

**LEWIS AND CLARK CITY-COUNTY HEALTH DEPARTMENT
BOARD OF HEALTH – PUBLIC HEARING MINUTES
400 N. Kalispell, EAST HELENA, MONTANA 59635
October 25, 2012**

Members Present

Ken Wallace, chair
Susan Epstein, vice-chair
Commissioner Andy Hunthausen
Kelly Parsley
Anne Weber
Jennifer Lowell

Staff Present

Melanie Reynolds
Jolene Helgerson
Kathy Moore
Gayle Shirley
Deb Tillo
Jan Williams

Members Absent

Mayor Jim Smith
Mayor Anthony Strainer
Kent Kultgen

Guests Present

See Attached Attendance Sheet

PUBLIC HEARING

Ken Wallace, chair, called the hearing to order at 6:30 p.m. Ken explained the procedures for the hearing. Ken noted that written comments from the public are accepted until 5:00 p.m. November 2, 2012. The Board of Health will adopt, modify or table the regulations on December 20, 2012, at 1:30 p.m. in room 330 of the City-County Building. Kathy Moore, Environmental Services Division Administrator, gave a PowerPoint presentation on the proposed regulations for Soil Displacement and Disposal for the East Helena Superfund area. The presentation is also available on pages 1-15 of the board packet. Kathy gave an overview of the regulations, explained the purpose of Institutional Controls Plan (ICP), and presented the process for adoption of the regulations. In answer to questions from the public, Kathy's responses were:

- Once notified by 811 One-call locate for a request to locate utility lines, the Environmental Services Division staff will work quickly to respond to that call. The goal is not to have delays. Kathy also noted that the public is required to call 811 anytime they dig on their property.
- Flower beds or trees that have already been planted will not be regulated.
- The proposed ICP administrative boundary that is under the ICP for Lewis and Clark County (LCC) is about 16 square miles. Jefferson County is part of the boundary but not regulated by LCC. Jefferson County's board of health will be required to adopt their own ICP's. The boundaries are based on the sampling that has been completed and those areas that have not been sampled.
- Helena Sand and Gravel is within the ICP boundary. They have complied with the required standards for removal contaminated soils on their property. The soils they are currently moving are free of lead.
- Soils that have already been removed from properties may still be included in the regulation due to the depths the individual is digging.
- Permits for large projects may require 5 working days to complete.
- The Environmental Services Division (ESD) staff will work with the Environmental Protection Agency (EPA) to provide information on the possible recontamination to the soils in the East Helena area from the flood in 2011.

- The landowner is responsible for obtaining a permit to dig. ESD staff will work to allow contractors to obtain a permit on behalf of the landowner.
- The three EPA approved disposal sites are the EPA repository (east fields) and the landfills in East Helena and Helena. Kathy recommends knowing the contamination level of the soil before disposal. Soils with low contamination levels can be reused.
- The ESD staff will continue to work to provide permanent permits for landowners whose property is considered cleaned by the EPA.
- The Health Department will be responsible for the enforcement of the regulation if passed.

Ken Wallace opened the hearing for board member discussion. In answer to a question from Commissioner Hunthausen, Kathy stated that if an individual is disturbing less than 1 cubic yard of soil on their property they do not have to call the Lead Education and Abatement Program (LEAP) to get a permit to dig.

Ken Wallace opened the hearing for public comment:

Bob Leach of 3043 Canyon Ferry Rd, East Helena, stated that EPA has tested his property and has found his soil to be free of lead. Mr. Leach's family has been tested for lead has been cleared of any contamination. Mr. Leach feels that Canyon Ferry Road is an arbitrary line. The arsenic and lead plume travels North West and does not reach Canyon Ferry Road. The plume is not a problem in this area. The problem is the surface water which is stopped at the irrigation canal. The reason for the plume is due to flooding on the Prickly Pear Creek especially from the tree removal in Kennedy Park. Mr. Leach recommends making the irrigation canal the boundary line and not Canyon Ferry Road. Mr. Leach has begun to dig on his property for the construction of a garage. The removal of his dirt to a recommended location will be an added expense. Who pays for the testing of the soil before it can be removed? These are hassles that a property owner doesn't need.

Becky Buckmaster of East Helena is opposing the proposed regulations for Soil Displacement and Disposal for the East Helena Superfund area.

Jim Branning of 3065 Wylie Drive, East Helena, stated that funding for the soil cleanup should include all soil cleanups in the boundary area making permits unnecessary. The requirements for soil permits will go indefinitely. It will be cheaper to have the area cleaned up now then to have the people in the area servitude to this regulation.

Betty Poucher of 409 East Groschell, East Helena, stated that her yard is fixed with clay which needs to be removed in order to plant due to the salt in the clay. Ms. Poucher believes that the proposed regulation is an invasion of the property owner's rights. Ms. Poucher also stated that if the soil is so contaminated, why is there more people that live in the boundary area living to be 100 years old. If the contaminated soil is dumped into fields and cattle graze on the soil then doesn't that pose a risk to the livestock? Shouldn't the livestock be considered contaminated? Ms. Poucher opposes the proposed regulations for Soil Displacement and Disposal for the East Helena Superfund area.

David Nettleton of 2689 Corbre Drive, East Helena, opposes the proposed regulations for Soil Displacement and Disposal for the East Helena Superfund area. Mr. Nettleton stated that he worked for the Asarco Smelter for 8 years and his father for 60 years. His job was to skim lead ladles. If this was such a hazard to children and others why is he still alive? The smelter provided respirators for protection and an occasional test along with a red pill. Mr. Nettleton also worked at the Anaconda Smelter for 8 years working with copper and arsenic. The Anaconda Smelter required complete coverage along with

full respiration. Mr. Nettleton believes that if the area is so contaminated it will never be completely cleaned up. Any wind related dust storms will see to that. How is recontamination to properties from dust storms going to be controlled? Where is the reasoning for this permit coming from?

Evonne Mitton of 604 East Groschell, East Helena, questioned why they have to have a permit if the EPA has considered their property free of lead. Ms. Mitton opposes the proposed regulations for Soil Displacement and Disposal for the East Helena Superfund area.

After no further public comment, the hearing adjourned at 7:43 p.m.

Ken Wallace, Chair

Melanie Reynolds, Secretary