to hold public meetings after that. Nicosia told the visitors that a concern of local residents was that hazardous materials were already migrating off the site.²⁵ Nicosia requested more information from the DEQ about potential threats to community drinking water. A week later, she received an email from DEQ Water Protection Bureau Supervisor Kari Smith reporting that after reviewing the department’s files on CFAC, she had found no violations of CFAC’s wastewater discharge permit. Her answer, however, was based on Nicosia’s request for CFAC’s “current compliance status,” which might not include past violations, Smith said.²⁶

Freedom to speak

In early December 2013, the Hungry Horse News received word from a CFAC employee that half a dozen personnel from the Sebree, Ky., smelter had visited the CFAC plant to look at equipment that could be sold or transferred to Sebree. Glencore had recently acquired the Sebree plant through its holding company, Century Aluminum. The employee was concerned that the equipment the visitors inspected could be essential to CFAC’s operation and difficult to replace. The equipment included forklifts and tapping trucks, heavy machine shop tools, some electrical and laboratory equipment, overhead cranes, equipment from the vehicle repair shop, the plant’s lone railroad

locomotive and numerous items from the warehouse that had generic use. If this information was made public, it could force Glencore's hand, the employee said – they would be forced to either make serious efforts to restart the plant, which the employee wanted, or find themselves facing tough questions from both the EPA and the BPA. ²⁷

Glencore could be forced into a very expensive Superfund-type cleanup that could cost \$500 million, the employee said, and the company could lose certain valuable power and transmission contracts with the BPA. By this time, Lucke was no longer Glencore's top U.S. aluminum trader, which hurt CFAC's position, the employee said. The result was a vacuum that was never filled at Glencore, and Sens. Baucus and Tester had been unable to get meaningful responses from Glencore when trying to arrange a power contract with BPA. Publicly, Glencore had said it planned to restart the CFAC plant when market conditions were right, but the Sebree personnel visiting CFAC suggested otherwise, the employee said. The employee noted that Glencore had intricate business dealings and may have made more from selling power, alumina and other raw materials to CFAC, and by selling aluminum metal produced by CFAC on the open market, than it did by actually owning CFAC. "CFAC never ever made much of a profit under Glencore, but Glencore definitely made millions," the employee said. ²⁸

By January 2014, union officials at the smelter plant began to talk publicly about their dealings with Glencore. They had kept their opinions to themselves over the years in an effort to maintain good relations with the Swiss-based commodities giant in hopes of getting the plant restarted, but with the "Sebree raid" and talk of a Superfund-type cleanup, that hope seemed dashed and it was time to clear the air. On Jan. 17, Dave Toavs provided the Hungry Horse News with the union's timeline of key events since Glencore purchased CFAC in May 1999. Glencore shut down the plant in 2001 for 11 months, sold all the power, laid off 40% of the workforce, retained 60% of the workforce for a restart, and restarted the next year at 60% capacity. The company then curtailed 50% of production in 2003, laid off half the workforce and then restarted one potline in 2005. Glencore started another potline in 2007, bringing plant capacity back to 60%. The company

then curtailed one potline, dropping capacity to 40%. Glencore closed the plant completely in October 2009.²⁹

According to the timeline, the union had worked with Glencore in 2010 to get the plant restarted, including talking to Sens. Baucus and Tester about power contract issues, but Glencore rejected a five-year power contract offered by the BPA. Believing Glencore had no intention to restart the plant, the union issued a letter to begin the “effects bargaining” process. Effects bargaining was a provision found in union contracts that required an employer to negotiate with the union over how a employer’s decision might impact the employees and how any impact could be prevented. Glencore rejected the letter, saying the company planned to restart the plant. In 2011, Glencore again said it wanted to restart the plant but needed to conduct an environmental study. The union said this was common knowledge in 2010.³⁰

In 2012, the union issued several letters to Glencore requesting that negotiations begin for effects bargaining. Glencore rebutted each request by saying they intended to restart the plant. Tester and his staff then called Glencore to introduce the idea of a 10-year BPA power contract, but Glencore’s office in Switzerland seemed unaware of the existence of the aluminum smelting plant in Columbia Falls, Mont., let alone that Glencore owned it. Union members spoke with three retained company employees who all agreed Glencore had no intention to restart the plant. The union said it worked with their senators to bring Glencore to a point of decision – either restart the plant and put people back to work, or clean up the plant and sever the workforce. Glencore representatives met with the Aluminum Workers Trades Council in April 2013 to update the union on future plans, but they were unable to present figures for the cost of a possible restart or the date of a possible restart.³¹

On Jan. 29, 2014, the Hungry Horse News published a front-page story based on an interview with Toavs and Steelworkers Local 320 President Brian Doyle. The union officials said they had maintained their silence long enough and wanted to let the public know about their relations with Glencore and the future of the CFAC plant. Toavs and Doyle said the plant’s workers and management “worked their butts off” with a paltry maintenance budget trying to keep the smelter operating. They said Glencore turned down a “Cadillac” power contract

offered by the BPA in 2010 when the metals market was good. Glencore could have made enough money to run the plant for years, Toavs said. That was when the union decided to send Glencore an effects bargaining letter asking the company to sit down with the union and talk about a severance package for the laid-off workers.³²

The union worked closely with Baucus and Tester, who supported the severance package idea, but Glencore kept “stringing them along,” Toavs said. At one point while talking to Matt Lucke, Toavs tried to stress the importance of having skilled and experienced workers. “What do you think we are, a bunch of hillbillies, and we’ll go to our cabins and wait for a start-up call?” Toavs asked. According to Toavs, Lucke replied, “Unemployment is so high in the Flathead that Glencore would have no trouble finding workers.” Doyle recalled telling Lucke about the union’s behind-the-scenes work with Baucus and Tester, to which Lucke replied, “I don’t think those clowns have the clout you think they have.” Doyle noted that, ironically, Glencore had asked the union on several occasions to talk to Baucus and Tester about helping restart the plant. “By then, Glencore had already burned its bridges with Baucus and Tester,” Doyle said.³³

The two union officials also described how some talks with Glencore turned not to a restart but to a potential cleanup. “Once in 2010, Lucke offered the union a 15% profit-sharing deal,” Toavs said. “But when I asked him if they were thinking of restarting the plant, he said no, if the union had a stake in the plant, the government might go easier on them for a cleanup.” Toavs said that in a different conversation, Lucke asked if the Blackfeet Indian Tribe would be interested in acquiring a stake in CFAC for the same reason. The strangest incident came in 2013 when Baucus and Tester persuaded staff at the White House to speak directly to Glencore about restarting CFAC. “Glencore’s response was, one, they didn’t know where Columbia Falls was, and two, they didn’t own an aluminum smelter in Columbia Falls,” Toavs said.³⁴

Lucke and two other Glencore representatives invited the union to meet with them at the plant in April 2013. “We thought there would be good news,” Doyle said. Instead, the Glencore representatives said they planned to meet with Flathead County and Columbia Falls officials to repair their tarnished reputations. One of the biggest issues for Toavs was health insurance for laid-off workers. When he asked Lucke

to extend health insurance for a few more months, Lucke said, “We’re bleeding too badly, and don’t call me back again.” Glencore paid a firm to audit the plant for salvage purposes in August 2013, the union leaders said. Soon after that, a group of Chinese businessmen looked over the plant and advised tearing it completely down and starting all over. Then in December 2013, personnel from Century Aluminum, Glencore’s holding company, visited the plant to see if any of the equipment could be used at other smelters. “They’re not going to restart CFAC,” Toavs said. Doyle agreed. “One thing – if they do, I don’t want to be out there. It’s become too dangerous,” he said. ³⁵

In a Feb. 9, 2014, editorial, the Daily Inter Lake said it was time to hold Glencore accountable for the CFAC plant. The editorial said that for some time now, “there have been plenty of signs that Glencore has been jerking around former workers, the city of Columbia Falls and Montana’s congressional delegation since the plant shut down in October 2009.” The editorial cited Glencore’s turning down a “Cadillac” power contract offer by the BPA as a prime example. “Montana’s congressional delegation should apply every type of pressure necessary to compel Glencore to provide severance to the workers that have been strung along for so long,” the editorial said. “If it takes the Environmental Protection Agency to hold the company accountable for cleaning up hazardous materials at the CFAC site, then so be it.” The site should be cleaned up and made available for a productive use, the editorial concluded. ³⁶

Landfills, ponds and wells

The EPA’s Region 8 Superfund Technical Assessment and Response Team released a 271-page site reassessment report for the CFAC smelter site on April 4, 2014. The report was prepared with input from Weston Solutions Inc., which had collected 68 groundwater, surface water, sediment and soil samples at the plant and the surrounding area in September 2013. Some monitoring wells were not sampled for a variety of reasons, and some landfills and ponds were not directly sampled to avoid compromising their protective caps or covers. Hazardous materials found in the samples included a wide range of metals, fluoride from reduction pot emissions and cyanide from spent potliner. Contaminant levels exceeded background, human health and ecological screening levels. The report also provided geographical and

hydro-geological details. CFAC's 3,196-acre property was bordered by the Cedar Creek Reservoir to the north, Teakettle Mountain to the east, Flathead River to the south, and Cedar Creek to the west. The smelter site proper covered about 953 acres. Surface water drained west to Cedar Creek, which ran beneath the city of Columbia Falls before entering the Flathead River. Surface water also drained east to the Cedar Creek Reservoir overflow ditch, which emptied into the Flathead River through a pipe upstream from the plant near Bad Rock Canyon. Depth to groundwater at the plant site varied but was typically about 15 feet. Groundwater was recharged by ephemeral streams on the west flank of Teakettle Mountain and by Cedar Creek, and the groundwater principally discharged into the Flathead River. ³⁷

The EPA's 2014 report also provided some new information about landfills and waste ponds that covered about 72 acres north of the plant. In addition, percolation ponds covered about 70 acres in the center and south end of the property. The East Landfill, also known as the Spent Potliner Landfill, was used from 1980 to 1990. The clay-lined landfill was covered with a synthetic cap and re-vegetated in 1990. The West Landfill was an unlined solid-waste landfill used from 1955 to 1981. General garbage, steel and wood scraps, and spent potliner was dumped there from 1955 to 1970. Solvents and other hazardous wastes were also likely dumped there. The landfill was capped with clay in 1992 and with a synthetic material in 1994. The Wet Scrubber Sludge Pond Landfill received sludge from the smelter's early air pollution control equipment and was closed around 1980. It also took spent potliner from 1994 to 1998. In February 1998, the DEQ ordered CFAC to remove all spent potliner from the Wet Scrubber Sludge Pond Landfill. CFAC sampled pot diggings in the landfill in July 1998 and found cyanide in all samples, but based on EPA criteria the DEQ declared no further cleanup was required for the pot diggings or underlying soil. The landfill had been re-contoured, covered with soil and re-vegetated. The Center Landfill, also known as the Carbon Pile, was an unlined landfill used from 1970 to 1980. Solvents and other hazardous wastes were also dumped there. It had been covered and re-vegetated. The Sanitary Landfill was a clay-lined landfill used for plant garbage. Solvents and other hazardous wastes were also likely dumped there. It had been covered with soil and re-vegetated. The Asbestos Landfill used in the early 2000s was covered with grass. The

plant's Industrial Landfill was still active and used for nonhazardous waste and debris. It was covered with gravel and had a 10-foot high fence around it. ³⁸

According to the EPA's 2014 report, the North and South Leachate Ponds were hypalon-lined ponds built on both sides of the East Landfill in 1980 to collect runoff. The water in the ponds was aerated to allow natural ultraviolet light to break down cyanide that leached out of the spent potliner in the East Landfill. In 1990, with DEQ approval, about 150,000 gallons of leachate in the South Leachate Pond, containing fluoride and cyanide, was drained into the Wet Scrubber Sludge Pond Landfill. The South Leachate Pond was dried, capped and closed in 1993. Leachate in the North Leachate Pond, which contained fluoride but not cyanide, was also drained into the Wet Scrubber Sludge Pond Landfill. The north pond was capped and closed in 1994. The eight-acre North Percolation Ponds initially received wastewater from the paste plant, obsolete pot gas wet scrubbers and various industrial shops. It also received effluent from the Cathode Soaking Pits prior to 1978. More recently, the North Percolation Ponds received wastewater from the vehicle maintenance garage, the lab boiler and various sumps and stormwater drainage. A 10-foot high fence surrounded the ponds. The Cathode Soaking Pits were not described. The West Percolation Pond received boiler blowdown from various shops and stormwater. The 62-acre South Percolation Ponds located near the Flathead River took wastewater from the rectifier building, the sewage treatment plant and the laboratory, non-contact water from the casting facility, and other wastewater. The ponds were vegetated with grasses, shrubs and trees. Five above-ground and 12 underground storage tanks located around the plant were used to store diesel fuel, hydraulic oil, motor oil, gasoline and waste oil. Three of the underground tanks were still in use, the EPA report said. ³⁹

The EPA conducted a second round of sampling at residential wells near the CFAC plant site on April 10, 2014. Eighteen property owners received letters reporting the results. "Water from your well was tested for contaminants regulated under the National Primary Drinking Water Regulations," the EPA letters stated. "None of these contaminants were present in your well at or above the 'Maximum Contaminant Level (MCL),' which is the maximum amount of a contaminant allowed

to be present in a public drinking water system.” The letters were sent to property owners on the North Fork Road, Aluminum Drive, Florence Street, Dorothy Street and 12th Street. “The analytical results were also compared to other benchmarks, including State of Montana Numeric Water Quality Standards and EPA’s Risk Based Screening levels,” the letters said. EPA Site Assessment Manager Rob Parker spoke about the results at a public meeting in the Columbia Falls Fire Hall on April 15, noting that “these wells were sampled in response to the detections of cyanide in two residential wells during the original sampling event last fall.” Parker said one of the two residential wells was re-sampled. Samples from the second round of testing were analyzed for similar contaminants as the fall sampling, along with a list that included polyorganic chemicals and metals. “Overall, none of the water samples from the domestic wells had any detections of cyanide,” Parker said about the April 10 samples. “While we certainly view this as a good thing, as residential well users that were sampled aren’t being exposed to detectable levels of cyanide, the EPA still believes that further investigation at the site is warranted based on the previous detections of contaminants at elevated concentrations in groundwater at the facility and detections of contaminants in the Flathead River, Cedar Creek and domestic wells.”⁴⁰

Parker told residents at the meeting that the purpose of the screening reassessment was to collect data that could be used to inform government officials, the community and other stakeholders, and it was conducted at the request of Sen. Tester and former Sen. Baucus. The reassessment did not draw conclusions on whether the plant should be torn down and cleaned up, but the site was eligible to be placed on the federal Superfund’s National Priorities List on a technical basis, Parker said. Cyanide levels in some domestic wells in the Aluminum City subdivision southwest of the plant were found to be elevated, but not enough to warrant advising people not to drink the water, he said. Weston Solutions Inc. planned to return to Aluminum City to gather more samples. Some contaminants had migrated from the plant to the Flathead River, but the river was not a source of drinking water for humans, and the EPA only sampled surface water and sediments, not fish tissues, so it could not say if the contaminants had impacted fish and aquatic life in the river, Parker said.⁴¹ Further investigation by the EPA would help investigators “better understand

the hydrogeology and the nature and extent of contamination, and will help determine what, if any, remediation is necessary to protect human health and the environment,” Parker said. ⁴² An environmental consultant working for the EPA returned to sample residential wells near the CFAC plant in November 2014. Parker noted that the April sampling took place during the spring thaw and run-off, which created different hydro-geological conditions than in September. ⁴³

According to a handout provided at the April 15 meeting, various contaminants had been found associated with the North and South Percolation Ponds and the landfill area. Metals, cyanide and fluoride were found down-gradient from those areas. The EPA was not aware of any contaminant concentrations in residential wells above allowable limits, and noted that access to safe drinking water for nearby residents “is a priority for EPA.” The handout also stated that the EPA had no data indicating that the city of Columbia Falls’ water supply was impacted, and noted that the city’s source was groundwater three miles away from the plant site. Sampling results indicated metals, cyanide and manganese from the CFAC site had entered the Flathead River and Cedar Creek, but no fish tissues were sampled and impacts to fish were not known. The EPA did not know of the full extent of the contamination at the plant site, but if the site was put on the federal Superfund’s National Priorities List, then a more detailed remedial investigation could be conducted. The EPA had not decided to propose that the site be put on the list – the agency wanted community input first. Placement on the NPL list would provide technical and financial resources to further investigate and clean up the site. Community involvement would continue throughout the investigation and clean up, the EPA handout said. ⁴⁴

The public input process

Finding contaminants down-gradient from the landfills and percolation ponds was not a surprise. “All this is similar to other industrial plants and was not surprising,” Parker told residents at the April 15 meeting. The next step for the EPA was a more detailed remedial investigation. “NPL listing would open up funding and technical resources for a remedial investigation to determine any long-term threats to health or the environment,” Parker said. EPA Site Assessment Manager Victor Ketellapper, who spent several years dealing with asbestos

contamination at Libby, a former mining and lumbering town in Northwest Montana, told residents a remedial investigation could take three to four years and total clean-up could take seven to 10 years. But there could be a faster alternative, a DEQ representative at the meeting said. "The state has programs that can be used even if the EPA is not involved," DEQ Remedial Division Administrator Jenny Chambers said. Montana's Superfund program operated under the Comprehensive Environmental Cleanup and Responsibility Act, and the CFAC smelter site was already on the CECRA list, DEQ Hazardous Waste Cleanup Section Supervisor Denise Martin added. The site could also be cleaned up under the state's Water Quality Act, Chambers said, but both processes were time consuming and depended on people sending comments to local officials to get the process started. "The EPA policy is not to move forward without local support, including a letter from the governor," Ketellapper said. Chambers recommended that concerned residents write their city councilors and county commissioners. "If I hear from the public loud and clear, then I'll take it to the next level," she said.⁴⁵

The government officials got an earful at the meeting. Columbia Falls City-County Planning Board Chairman Russ Vukonich described how the EPA and CFAC consultants came to his home near the plant to sample his wells, and he asked the officials how the current investigation started. State Sen. Dee Brown spoke up, saying she initiated the Superfund investigation by contacting the Sens. Tester and Baucus and the county commissioners. The EPA and DEQ representatives noted that an important step would be an investigation into prior ownership of the plant site to locate potentially responsible parties who could pay for the cleanup. Ketellapper said he had met with people he thought were from Glencore, but it turned out to be Steve Wright, CFAC's environmental manager who lived in the Flathead, along with an attorney and several consultants. "I don't have a strong feeling either way about the meeting," Ketellapper said. "When we told them the site was eligible for NPL listing, they wanted to know how EPA figured that out. When we explained it to them, they seemed to agree." Brown wanted to know more about the meeting. "Did Glencore take responsibility?" she asked. That will need to be checked out, Chambers responded. If Glencore made a deal with a third party, the company might have to take that party to court. "We

can't clean up the site and try to get money later," Chambers said. "If we can't get the cleanup money from the plant's owner, then we would have to go to the NPL list and ultimately to Congress for funding." Brian Doyle told officials at the meeting that, as a union leader, he had a lot of experience dealing with Glencore. They're pretty tough, he said, but they hate publicity, and he was 98% sure the plant would never restart. "Glencore is a big company, and they'd rather have you pay to clean this up," Doyle told everyone in the room. ⁴⁶

Former Flathead County Commissioner Henry Oldenburg also had his doubts about how the cleanup would play out. He urged the agencies to work for the people, not Glencore. Oldenburg also warned about contamination migrating downstream to Flathead Lake, adding that the Flathead River had been his drinking water source for decades. Ketellapper explained that the river was not a source for a public water supply in the valley, and the screening assessment hadn't looked at private sources. The EPA was "taking the community's interest seriously," he emphasized. Parker added, "A remedial investigation could look into sampling further down the river." City Councilor Mike Shepard asked what would happen if a "cocktail of chemicals" made their way to Aluminum City during a storm event and made residential wells there unusable. The EPA could take emergency action and ask Glencore to pay for it, Ketellapper replied. Columbia Falls resident Sarah Dakin said she was glad to see the EPA and DEQ working together, but she had concerns about the DEQ issuing CFAC a wastewater discharge permit long after the permit had expired. She said she was concerned about inadequate staffing at the DEQ. Oldenburg agreed. "If I had known about this permit, I would have hired a lawyer and done something about it," he said. City Councilor Dave Petersen asked if the DEQ was going to hand off the process to the EPA, wouldn't it be faster to go with the EPA in the first place? Ketellapper explained that the EPA could use DEQ data and start from there unless a lot of time had passed and sampling and analysis needed to be redone. The DEQ and EPA had worked well together in the past, Chambers noted. "In some cases it plays out like good cop, bad cop, where we warn that the EPA might get involved," Chambers said. "But while the DEQ process might be faster, it might not be as fast as people want." ⁴⁷

When one of the residents at the meeting noted how quickly other Pacific Northwest aluminum plants were cleaned up over the past decade, Parker responded that those sites were outside the EPA's Region 8 area, but they would be worth investigating. Ketellapper also explained that the Superfund process typically dealt with abandoned plants, but it was possible the worst areas at CFAC could be cleaned up while the rest of the plant restarted. When asked how the EPA determined if a plant was abandoned, Ketellapper responded, "Glencore says it still might restart the plant." Chambers agreed. "We don't think CFAC is abandoned," she said. "They have a union contract, they applied for a wastewater discharge permit. But if we don't make any headway in talks with them, we'll be back asking for the plant to be NPL-listed." ⁴⁸ Parker said the EPA wanted to begin an ongoing dialogue with the community about the site. Ketellapper advised members of the public to contact local, state and federal leaders if they wanted the site to be put on the Superfund's National Priorities List for a more detailed investigation. "Through this assessment, we have the data to name it a Superfund site," Ketellapper said. Everyone who spoke up at the meeting appeared in favor of cleaning up the site. "I think this meeting was long overdue," Shepard said. "Those of us who have lived in Columbia Falls for a long time have known that the CFAC site was a ticking time bomb." ⁴⁹

On April 21, the Columbia Falls City Council voted unanimously to direct City Manager Susan Nicosia to draft a letter to Gov. Steve Bullock and DEQ Director Tracy Stone-Manning requesting that the CFAC site be placed on the Superfund's National Priorities List for further action. Nicosia later said the council's letter "would be contingent on concurrence with the Flathead County Board of Commissioners." The plant was outside the Columbia Falls city limits but close enough to be a concern to city residents. Nicosia added that Commissioner Pam Holmquist had said she wanted to discuss the options before submitting the letters asking for the risk assessment. Nicosia explained at the council meeting that she had met with two EPA representatives before the April 15 meeting and learned about the process. Phase 1 was a screening assessment which would determine if the CFAC site was eligible for placement on the Superfund list. Phase 2 would be a more detailed and comprehensive remedial investigation, but both the EPA and the DEQ wanted community support and letters

from the city and county before they would go to that step. Phase 3 would involve remedial action and cleanup, and the EPA would look at past owners to see who would pay for the cleanup. Nicosia said she asked the EPA representatives if Phase 2 funding could be used to help connect Aluminum City homes to city water if their wells were deemed unsafe. She noted that the city's 16-inch water main ran past the subdivision and the city already had 18 water customers in Aluminum City. When she noted that at least one Aluminum City resident "was not keen about paying the additional cost for city water," Shepard responded, "That's because he hasn't got his EPA test results back." ⁵⁰ Nicosia said she had not received final results from the EPA's sampling of residential wells at Aluminum City. Shepard noted the council's consensus on the matter. "We're in universal support of this cleanup, and we want the EPA on this project as soon as possible," he said. ⁵¹

Glencore contracted with several companies in an attempt to influence the public process leading up to a Superfund listing of the CFAC site, including hiring rePlan, a Canadian planning and development firm that often worked with former industrial sites. On May 12, 2014, Michelle Drylie, a senior urban planner with rePlan, emailed Kellie Danielson, President and CEO of Montana West Economic Development in Kalispell, to let her know that rePlan was working with CFAC "to understand the facility's social, economic and environmental impact on the local community and more broadly across Flathead County." Drylie said she would be in Columbia Falls and Kalispell in the next week. According to their website, rePlan was founded in Toronto in 1978 and by 2014 had more than 100 professional staff, including community engagement and development specialists, social scientists, planners, engineers, architects and lawyers. The firm worked with natural resource companies and financial institutions to help them understand and manage their social impacts and risks. Past clients included Glencore, Xstrata, Barrick, BHP Billiton, Chevron, Newmont, Rio Tinto, Shell and Vale. The company had worked in 70 countries in Africa, the Americas, Asia and Europe. ⁵²

Among the many projects highlighted on rePlan's website were development of a long-range plan for growth and infrastructure in the Athabasca Oil Sands Area in northern Alberta and a site-alternative use study of the 6,123-acre Xstrata Kidd Metallurgical Site near the city of

Timmins, Ontario, which included a large open-pit mine for copper and zinc. Glencore, the giant global commodities trading company that owned the CFAC plant, had merged with Xstrata, a huge global mining company, in 2012. ⁵³ Danielson told the Hungry Horse News that she understood Drylie's role was "to investigate the socio-economic impact of the plant closing, which includes understanding the community sentiment with Glencore." She added, "We discussed how important private land ownership is valued in this part of Montana, how bringing land to a sustainable reuse is encouraged and supported locally, and how we as an economic development entity would support CFAC or Glencore in assessing the next use for the property." ⁵⁴

A reluctant county

By May 2014, the county commissioners were still considering whether to support listing the CFAC site in the Superfund program. The EPA and DEQ representatives had said they wanted letters from the Columbia Falls City Council and the Flathead County Commissioners requesting more action before they would move forward. While the city's response had been clear, calling for a cleanup, the county's response had been less so. "In my meager opinion, let's not run off onto a pathway from which we can't return," Commissioner Cal Scott emailed Susan Nicosia on May 9. "Sensible priorities dictate our working through a renewed progressive interaction with Glencore (CFAC), Flathead community, Economic Development, Montana State DEQ, then follow a plan. Once we jump into EPA-driven resolution or cater to sensationalist rantings, Flathead/Montana has lost control. Stay on the 'down-low' and intelligently strategize-unified." ⁵⁵ Scott met with city officials and two DEQ representatives at the Columbia Falls City Hall on May 20. A Hungry Horse News reporter was also present. By the end of the meeting, the city officials agreed that they would proceed cautiously in seeking support for a cleanup of the plant site. The city council had been unanimous in its call for additional investigation of the closed smelter site as the next step toward a cleanup. When asked if the county commissioners would support sending a similar letter, Scott replied, "A third is willing," implying himself. ⁵⁶

Scott said the CFAC site was a valuable property for future development. "My greatest concern is the unknowing sensationalism that can get this process off the track," he said. "There's a delicate

balance between openness and getting the facts out.” Jenny Chambers and Mike Trombetta, a DEQ brownfields coordinator, handed out flow charts explaining the differences between the EPA’s and DEQ’s cleanup process. The CFAC site was already on the DEQ’s priority list, and the state process would cost less and move faster, Chambers said. But if the plant’s current owner, Glencore, or other potentially liable parties wouldn’t cooperate, the EPA might have to take over to ensure cleanup work was completed. Either way, it wouldn’t be easy and it would take time, she said. “It could be 10 years from the time CFAC is placed on the National Priorities List to when the cleanup is completed,” Chambers said. Further information on the extent of groundwater contamination or about any impacts to fish and aquatic life in the Flathead River would require additional investigation, but that wouldn’t happen without letters of support from the local communities, Chambers said. Interim action, such as fencing off landfills or wastewater ponds to protect wildlife or providing drinking water to residents with contaminated wells, was possible sooner, Trombetta said. Chambers said the DEQ had not yet received results from the EPA’s additional sampling of residential wells in Aluminum City and other adjacent properties, and she agreed to pursue that information. Trombetta noted that contamination didn’t have to migrate beyond the plant’s boundaries for the company to be in violation. “The state owns the groundwater and surface waters,” he said. “If contamination gets into them, it’s a violation.”⁵⁷

Chambers said the DEQ wanted to meet with Glencore representatives possibly in July. City Councilor Dave Petersen asked what would happen if Glencore said it wouldn’t support further action without additional information to support that decision. “Then we tell them to do more sampling and come up with a remedial plan,” Chambers said. If Glencore was reluctant to do that, then the DEQ could turn to its legal resources or the EPA to get the process moving forward, she added. The DEQ also would remind Glencore that working with the state would cost less and take less time, she pointed out. Nicosia noted that the city and the county needed to be on the same page about the cleanup. “Who’s going to send a conflicting letter?” Petersen asked. Word of a potential Superfund cleanup could generate fear in the surrounding community, Nicosia responded, harming property values and setting back economic development efforts, even if there was no

evidence of contamination outside the plant's boundaries. She suggested using rePlan as a way to communicate with Glencore. But for now, Nicosia recommended that the city and county send letters to the DEQ simply asking them to meet with Glencore to determine what level of cooperation could be expected and to ask them to fence off certain landfills and wastewater ponds at the plant to protect wildlife. "I like that idea," Mayor Don Barnhart said. "And even if the county won't send a letter to the governor asking for further investigation, the city will." ⁵⁸

When contacted the next day, County Commissioner Gary Krueger said he was in the process of gathering information. "I have no comment at all," he said. "It's premature to give a decision." Krueger declined to say if he had read any of the information on the smelter site that already had been released by the EPA or DEQ. Commissioner Pam Holmquist said she was awaiting results from the EPA's second round of well testing in spring 2014. "I think it's premature to ask for remedial action now without more data," she said. Holmquist also said she was interested in learning more about rePlan. ⁵⁹ Nicosia drafted a letter to DEQ Director Tracy Stone-Manning on May 21 requesting that the DEQ meet with Glencore officials "as soon as possible to determine their level of cooperation in beginning" a remediation process at the CFAC plant site. The letter also asked the DEQ to discuss with Glencore the need to fence off ponds at the plant site to prevent access by wildlife to possible contamination. ⁶⁰ The next day, Whitefish Mayor John Muhlfeld sent a letter to Stone-Manning with the same requests. ⁶¹

On June 2, Nicosia informed the city council that the Flathead County Commissioners had told her they wouldn't send a similar letter to the DEQ. Councilor Shepard reacted harshly to the news. He said constituents had complained about the commissioners' decision, and he recalled Commissioner Krueger once saying he was reluctant to tell Glencore what to do because it was a "property rights issue." Shepard urged members of the public to start making phone calls. "What do we as a council do next?" he asked. "The plant is out in the county. Should we circumvent the county? What would happen if something major happened to the river? All we're asking for is a letter requesting additional investigation." ⁶²

Nicosia told the city council that the commissioners wanted more information before acting, even though the EPA's latest report came out back in April. "Commissioner Pam Holmquist said she was surprised to hear there was contamination in groundwater," Nicosia said. Meanwhile, city officials in Kalispell had asked for "talking points" and information before drafting a similar letter. Nicosia said she also asked for a letter of support from Montana West Economic Development, but the organization also said it wanted more information first. Nicosia said she told the rePlan consultant hired by Glencore that the city wanted the smelter site cleaned up. She also said she planned to contact the Flathead Economic Development Authority about the matter. "We still haven't received the results from the second round of testing the EPA did at residential wells near the plant," Nicosia noted. "The county commissioners say they want to see those results, too." Councilor Darin Fisher said he agreed with Shepard's frustration. "I saw Commissioner Holmquist at the meeting with EPA, but I didn't see her at the later meeting with DEQ," he said. Councilor Petersen pointed out that the cleanup would be a long process. "The train has left the station, and the county will eventually get on board," he said. "They'll either play catch-up or there'll be an election." Petersen recommended getting as many other groups on board as possible - the Flathead Lakers, Glacier National Park and many others.⁶³

Drinking water concerns

While government officials debated the Superfund decision process, residents in Aluminum City were seeking information about their drinking water. Nino Berube, a former CFAC engineer and president of Gadow Mutual Pump, an organization representing families that shared a residential well in Aluminum City, wrote a letter on March 23, 2014, expressing concerns about contamination from the CFAC plant and proposing three options for dealing with it. The letter was co-signed by Nyla Buck, Frank Sizemore, Corey Reed, Yvonne Wolfe, Sue Berube, Dane Thorman, Neal Hertel, Dorothy Hertel, Rita Kelsey, Frank Sedivy and Dorothy Sedivy. "The recent scare with the cyanide and fluoride positive test in a well in our vicinity has us very concerned and we want our political representatives to pursue the following agenda to

get CFAC and Glencore-Xstrata to clean up and re-remediate the problems with the environment they are creating,” the letter stated.⁶⁴

The residential group’s preferred option was “for Glencore to actively participate and fund the cleanup with the intent of transferring the site to owners interested in utilizing the infrastructure currently in place once the cleanup takes place.” The second best option was for the DEQ to manage the cleanup “because of their interest in putting Montana and its people first.” The letter noted that “historically, state-run cleanups have been completed in shorter timeframes and with less total expense than federal EPA-run cleanups.” Furthermore, the letter stated, “state law protects the rights of affected local private property owners far better than the federal statutes.” The least desirable option was for the EPA “to force this into a Superfund site and delay the cleanup with their bureaucratic ways that study and overspend on virtually every site they take over jurisdiction. They are the least capable of getting this site cleaned and returned to productive use.” In the meantime, the letter stated, the group wanted pressure put on Glencore to implement temporary measures to guarantee the underground cyanide plume near the landfill sites didn’t continue to spread. “There are some straight-forward fixes that will contain the plume in its current configuration until a more permanent solution is agreed upon and the cause of the water pollution is identified and abated,” the letter stated.⁶⁵

CFAC Environmental Manager Steve Wright responded to Berube on April 15. “While I can understand that a government agency performing water quality tests on your members’ drinking water can be a cause for concern, the fact is the drinking water tested by the EPA in the Aluminum City neighborhood met federal and state drinking water standards,” Wright said. He noted that the EPA did detect cyanide in one Aluminum City drinking water well, but at an amount well below acceptable drinking water levels, and later tests did not detect cyanide at all. “The EPA has determined that it will not perform additional tests presumably because it does not believe that such tests are necessary,” Wright said. With regard to Berube’s reference in an earlier letter to CFAC polluting the Flathead River, “The EPA and DEQ have permitted CFAC to discharge very small amounts of certain compounds to the Flathead River,” Wright said, and “CFAC is required to monitor the

Flathead River, and testing verifies the Flathead River is unaffected by any CFAC discharges.” Wright also said CFAC “had not sought nor could it ever receive a permit to discharge contaminants to drinking water wells in either the Aluminum City or anywhere else.” Wright said that “in the spirit of being a good neighbor,” CFAC would offer to pay the environmental consulting firm Hydrometrics to test the same 20 neighborhood wells tested by the EPA on a quarterly basis for the next year starting in May 2015. ⁶⁶

With the Superfund issue out in the open, Sen. Tester wrote to Glencore employees Patrick Wilson in Stamford, Conn., and Charles Watenphul in Baar, Switzerland, about his “ongoing concerns about Glencore’s intentions with regard” to CFAC. Tester noted in his June 3, 2014 letter that the local community “remains understandably concerned about the future of CFAC.” Tester noted that the EPA had conducted preliminary testing at the plant site “and verified increased contaminants in the groundwater and in some of the property’s wells.” While final results for additional well testing at residences near the plant site had not come back, “initial results bring new urgency to the need to resolve the future of CFAC.” Tester also noted that Glencore had hired a Canadian planning firm, and “several constituents have contacted me to inquire about Glencore’s intentions.” He added, “I share their interest in knowing what, if any, plans you are considering for the CFAC property at this juncture, and I look forward to a prompt update from you.” Tester concluded by noting that CFAC had once been a “robust and integral part of the economy in Northwest Montana, and residents of the region are anxious to see the site remedied and readied for either another use or a restart of aluminum production.” He urged Glencore “to honor its commitment to this community by abiding by a transparent process that promptly informs stakeholders of any forthcoming plans to ensure a beneficial outcome for all those affected by the CFAC property.” ⁶⁷ Tester made some additional comments during his weekly call to reporters on June 4. “I’d love to see it reopen,” he said. “But they seem to be in competition with themselves.” Tester noted that the BPA offered Glencore what he thought were fair and equitable power contracts to restart the plant, but to no avail. “I’m not a big fan of Glencore at this point in my political career,” he said. ⁶⁸

A week later, Nicosia told local media the city would conduct additional tests of its municipal water supply to prove to every water user that it was not contaminated by the CFAC plant. Shepard said he didn't trust the Swiss trading company. "We're concerned about whatever Glencore has in their bag of tricks," he said. He also expressed concern about the Flathead County Commissioners not taking a strong stance for or against a cleanup. "This thing isn't going to heal itself," he said. Chambers said she had talked on the phone with Glencore representatives on May 23. "It's really hard to figure out which direction we would want to take this without understanding the interest of Glencore and CFAC directly," she said.⁶⁹ Tester wrote to Columbia Falls Public Works Director Lorin Lowry on June 12 to update him about the CFAC situation. Tester recounted how he and Baucus had tried to help Glencore get a good BPA power contract, but Glencore closed the plant in 2009. "Community leaders, former workers and local representatives made their voices heard," he said. "They wanted to get back to work." In support of the community's interest in restarting economic activity at the plant, Tester said he asked the EPA to conduct a site assessment. "We need to be sure that this site doesn't pose any health risks, and ensure that residents and federal and local officials have all of the information they need to make an informed decision on how best to utilize the site," he said.⁷⁰

Charles Watenphul, Glencore's communications manager in Baar, Switzerland, responded to Tester's letter on June 17, 2014. He said Glencore was "committed to facilitating the establishment of a long term, sustainable solution" and that their commitment "to meaningful and open dialogue" had not changed. He said Glencore was aware of recent sampling by the EPA and had "notified the previous owner of the property, Atlantic Richfield Co., and British Petroleum, which had acquired ARCO in 2000, about their obligations in respect of any potential remediation of the site." Watenphul said Glencore was pleased that the EPA's second round of testing found no signs of cyanide in residential wells near the plant site. He acknowledged that Glencore had hired rePlan, the Canadian planning firm, "to help CFAC get a better understanding of the impact on the various stakeholders of the current situation." He also said Glencore would be meeting with EPA and DEQ officials in July.⁷¹

The Glencore link

In a local media interview later in June, Tester discussed his feelings about Glencore and the cleanup of the CFAC site. After trying for several years to help Glencore secure a good power contract with BPA, Tester had lost confidence in the company and no longer believed they had good-faith intentions to restart the smelter. “I don’t have a lot of love for Glencore,” he said. “They have never had any intentions of opening that thing back up, ever.” After citing economic reasons for not restarting, Glencore eventually stopped responding to Tester’s inquiries at all. Tester described how Plum Creek shut down a timber mill in 2009 and then restarted it when the housing industry recovered, and how BNSF Railway had been transparent about cleanup efforts in the Flathead Valley and the increasing numbers of crude oil trains. “The good companies and the good operators, they don’t operate like Glencore,” Tester said. He also said the city of Columbia Falls should lead the effort to get the smelter site cleaned up. “I think Columbia Falls ought to be driving the bus on this,” he said. “It has to be community driven.” Tester said he would continue to try to persuade Glencore to negotiate with the BPA. “If they want me to keep fighting Glencore, I will support the community in what they want me to do,” he said. “But there’s only so much that can happen.” ⁷²

Glencore’s past, good or bad, seemed to guide discussion about CFAC’s future. On June 25, 2014, the Hungry Horse News published a story about the history and cleanup of the former aluminum smelter in Vancouver, a property once owned by Glencore. “All the recent public discussion about a Superfund-type cleanup at the closed CFAC plant and whether the smelter’s Swiss owner will pay for the cleanup raises an important question — what was Glencore’s role in the cleanup at the aluminum smelter it once owned in Vancouver, Wash.?” the story asked. “The answer, it turns out, is not so clear.” Alcoa built the smelter on the Columbia River in 1940 and operated it for 45 years before selling it to Vanalco. Alcoa retained ownership of the alumina unloading facility and dock. Vanalco made the mistake of turning to the open market for electrical power just before high power prices caused by the West Coast Energy Crisis shut down the entire Pacific Northwest aluminum industry, and Vanalco ended up filing for bankruptcy in 2001. Glencore purchased the World War II-era plant in

2002 for \$25.2 million and renamed it Evergreen Aluminum, but the Swiss-based commodities trader never restarted the plant. One power analyst suggested that the price was so low, Glencore could afford to hold the plant in reserve in case the aluminum industry picked up again. ⁷³

Cleanup at the Vancouver site first began in 1986 when the Washington Department of Ecology ordered an investigation of spent potliner buried at the plant. An underground plume of cyanide discovered heading toward the Columbia River in 1990 was cleaned up by 1996. Working under a state order from 1988 through 2011, Alcoa or Glencore cleaned up PCB contamination, spent potliner, a settling pond and a waste oil dump. Alcoa was credited with spending \$34 million cleaning up PCBs over several years. During demolition of the plant, about 62,500 tons of contaminated soil and industrial waste were hauled away. Complete demolition and site cleanup was completed in March 2010, with supplemental work in 2011 to address contaminated groundwater beneath a landfill. In 2005, the Port of Vancouver, a governmental entity, showed interest in acquiring the 100-acre Alcoa property, assessed at \$4.5 million after cleanup, and the 111-acre Glencore property, assessed at \$5.5 million after cleanup. In 2009, the Port paid \$49 million for the entire site, which became known as Terminal 5. Established in 1912, the Port of Vancouver had grown over the years to include five terminals and 13 berths established at the terminus of the Columbia River's 43-foot deep shipping channel. With more than 1.2 million square feet of waterfront space and two large harbor cranes, the site was connected to two major railroad lines and two interstate highways. Terminal 5 was being used to store huge turbine blades for wind generators and a bulk-handling facility operated by mining giant BHP Billiton. ⁷⁴

When asked about Glencore's role in the cleanup of the Vancouver site, Guy Barrett, the new Washington Department of Ecology site manager, said it was unclear, and in any event it might be confidential business information. To be helpful, he forwarded the question to "one of the responsible parties" and received an anonymous response. "Who actually pays is typically based on contractual language from the various sales and transactions that took place over time," the anonymous response said. "And those terms are considered business

confidential and covered by confidentiality clauses in the contracts. In addition, some historic insurance coverage can be accessed. Lastly, some plants date back to World War II and were operated by and for the government. In some of those cases, the U.S. government has also paid towards the cleanup.” CFAC had seen four owners since it began operating as the Anaconda Aluminum Co. in 1955 — the Anaconda Company, the Atlantic Richfield Co., Brack Duker and Jerome Broussard, and finally Glencore. “The terms of the contracts between these companies — and with the federal government — may never be made public,” the story concluded. ⁷⁵

The aluminum plant’s trials and tribulations had long been used by politicians to gain favor with the public, so it was no big surprise when Republican county commissioner candidate Phil Mitchell met with the Columbia Falls City Council on July 7, 2014, to talk about a cleanup. Hinting that he had inside information, Mitchell said a decision by Glencore about cleanup work at the CFAC site could be made public within the next 60 days. He also said he was not happy with the lack of interest in the cleanup by the three sitting county commissioners. “Columbia Falls has not been treated right on this,” he said. “The commissioners should support the need for more testing.” Later during their regular meeting, Nicosia told the council that Glencore officials planned to come to the Flathead soon and meet with EPA and DEQ officials. She also noted that Jenny Chambers was encouraged by the fact that Glencore was ready to sit at the table without the government having to file a lawsuit. Both Glencore and ARCO had agreed that more well testing was needed, but the city had run a more comprehensive panel of tests on its city water system to prove to residents that no cyanide contamination from the plant was present, Nicosia said. “It could mean to some, ‘Not contaminated yet,’” Councilor Petersen noted wryly. ⁷⁶

State legislative candidates also made the CFAC cleanup a plank in their campaigns. In a May 2 letter to the Daily Inter Lake, Libertarian House District 3 candidate Chris Colvin noted that he had worked at the smelter when it was owned by ARCO. Colvin claimed contamination had spread to Cedar Creek and the Flathead River but nothing was being done to stop it, that the EPA and the state of Montana were trying to get the public involved so they could get more money, and

that the EPA and the state were trying to hide the truth and confuse the public. Colvin said the plant could be restarted because there was a big demand for aluminum and coal cars returning empty from the West Coast could be hauling alumina for the plant.⁷⁷ All three House District 3 candidates spoke about the cleanup in campaign interviews in the Hungry Horse News. Incumbent Republican Jerry O'Neil said he wanted cleanup work done by locals, but the government should set the cleanup standards. But what happened to the plant site after the cleanup was completed should be up to Glencore, the site's owner, he said. "It's their plant - let them sell it to whomever," he said.⁷⁸

Democrat Zac Perry said he'd like to see the EPA take the lead in the cleanup, not the DEQ. "We need to take advantage of the federal hammer to come down on Glencore to get it cleaned up," he said. "It's a viable property for another industry to set up shop, which could provide more living-wage jobs." Colvin said the CFAC cleanup was his biggest concern, and he wanted the process expedited. He said Glencore was "putting off the battle as long as possible," which could end up increasing cleanup costs. "I want the Montana political system to get more radical and corner them and force a cleanup," he said.⁷⁹ In an online opinion piece, Colvin said the site's landfills were "contaminating the local water table with cyanide and heavy metals" and "a huge multinational conglomerate, Glencore, is unwilling to do anything about it." Colvin said state Republicans had strong ties to industry and could end up protecting Glencore by not funding the DEQ, which was trying to force Glencore to clean up the site. Meanwhile, Colvin said, Republicans in Congress were stalling funding for the EPA "for the same reason - corruption."⁸⁰

Negotiations break down

The cleanup debate took a great leap forward when the state of Montana sent Glencore a draft legal order detailing their obligations for the next phase of a possible Superfund-type cleanup at the closed plant. The administrative order on consent for a remedial investigation was completed and sent out on July 31, 2014. The DEQ hoped to get Glencore's initial reactions by Aug. 15 but expected specific comments by Sept. 1. The state's goal was to finalize the consent order by Sept. 15. In her cover letter, Jenny Chamber said she and several EPA officials met earlier in July with CFAC and Glencore representatives who

appeared to be knowledgeable about environmental cleanup issues. She also said they brought up previous plant owner BP, which had acquired ARCO, but Chambers said the DEQ intended to work directly with the current owner about the cleanup. Three appendices to the draft order provided details on the scope of work required for a remedial investigation, risk assessment and feasibility study. “We believe that providing this level of detail will allow us to come to a common understanding of whether the site can be addressed under state authorities, rather than federal authorities, fairly quickly,” Chambers said in her cover letter.⁸¹

The draft order cited recent sampling conducted by the EPA and the discovery of potentially hazardous materials in soil, sediment, groundwater and surface water at the plant site and cyanide contamination found in sediment in the Flathead River. According to the draft order, Glencore would be required to pay for sampling, testing, analysis and report writing and reimburse the state for any costs associated with the investigation. Failure to comply with the conditions of the draft order and meeting deadlines could result in penalties of \$1,000 to as much as \$10,000 per day. Glencore also would be required to post a \$5 million bond to ensure the remedial investigation work was completed. The primary objective of the remedial investigation was to describe the extent of actual or potential releases of hazardous materials, assess human health and ecological risks, develop site-specific cleanup levels, and evaluate alternative cleanup methods. The remedial investigation was intended to build on existing data and fill in the gaps. It would include a complete history of operations, regulatory involvement and previous remedial actions; a description of natural features, including groundwater and surface water; and create a conceptual model identifying sources of hazardous materials and potential pathways.⁸²

On Aug. 7, Chambers told a TV reporter that if Glencore did not agree to sign the draft order, “We could order them to address the site. It wouldn’t be voluntary in that nature. It would be more of an order.”⁸³ On Nov. 12, it was reported that Glencore had responded to the DEQ’s draft order. Chambers said she would not comment on what Glencore had said, but negotiations were continuing.⁸⁴ Julie Dalsoglio, director of the EPA’s Montana office in Helena, told local media the agency had

allowed negotiations to continue for months, but “if the negotiations fall through, the EPA will step in and recommend listing.” She added that even if the Flathead County commissioners did not support a cleanup of the smelter site, the EPA could move forward, given the strong interest in a cleanup shown by other stakeholders, including Gov. Steve Bullock.⁸⁵

Negotiations between Glencore and the state, however, were not going well, the public learned on Dec. 9, 2014. In a press release, Haley Beaudry announced that CFAC would no longer negotiate with the DEQ over the agency’s administrative order on consent for the cleanup of the idled aluminum smelter. Beaudry said CFAC was still committed to assessing soil and groundwater impacts at the site. He explained that the DEQ started working on a “white paper” on the cleanup but never completed the task. “Instead, DEQ submitted an administrative order on consent to CFAC and demanded immediate acceptance by CFAC,” he said. “Under these conditions and after working diligently to establish a joint resolution with DEQ, CFAC is no longer negotiating with DEQ regarding the investigation.” Beaudry also noted that on its first investigation of the plant site, the EPA said the site did not meet Superfund criteria. “CFAC understands and concurs that it is in the best interest of all to move forward with a thorough assessment of the site conditions and options for addressing any historical impacts,” Beaudry said. “CFAC has assembled a team of professionals to lead the efforts to define and resolve the outstanding issues at the Columbia Falls plant site and remains fully committed to completing the job in a timely and competent manner.”⁸⁶

Bill Kirley, a DEQ attorney, told local media that the end of negotiations would not prevent the state from getting the smelter site on the Superfund’s National Priorities List. He noted that DEQ officials had not been optimistic about reaching a settlement with CFAC. “We knew there was not likely to be an agreement, so this confirms what we thought was likely,” Kirley said.⁸⁷ Beaudry said CFAC had hired Roux Associates to develop a site assessment plan for the former smelter site. Roux Associates was founded in New York in 1981 as a groundwater contamination investigation firm that worked on several Superfund sites. Through the years, the company grew and established offices in six cities across the U.S. Roux was named twice as one of the

500 fastest growing companies in the U.S. by Inc. Magazine, and it was listed as one of the Top 200 environmental consulting firms by Engineering News Record. The employee-owned company had 250 environmental professionals working for some of the largest and most advanced companies in the world, including ExxonMobil, Amtrak, Sunoco, BASF, Konica Minolta, BP, Eastman, Honeywell, GAF, Pfizer and Novartis.⁸⁸

CFAC's announcement that it was ending cleanup talks with the DEQ became a top news story. "It was a surprise to get this public announcement because as far as I knew, everything was on track with DEQ and EPA," Nicosia told KCFW television. Beaudry said the DEQ had never delivered a proposal laying out how the cleanup would proceed. "We haven't seen anything," he said. "I don't know, it might be done, it might never have been started, it could be partially completed, might be in draft form, I don't know. But it hasn't come to us." Nicosia said she didn't know what would happen next. "I really don't know what this means, in terms of process," she said. "Does this slow the process? Does it take longer?" Beaudry said CFAC's private consultant needed to complete an assessment first, and the DEQ must use that report before mandating cleanup plans. "The assessment is still not done," he said. "The study of the plant, the situation is still not complete, and that has to be done." CFAC was still committed to cleaning up the site, Beaudry said, but Nicosia had her doubts. "Like I said, we can be patient, but you don't want to drag on and on," she said. "You want to know that there are steps being taken and they're moving forward."⁸⁹ Montana Public Radio reported that according to Kirley, the DEQ had wanted to speed up the process that would qualify the site for federal Superfund cleanup money, but before the DEQ could assess the site in detail, it needed CFAC to sign a consent decree. "The agency has a responsibility to be sure that it's done correctly, and to be able to do that you have to retain your authorities," Kirley said. CFAC, however, was unwilling to take that step, calling it premature, with the result that EPA would take over the investigation, he said.⁹⁰ One result of CFAC's announcement was that a public meeting about the cleanup scheduled for two days later was moved to a larger venue - the Columbia Falls High School's Little Theater.⁹¹

Residents, state legislators and city officials learned the state's version of why Glencore had broke off cleanup negotiations at the Dec. 11, 2014 meeting at the high school. The EPA had taken the lead on the cleanup now that CFAC had broken off negotiations with the DEQ, federal and state officials said. Jenny Chambers said she had been in talks with Glencore ever since the DEQ submitted an administrative order on July 31 outlining work plans and funding for a remedial investigation. She said she was waiting for feedback from Glencore, but in late August the company told the DEQ that further talks must be held with CFAC, not Glencore. CFAC never signed off on the order, Chambers said. Then two days before the public meeting, CFAC broke off talks with the state. "We didn't see eye-to-eye on some things," Chambers said, including authority for work plans and who paid for what. Toward the end, attorneys did all the talking, not environmental managers, she said. EPA and DEQ representatives told the 50-some people at the meeting that it might be six years before studies were completed and actual cleanup of the CFAC site could begin. But the first step for the EPA was to get state support in the form of a concurrence letter from the Montana governor or the DEQ director, Rob Parker said. "We need community feedback so it doesn't look like the federal government is making unilateral decisions," he said. Once the EPA heard from the state to proceed, the agency would take steps to put the CFAC site on the Superfund program's National Priorities List, which would bring more money and technical resources to the cleanup effort, Parker said. That step must be "fully documented to justify the decision," he said. "We expect the potential responsible parties will attack the documentation, so it's likely we'll need to fill a few data gaps." ⁹²

The EPA takes over

The earliest the EPA could propose listing the plant site was spring 2015, Parker told residents at the Dec. 11, 2014 meeting. The proposal would then be published in the Federal Register for a nationwide public review process. After that, the EPA would conduct a remedial investigation of the site that could continue over several seasons of data collection, followed by a feasibility study. The collected data would be used to support a record of decision document that would justify a cleanup. A remedial design would need to be completed

before actual cleanup work began. Parker said EPA personnel were currently searching for the responsible parties. Based on what had happened at other Superfund sites in Montana, it could take two to three years to get going and two to three years to complete the studies, depending on the cooperation of the responsible parties, Julie Dalsoglio said. "Up-front negotiations could take time - we have a suite of potentially responsible parties," she said. It could take several seasons to understand the geohydrology of the site, Dalsoglio said. Cyanide had leached out of the plant's landfills into the underlying groundwater. "Groundwater remediation takes a lot longer to do," she said. Certain cleanup steps could be sped up if there was evidence of a human health hazard, Parker said. Additional sampling of residential wells near the plant in the fall did not turn up contaminants that exceeded thresholds for drinking water, but if they had exceeded thresholds the EPA could use emergency funds to provide clean water to affected residents, he said. Looking to the future, Flathead Basin Commission chairman and former Glacier Park superintendent Chas Cartwright asked when public input would be taken for a "vision" of what the landscape should look like after the cleanup. State Sen. Dee Brown responded by noting that "Montanans take their private property rights seriously," and that the CFAC site was owned by Glencore.⁹³

While the Flathead County commissioners had not yet shown support for a cleanup, Dalsoglio said the EPA could move forward in place of the DEQ given the strong interest shown by other stakeholders. She said the EPA had allowed negotiations between the DEQ and CFAC to continue for several months, but when they fell through the EPA was prepared to step in and recommend the site be put on the Superfund's National Priorities List. Cartwright expressed concern the process could last a long time. He also expressed the position that the site's future use should be determined by the community. "The sooner the EPA steps in the better because this is going to take a long time," he said. "We support the listing on the National Priorities List. We need more studies so that we can begin to define the nature of the problem and move forward simultaneously with determining how to reuse the site, whether it's as a conservation area, a recreational trail, or other options that the community might want. But the community needs to be in the driver's seat." Mike Shepard took the hard long-view. "The

wheels of justice in this instance move exceedingly slow,” he said. “I won’t live to see this come to fruition.”⁹⁴

In a perplexing move for government officials and local residents, Glencore appeared to be handing off responsibility for the cleanup to the Columbia Falls Aluminum Co. Many people thought CFAC had only one employee – Environmental Manager Steve Wright – and basically consisted of nothing more than a shuttered aluminum smelter site at the foot of Teakettle Mountain. Many people assumed CFAC didn’t have enough money to pay for a cleanup. For many people, the responsible party was Glencore, which bought the smelter site in 1999. An offsite billboard sign on the North Fork Road just south of Aluminum Drive reinforced that impression with the statement, “Columbia Falls Aluminum Co., Part of the Glencore Group.” So the public was surprised to learn from local media that CFAC Corporate Secretary Cheryl Driscoll had sent a letter to Gov. Steve Bullock on Dec. 12 presenting reasons why the CFAC site should not be placed on the Superfund cleanup list. Driscoll worked out of an office building in Stamford, Conn. Among her numerous business titles had been director at Glencore Funding LLC, secretary at Glencore Ltd. in Massachusetts, head of U.S. corporate affairs for Glencore, human resources for Glencore Australia Pty. Ltd., and human resources manager for Glencore International.⁹⁵ During a May 14, 2015, meeting of the Columbia Falls Aluminum Company Community Liaison Panel, Driscoll said she had worked for Glencore for 22 years and was a CFAC officer. As a senior manager for Glencore in the U.S., Driscoll told the panel, she was responsible for regulatory, environmental and financial compliance for CFAC. She also claimed that CFAC was responsible for the cleanup of the site and Glencore wanted to make sure the work was completed.⁹⁶ For some locals, the claim that CFAC was responsible seemed like a ruse by Glencore.

Gov. Bullock had not yet informed the EPA of his support for placing the CFAC site on the Superfund list. In her Dec. 12, 2014 letter to Bullock, Driscoll described numerous problems with the federal Superfund program. “While we understand the interest that some at the Montana Department of Environmental Quality may have in the access to federal cleanup funds that listing the site on the NPL may provide, we believe such a listing is an unnecessary bureaucratic step

that will delay the cleanup of the site and could limit economic development in the Flathead Valley,” she wrote. “The EPA’s NPL Superfund redevelopment program notwithstanding, listing on the NPL has not resulted in expeditious cleanups. In the last 31 years, the EPA has listed 18 sites in Montana on the NPL and none have been removed. Some of the sites have been on the list for the entire 31 years. The EPA’s Superfund redevelopment program has not helped.” Driscoll cited two examples to prove her point. “The two Montana sites that have been included in the EPA’s Superfund redevelopment program, the Idaho Pole Co. and the Mouat Industries site, completed clean up construction in 1998 and 1996 respectively and still have not been de-listed,” she said. ⁹⁷

The implication was that government bureaucracy was the problem, but the length of time that a closed industrial site or an abandoned mine remained on the state or federal Superfund list could be a reflection of how badly the site was polluted and how difficult the site was to clean up, or it could be a reflection of the lack of support by the Montana Legislature or Congress for funding DEQ or EPA cleanup projects. In any event, Driscoll had additional concerns. “Listing on the NPL can stigmatize a property and prevent others from seeking to redevelop the site and thus potentially limit economic growth in Flathead County,” she said. CFAC was ready, willing and able to begin the site assessment now, Driscoll said. “CFAC has hired a qualified contractor, Roux Associates, to develop a remedial investigation work plan,” she said. “CFAC is committed to completing the site assessment process as efficiently as possible while fully complying with federal and state standards to perform such an assessment. CFAC has approached the EPA to discuss entering into an administrative order of consent with EPA and the state of Montana to perform the assessment. There is no need to engage in the additional step of listing the site on the NPL.” Driscoll offered to meet with the governor to discuss the issue. ⁹⁸

The city of Columbia Falls took the opposite tack of Driscoll’s letter the very same day. On Dec. 12, Susan Nicosia drafted two letters to be sent by Mayor Don Barnhart on behalf of the city to Chambers and Bullock encouraging them to support having the CFAC smelter site be put on the Superfund list. In a memo to the city councilors for their Dec. 15 meeting, Nicosia highlighted the need for the letters of support

“particularly due to the breakdown in negotiations between DEQ and the property owner,” she said. The draft letters stated reasons for federal involvement in the cleanup. “Providing clean, safe drinking water is important to the council and to that end, the city has made significant investments in providing safe drinking water to the citizens of Columbia Falls,” the letters said. “While the testing of the city’s wells has 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 emergency measures to protect the city’s water supply.” The letters also called on “the redevelopment of the CFAC site to provide long-term, sustainable employment and development in the community.”⁹⁹ The Columbia Falls City Council unanimously agreed to send the letters at their Dec. 15 meeting.¹⁰⁰

Four days later, Haley Beaudry announced in a press release that CFAC was opposed to having the smelter site placed on the Superfund list. He noted that CFAC had hired Roux Associates, a nationally known firm that had assessed aluminum facilities in the past, to complete a remedial investigation of the CFAC site. “First we have to do the assessment,” Beaudry told local media. “Right now everybody is assuming there is some cleanup to do, but we don’t know that. I’m reluctant to put the cart before the horse.” Beaudry said the press release was issued in response to a recent public meeting in Columbia Falls hosted by the DEQ and EPA where government officials urged the public to send letters to Gov. Bullock and the DEQ requesting that the CFAC site be placed on the Superfund list. “We wanted to let people know that’s not necessarily the best thing for the Flathead,” Beaudry said. “While we understand the interest that some in the community and at DEQ have in gaining access to federal cleanup funds, we believe listing on the NPL and designating the site as a Superfund site will unnecessarily delay the entire effort and become a detriment to economic development in the Flathead.” In another parallel to Driscoll’s Dec. 12 letter to Bullock, Beaudry pointed to the dismal record of other places in Montana designated as Superfund sites over the past 31 years. “None of the 18 Superfund sites in Montana has ever been removed from the list,” he said. “No project has ever been fully completed.” When asked whether Glencore was willing to pay for a cleanup of the CFAC smelter site, Beaudry said he didn’t have an

answer because an ongoing investigation was determining who the potentially responsible parties were. ¹⁰¹

Superfund support

After all the frustrating experiences Sen. Tester said he experienced when dealing with Glencore, and his public statements criticizing the company, it came as little surprise to many in the public when he came out in support of listing the CFAC site for a Superfund cleanup. Glencore's breaking off negotiations with the DEQ was probably the final straw for the senator. On Jan. 8, 2015, Tester wrote to EPA Administrator Gina McCarthy urging her to put the CFAC smelter site on the Superfund's National Priority List for cleanup. "I am writing regarding the recent decision by Glencore to withdraw from negotiations with the Montana Department of Environmental Quality (MTDEQ) about the remediation for the CFAC site in Columbia Falls," he said. "I am deeply troubled by this recent development." Tester explained that a cleanup of the facility was "of great concern" to the local community and it was time to put the site into a productive state. "Absent agreement from Glencore and the Columbia Falls Aluminum Co. to accept responsibility for their role in the cleanup efforts, I encourage the Environmental Protection Agency to proceed with a national priority listing under national Superfund laws," he said. "Such a designation would meet the community's desire to move the project forward while creating jobs." Tester noted that Columbia Falls was near Glacier Park, which had more than 2 million visitors a year. "It is imperative that we not allow Glencore's refusal to negotiate with MTDEQ to threaten the watershed and surrounding communities," he said. Tester urged McCarthy to join Gov. Bullock in getting the site put on the National Priority List. ¹⁰²

Gov. Bullock followed up with his own letter of support on Feb. 17, 2015. In his letter to EPA Region 8 Administrator Shaun McGrath, Bullock cited previous reports of contamination to groundwater and surface water, as well as sediments in Cedar Creek and the Flathead River. "I'm concerned that if this issue remains unaddressed, the contamination from the site is serious enough to pose long-term risks to the community and to Montana's environment, including the Flathead River," he said. Bullock provided a number of steps he'd like to see if the CFAC site was placed on the list: 1) The EPA should

support and maintain a close working-relationship with the DEQ as the cleanup process continued; 2) community involvement and coordination with Columbia Falls and Flathead County should be encouraged; 3) periodic residential-well sampling should continue until sufficient data existed or cleanup had taken place to indicate that contamination of residential wells was not a potential risk; 4) where possible, the EPA should use local contractors to maximize the potential for local employment in the investigation and cleanup process; and 5) the local community's redevelopment goals should be considered when evaluating cleanup needs. Bullock also noted the economic importance of the smelter. "The plant was a critical part of the economy of Columbia Falls, and the site has been idle for too long," Bullock said. "It has tremendous potential for redevelopment and will be an important anchor in the future of the region."¹⁰³

Response to the governor's decision came from two directions. In a press release issued Feb. 24, 2015, Haley Beaudry said CFAC "disagrees with Gov. Bullock's request to EPA to list its plant near Columbia Falls on the National Priorities List." Beaudry noted that "CFAC has begun assessing the site and believes that listing the site on the NPL will unnecessarily slow the cleanup process and any future redevelopment." Beaudry said CFAC had "expressed its willingness to assess the site and its concerns about listing the site on the NPL" in a letter to Gov. Bullock on Dec. 14, and CFAC had asked for a meeting with the governor to discuss its position "which was never granted." Beaudry said Roux Associates would continue to work on a remedial investigation work plan. "CFAC is committed to completing the site assessment as efficiently as possible while fully complying with state and federal standards, including regarding financial assurance for such work," he said. He concluded by noting that CFAC had approached the EPA about entering into an administrative order of consent to perform the site assessment.¹⁰⁴

A few weeks after Beaudry's press release, Flathead Lakers President Greg McCormick and Executive Director Robin Steinkraus wrote to Gov. Bullock on behalf of the watchdog group's 1,500 members thanking him for supporting placing the CFAC site on the Superfund list. "Flathead Lake and its tributaries' clean waters are valuable assets that contribute to the quality of life and economic vitality of local

communities, Flathead and Lake counties, and Montana,” they wrote. “Thank you for your dedication to ensuring that the CFAC site is restored to protect Flathead waters and healthy communities.” ¹⁰⁵

The Superfund debate didn’t change much after Beaudry issued a March 3, 2015, press release announcing Glencore’s decision to close the aluminum smelter in Columbia Falls permanently. “After more than five years of complete production curtailment, CFAC has made the decision to move on to the next phase of managing the property,” Beaudry said. The plant had operated in various levels of capacity since the West Coast Energy Crisis forced a shutdown in 2001 and had been completely idle since 2009. Beaudry highlighted the benefits to the local economy of having the site cleaned up. “While this decision marks the end of aluminum production in Montana, it also paves the way for the possibility of finding alternative uses for the strategic property,” he said. “This is the next step in making the property productive once again, and CFAC remains open and committed to procuring redevelopment interest.” ¹⁰⁶ Beaudry told local media that costs for raw materials and power and the low price for finished metal prompted Glencore’s decision. Beaudry said redevelopment of the site was the next step. Equipment that still had value would be sold, particularly equipment related to aluminum production. “We’re trying to find someone who might want it,” he said. Glencore also was looking for a company to handle demolition, he said. “CFAC has people talking to the union guys, but I don’t know what the actual plan is,” he said. ¹⁰⁷

The Daily Inter Lake commented on the closure announcement and the aluminum plant’s place in Flathead history in a March 8 editorial. “It really was no surprise, but the official word last week that CFAC was permanently closed still provided the element of finality,” the editorial said. “The plant has been shuttered since 2009. Although since then there was scattered talk about reopening, most people knew the handwriting was figuratively on the pot room walls: CFAC was dead.” The editorial noted that the cost of raw materials, global competition from more modern facilities, higher power rates and depressed aluminum prices all proved too much for CFAC. “The official notice concludes a long and storied history for the aluminum reduction facility northeast of Columbia Falls,” the editorial said. “From the time the first aluminum ingots were poured in 1955 until the pots went cold for the

last time five years ago, the plant had an out-sized role in the Flathead Valley and particularly Columbia Falls. For many years it was the largest employer in the valley, and its paychecks supported thousands of families. Columbia Falls proudly declared itself 'the industrial hub of the Flathead Valley' and the aluminum plant - in its many iterations from Anaconda to Atlantic Richfield to CFAC to Glencore - was a big part of that. Consider that at the height of its success, the plant and its workers (more than 1,200 in the glory days) took in 479,000 tons of raw material and produced 180,000 tons of aluminum a year." ¹⁰⁸

The Daily Inter Lake also described the aluminum plant's contributions to the local community. "The aluminum plant was not just a workplace - it also played a key role in the social and economic fabric of the Columbia Falls area," the editorial said. "Everything from sponsorships of youth baseball teams to donations to civic organizations poured from the plant. And benefits such as the summer work program where college students could earn big money were part of the legacy of the plant." The newspaper noted that a former employee had suggested a novel idea. "He would like former workers to be allowed a final walk-through of the plant before it's demolished," the editorial said. "We think that would be a fitting way for people to say goodbye to a place that was an economic mainstay in the Flathead Valley for almost six decades. The next chapter in CFAC's history is likely to be written by lawyers and environmental experts engaged in a tug of war over how to clean up the industrial site. We hope that effort is not overly prolonged and the land will be available for new uses in a reasonable time frame. Until then, farewell, CFAC." ¹⁰⁹

On the day after the closure announcement, EPA Region 8 Administrator Shaun McGrath wrote to Gov. Bullock to inform him that the EPA planned to propose placing the CFAC site on the Superfund list in the March publication of the Federal Register. After a 60-day comment period concluded, the EPA would make its final listing decision based on the comments it received. McGrath said he shared the interests Bullock had outlined in his Feb. 17 letter, and he addressed Bullock's points one by one. The EPA intended to work closely with the DEQ and work with the community throughout the process. Domestic wells near the plant would be sampled to better understand the potential risk, health and safety issues, planning for

redevelopment of the site would be considered, and opportunities would be provided for local work contracts and labor when possible, McGrath said. ¹¹⁰

Superfund opposition

Word of the EPA's decision soon reached Montana's lone U.S. representative, Rep. Ryan Zinke. A fifth-generation Montanan who was an All-State football player at Whitefish High School, Zinke attended the University of Oregon on an athletic scholarship and received numerous Pac-10 awards playing football for the Ducks. He graduated with a bachelor of science degree in geology and worked for a time in the oil industry before enlisting in the Navy in 1985. His storied military career led to an assignment with SEAL Team 6, service in Bosnia-Herzegovina, Croatia, Kosovo and Iraq, and finally as dean of the Naval Special Warfare graduate school. He retired at the rank of commander in 2008 and was elected a few months later to the Montana Senate, representing Columbia Falls, Whitefish, the Middle Fork Canyon and other surrounding rural areas. Zinke served in the senate on the Education and the Finance and Claims committees. In 2011, Zinke unsuccessfully ran for lieutenant governor with gubernatorial candidate Neil Livingstone, a colorful security consultant who had been subpoenaed by Senate investigators during the Iran-Contra affair in the mid-1980s and was involved in an unsuccessful plot to help Moammar Qaddafi to escape Libya in March 2011. Zinke was elected to represent Montana in the U.S. House in 2014. He served on the Natural Resources and the Armed Services committees. In December 2016, president-elect Donald Trump chose Zinke to serve as Interior Secretary. ¹¹¹

Zinke stood in stark contrast to Baucus, Tester, the city of Columbia Falls and numerous watchdog groups in his opposition to listing the CFAC site under the Superfund program. In a March 4, 2015 letter to Gov. Bullock, Zinke explained his opposition to the EPA's proposal. "As a Whitefish native, I grew up 15 minutes from Columbia Falls," he wrote. "I recall a time when the Columbia Falls Aluminum Co. employed hundreds of local workers who were active members of the community. The plant was an integral component of our very way of life." Zinke said he wanted to see the site restored and revitalized for the betterment of the Flathead and Montana. "CFAC has taken the

initiative to make this revitalization a reality," he wrote. "Their plan to expeditiously and effectively complete the Columbia Falls aluminum site investigation is in Montana's best interests." Zinke noted that CFAC had hired a competent environmental contractor to develop a remediation investigation work plan and was in contact with the EPA to enter into an administrative order on consent. "I applaud CFAC for taking the necessary steps to restore the site and its productivity," he wrote. "Therefore, I respectfully oppose the site being placed on the National Priorities List. Being listed will significantly delay much needed economic development for the Columbia Falls area. Historically, (Superfund) listings in Montana have not resulted in expeditious resolutions; instead, they have faced excessive delays and bureaucracy. Our state has 18 Superfund sites, yet not a single one has been removed in the life of the program. I believe we should revise the path forward. I urge you to support CFAC's efforts to complete their analysis before allowing the EPA to place the site on the (National Priorities List)." ¹¹²

Zinke had expressed interest in the CFAC site back in February 2009, when the smelter was operating with only one potroom and struggling to remain open. He had promoted the idea of building a bio-gen plant at the plant site that would burn wood waste to generate electricity which could be transmitted over the existing BPA transmission lines. Zinke said Plum Creek, F.H. Stoltze Land & Lumber, CFAC and the BPA had expressed interest in the idea. Stoltze was already contemplating a bio-gen plant at its lumber mill outside of Columbia Falls at Half Moon, but the one Zinke proposed for CFAC would be larger, about 24 to 35 megawatts. Haley Beaudry said the idea was just talk, but "in general, we're in favor of more power plants." ¹¹³

Columbia Falls resident Bill Dakin's response to Zinke's letter to the governor ran in the March 25, 2015 Hungry Horse News. "I am appalled at your letter," Dakin said. "You have no wisdom to impart to the people of the community in this. Your advice is off mark." Dakin noted that he had never seen Zinke at any community meetings on the matter. "The people of this community have spoken with clarity - in person at meetings, by written comment and through our elected city leaders." Dakin also expressed his opinion of Glencore. "I'm disappointed and appalled that you advocate for CFAC/Glencore and

those who want to sweep the issue aside, minimize any 'harmful image' and spend years and more years stalling, misleading and doing nothing while toxins potentially leach and percolate through the ground and into the adjacent Flathead River drainage." Dakin also took note of the political nature of the issue. "How ironic to be elected to federal office partly by running against the 'overreaching federal government' that oppresses us on high and then, as soon as one attains a federal pulpit from which to preach, the office-holder postures to see more clearly from Washington, D.C. what we should think and do and what is best for us." ¹¹⁴

Jeni Flatow, the public information officer for DEQ's Remediation Division, responded in a March 18 email to a question from the Hungry Horse News that was prompted by statements made by CFAC and its supporters. The newspaper asked whether any large industrial sites or mines in Montana had ever been completely cleaned up by an owner without being put on the Superfund list. "Unfortunately this question is not as straightforward as it may seem," Flatow wrote. "If we interpret 'completely cleaned up' as 'delisted' or 'no level of contamination,' then with the level of contamination at large industrial sites and large mines that were in operation prior to environmental regulations, the answer is no, cleanup is ongoing. However, at most of these sites surface contamination has been resolved, and this has allowed moving towards redevelopment. It is typically because of lingering groundwater issues that cause a site to remain active and not 'fully cleaned/delisted.'" ¹¹⁵

Flatow put the newspaper's question in historical perspective. "Remember, it took a long time for these sites to get this way, and it can take a long time to clean them up," she said. "Sites with contamination such as at CFAC need to have an authority, whether state or federal, that assures cleanup is protective of human health and the environment. To allow CFAC to simply do what it wants with the site without a process for ensuring that the cleanup is adequately protective, meets applicable legal requirements, or addresses all the threats the site poses to groundwater, the Flathead River or other receptors, would leave citizens and the environment without the protection that is normally required under the law." Flatow also noted that the cleanup process would take time. "Whether the cleanup is

done under the authority of the state of Montana or the Environmental Protection Agency, the process takes time,” she said. “Determining where the contamination has come to be located and coming to agreements with the responsible parties to address the contamination is a very complex process that takes substantial time and resources. The state has already tried to enter into an Administrative Order on Consent (AOC), but Glencore and CFAC would not agree with the state on the process. The point was to jump-start the process, but it would still take time. The NPL listing will provide resources, through the federal Superfund, that allow the process to move forward even in the absence of an agreement with the responsible parties.”¹¹⁶

On March 20, 2015, Sen. Tester met with about two dozen local city officials and business leaders to discuss a Superfund cleanup at the closed smelter site. Many at the meeting expressed concerns about Glencore and news that the EPA had taken the lead in the cleanup effort. “At our last meeting about CFAC, we didn’t know what Glencore was going to do for sure,” Tester said. “We spoke about the EPA working with the community and the community driving the bus. Taxpayers shouldn’t have to pay for the cleanup at CFAC – that’s why we got the EPA involved. Once we get the site cleaned up, we can re-purpose it to benefit the Flathead and state economies.” Mayor Barnhart said he appreciated Gov. Bullock’s help in getting the CFAC site proposed for Superfund listing. “That provides a good opportunity to get testing done,” he said. “That’s what we’ve wanted all along – to find out the status of the site.” Freedom Bank President Don Bennett told Tester that he had spoken with Glencore representatives about a number of issues over the past 15 years without any concrete results. “They just tell us what they want to appease us,” he said. “They’re a dollar and cents business – it has to make money.” That said, Bennett noted Glencore wasn’t the only company that potentially contaminated the smelter site. “It goes all the way back to the 1950s,” he said. “Glencore made a lot of money, but it might not be a good tact to blame them for everything. We need to get all the parties involved.”¹¹⁷ Bennett noted that while Glencore didn’t cause all the contamination at the plant site, “when they purchased the plant, they certainly received good revenues and the liability that went with it.” Tester noted that he was skeptical of Glencore’s assurances that they would clean up the site, and many in attendance agreed with him. “They

haven't followed through on their previous promises, so obviously we can't hold our breath on this promise coming through," Barnhart said.¹¹⁸

Tester's aide, Virginia Sloan, told the city officials and business leaders that the EPA and the DEQ were working to track down all the potential responsible parties. "We need to know if the EPA will hold Glencore accountable," Tester said. "But taxpayer dollars could end up being involved - there's no way around that." Susan Nicosia asked about Rep. Zinke's letter to the governor asking him not to support putting the site on the Superfund list. "How can we address the stigma of being on the Superfund list?" she asked. Tester recognized the difficulty. "If I thought that Glencore would clean up the site without the EPA, I'd say go ahead," he answered. "What will kill your community is a hundred million dollar water treatment plant if the contamination affects your water supply." Tester also noted that economic opportunities would appear once the site was cleaned up. "Several businesses have already contacted me about using the site," he said.¹¹⁹

Tester also noted that attacking the EPA was part of a pattern. "The EPA is seen as the bogeyman, but not getting the site cleaned up - that's a black eye you don't want," Tester said. Barnhart asked the senator to talk to Zinke and Sen. Steve Daines about getting their support in cleaning up the site for redevelopment. "I'll get my staff involved with theirs and talk to Steve personally, but it looks like Ryan may have already drawn a line in the sand," Tester said. "The goal here is the same for Steve and Ryan - to get the place cleaned up and put back to work."¹²⁰ Tester and others at the meeting disagreed with Zinke's statement that putting the CFAC site on the Superfund list would taint its reputation. "It's a bit Pollyanna to think that this company is going to clean it up because every time I cut a deal, they have turned it down," Tester said. He also noted that "as soon as it's cleaned up, you're going to have people knocking down your door, because it's a diamond in the rough."¹²¹

Tester wrote to city officials on March 23 to update them on the CFAC cleanup. He called the EPA's proposal to list the site "a positive step toward restoring the area." He added, "The sooner the environmental and health concerns are dealt with, the sooner we can put folks back to

work in the community.” Tester recounted his attempts to restart the CFAC plant after it closed in 2009 and his negotiations with the BPA. “Unfortunately, those negotiations did not succeed, and the plant remained shuttered,” he said. “Since that time, it’s become increasingly clear that Glencore never had intentions of re-opening the facility.” Tester said he contacted the EPA in 2013 after local representatives and community leaders expressed their concerns over the inactive site. He also noted that both the DEQ and EPA completed an assessment and “found that contaminants had been released into groundwater.”¹²² Tester updated city officials again on April 1. “The CFAC site has been an important part of Columbia Falls’ history and economy,” he said. “Listing the site as a national priority will be a big step toward getting the area cleaned up and redeveloped. Local business owners and former employees, and community leaders have expressed their support for listing the site as the best way to get Columbia Falls’ economy moving again.”¹²³

Public comments

The EPA received 77 public comments in early 2015 after the agency proposed placing the CFAC site on the Superfund’s National Priority List. “There is absolutely no reason to believe that (Glencore) will clean up this site properly on their own,” Flathead resident Tom Kurdy said. “Therefore, we must rely on the EPA to insure this is done properly and as quickly as possible.” The Flathead Basin Commission expressed concerns about risks posed by the former smelter site. “The potentially adverse impacts to human health and environmental quality, due to the current levels of contamination in surface waters, groundwater and soils, pose a significant risk to the community,” Chairman Thompson Smith said. Montana Department of Fish, Wildlife and Parks Director Jeff Hagener noted that the identified contaminants at the CFAC site “are likely to have lethal and sub-lethal effects (on aquatic species). These could impact respiration, liver function and metabolism in fish, in turn causing reductions in growth and survival. The contaminants present may also have serious human health implications for those consuming fish from these waters.” Hagener also had concerns about human consumption of game animals taken near the plant. “Public hunting occurs in and around the CFAC site, and hunters routinely harvest deer and elk in the area,” he said. Hagener called for testing

deer and elk to ensure they were safe for human consumption, and to see if deer and elk populations were being impacted. ¹²⁴

The EPA did not formally propose putting the CFAC smelter site on the Superfund list until the end of March 2015, and like Glencore's closure announcement, it didn't stop the debate over whether the site should be listed. The official proposal set off another round of public comments from local residents, government officials, environmental groups, past site owners, business groups and politicians. By April, a contract had been signed with a demolition firm and a new phase of the cleanup began, with auctions, special permitting and complex removal procedures. By May, an East Coast public relations firm came to Columbia Falls to direct a community forum about cleanup alternatives on behalf of Glencore. A new opportunity arose for opponents to Superfund listing called the "Superfund Alternative," while another alternative that could benefit Glencore called Corrective Action Management Units drew less attention. Meanwhile the Columbia Falls community was hammered by the smelter site's declining taxable value and the closure of Plum Creek timber mills in the Flathead Valley. A year and a half after the EPA officially proposed listing the site under the Superfund program, the decision was made to do just that.

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