



**Montana Department of
ENVIRONMENTAL QUALITY**

**Brian Schweitzer, Governor
Richard H. Opper, Director**

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

March 8, 2011

Ron Megna, Assistant General Counsel
Smurfit-Stone Container Corporation
222 N. LaSalle Street
Chicago, IL 60601

RE: Smurfit-Stone Container Corporation - Frenchtown, Montana Mill Site

Dear Mr. Megna:

I am writing as a follow up to my letter to you of March 1, 2011, concerning the potential sale of Smurfit-Stone Container Corporation's (Smurfit's) Frenchtown, Montana Mill Site to MLR Investments. In that letter, I discussed my agency's concerns with the potential significant environmental issues at the site and strongly urged Smurfit to conduct a Phase II Environmental Assessment (EA) prior to any sale and report the results of the EA to the Department of Environmental Quality (DEQ). I also asked for a prompt written response to DEQ's request, but have not yet heard back from you.

News accounts report that there is a possibility the site may be torn down. In addition to the environmental issues I discussed in my letter of March 1, 2011, I bring to your attention the provisions of Montana's Asbestos Control Act, found at Title 75, chapter 2, part 5, MCA. Under the Act, demolition of buildings containing asbestos must be conducted in accordance with requirements of the Act and rules adopted by the DEQ under the Act.

Montana's Asbestos Control Act grants DEQ access to and copies of "any records relating to an asbestos project" for purpose of enforcing the Act [§ 75-2-518(1)(b), MCA]. An "asbestos project" is defined under the Act to include "demolition of asbestos in a building or other structure, or the transportation or disposal of asbestos-containing waste." The Act further contains enforcement provisions, under which DEQ is authorized to seek injunctive relief to ensure compliance with the Act.

Given the news accounts regarding the possibility of demolition of the buildings, the DEQ seeks more information from Smurfit in order to ensure that any demolition is conducted in accordance with Montana's Asbestos Control Act. I ask that you provide DEQ with all of Smurfit's records relating to:

- 1) The demolition, or the possibility of the demolition, of the mill and/or other buildings on the site, including but not limited to electronic and paper correspondence or communications with the potential purchaser or any other third party concerning demolition;

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- 2) Any records relating to the presence of asbestos at the mill and/or other buildings on the site, including records of any inspections previously or anticipated to be conducted pursuant to ARM 17.74.354; and
- 3) Any agreements with the potential purchaser, such as the buy-sell agreement or pre-sale inspection agreement, including but not limited to those that mention an intent or interest on the part of the purchaser in the demolition of the mill and/or other buildings on the site.

I ask that you please provide DEQ with these records within one week, or by March 15, 2011. Feel free to contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard H. Oppen", with a long horizontal flourish extending to the right.

Richard H. Oppen
Director

c: MLR Investments, LLC