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IN THE ASBESTOS CLAIMS COURT OF THE STATE OF MONTANA

IN RE ASBESTOS LITIGATION,  
  
*Consolidated Cases*

Cause No. AC 17-0694

**PETITION FOR APPROVAL OF THE  
LIBBY MINE CLAIMANTS' QUALIFIED  
SETTLEMENT FUND TRUST III**

Applicable to:

*Adamson, et al. v. State of Montana, et al.*, Cascade  
County Cause No. DV-16-1022; and all MHSL  
consolidated cases in which the State of Montana is  
a named defendant (except *Barnes, et al. v. State of  
Montana, et al.*, Lincoln County Cause No. DV-16-  
111)

COME NOW Petitioners through their attorneys, McGarvey, Heberling, Sullivan & Lacey, P.C. (MHSL), who respectfully request an Order approving the establishment of the Libby Mine Claimants' Qualified Settlement Fund Trust III (hereafter Libby Claimants' QSF Trust III), attached hereto as Exhibit A, and appointing a trustee, and hereby state as follows:

**1. Petitioners.** MSHL Petitioners, estates, personal representatives, and heirs (hereafter collectively "Libby Mine Claimants" as that term is used in the Memorandum of Understanding of Settlement Agreement) have asserted "Libby Mine Claims" (as that term is used in the Memorandum of Understanding of Settlement Agreement) against the State of Montana, its departments, boards, divisions, agencies, officers, employees, and agents (hereafter "State").

**2. Settlement of Claims.** The Libby Mine Claimants and the State have agreed to the settlement and release of the actions, claims, and causes of action as more specifically described in the Memorandum of Understanding of Settlement Agreement and the General Releases agreed to by the State and the Libby Mine Claimants, in exchange for an initial payment of the total amount of \$7,310,785.42, more specifically described in the Memorandum of Understanding.

**3. Approval by Court.** Petitioners seek this Court's Order to establish the Libby Mine Claimants' Qualified Settlement Fund Trust III pursuant to the provisions of 26 U.S.C. § 468B, and implementing Treas. Reg. 1.468B-1. Treas. Reg. 1.468B-1 requires that the Libby Mine Claimants' Qualified Settlement Fund Trust III be established pursuant to an order of the Court.

**4. Libby Mine Claimants' Qualified Settlement Fund Trust III Purposes.** The purpose of the Libby Mine Claimants' Qualified Settlement Fund Trust III is to receive the settlement payments referenced above and to resolve actions, claims, and causes of actions as more specifically described in the Memorandum of Understanding of Settlement Agreement and the General Releases between the State and the Libby Mine Claimants. Pursuant to the proposed Libby Mine Claimants' Qualified Settlement Fund Trust III terms, the Trustee, under the Court's supervision, will use settlement proceeds for: distribution to the Libby Mine Claimants; payment of attorney fees, costs and litigation expenses of the Libby Mine Claimants; payment of any other outstanding claims arising from the injuries alleged or the resulting litigation or valid liens, including but not limited to Medicare or Medicaid claims for the reimbursement, upon the settlement or recovery of the Libby Mine Claimants; together with other expenses of administration described more fully in the proposed Libby Claimants' QSF Trust III, attached as Exhibit A.

**5. Treasury Regulations Satisfied.** Establishment of the Libby Mine Claimants' QSF Trust III will satisfy the requirement of Treas. Reg. Section 1.468B-1(c), by (a) being established pursuant to

this Court's Order, (b) being established to resolve or satisfy one or more tort claims, and (c) constituting a trust under applicable law.

**6. Trustee.** Petitioners seek appointment of Nancy P. Gibson of Gibson Law Offices, PLLC, 4110 Weeping Willow Drive, Missoula, MT 59803 as Trustee of the Libby Mine Claimants' QSF Trust III. The initial cost for establishment of the Libby Mine Claimants' QSF Trust III, and continuing costs and expenses of administration of the Libby Mine Claimants' QSF Trust III will be paid from the Libby Mine Claimants' QSF Trust III itself.

**7. Best Interests of Libby Mine Claimants.** Approval by the Court of the establishment of the Libby Mine Claimants' QSF Trust III best serves the interests of the Libby Mine Claimants by assuring that the settlement funds are immediately obtained from the State and are available immediately for the purposes described herein and in the attached proposed Libby Mine Claimants' QSF Trust III.

**8. Court's Authority.** The Court has authority to establish the Libby Mine Claimants' QSF Trust III pursuant to the provisions of §3-5-302, MCA. The Libby Mine Claimants' QSF Trust III will be domiciled in Montana, and operate under Montana law during the period of its existence, and a Montana income tax return shall be filed in addition to a federal tax return.

WHEREFORE, Petitioners request that the Court approve and establish the Libby Mine Claimants' proposed Libby Mine Claimants' QSF Trust III attached hereto as Exhibit A, and appoint Nancy P. Gibson of Gibson Law Offices, PLLC, 4110 Weeping Willow Drive, Missoula, MT 59803 as Trustee thereof. A proposed Order is submitted herewith.

DATED this 3<sup>rd</sup> day of January, 2019.

By: Dustin A. Leftridge  
Dustin Leftridge, of McGarvey, Heberling,  
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## CERTIFICATE OF SERVICE

I, Dustin Alan Richard Leftridge, hereby certify that I have served true and accurate copies of the foregoing Petition - Other to the following on 01-04-2019:

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