

Response to public comment received by the State of Montana for the proposed Consent decree with Bridger Pipeline LLC for the January 2015 discharge of oil into the Yellowstone River.

Prepared by:



Date February 14, 2022

Section I: Introduction

The State of Montana, through the Natural Resource Damage Program (State), solicited public comments from November 21, 2021, through December 22, 2021, as required by Section 713 of the Montana Comprehensive Cleanup and Responsibility Act (CECRA), Montana Code Annotated (MCA) Section 75-10-713.

As required by § 50.7, Mont. Code Ann. § 75-10-713, and Paragraph 33 of the Consent Decree, the State gave notice of the lodging of the Consent Decree in the *Billings Gazette* (November 21, 2021). The State also placed the proposed Consent Decree on its website and sent it out to an e-mail list developed for the 2011 oil spill from the Exxon Silvertip pipeline (November 19, 2021).

Three members of the public submitted comments. The State considered all comments received, which included comments that raised concerns with issues outside the scope of the CECRA and Oil Pollution Act natural resource damage settlement in the proposed Consent Decree. Through consideration of all public comments, the State has determined there is no justification for modifying the Consent Decree. Further, none of the comments disclosed facts or considerations that indicate the proposed settlement is inappropriate, improper, or inadequate such that the State of Montana should withdraw or withhold its consent to the proposed settlement.

As required by Mont. Code § 75-10-713, the State has considered and responded to the public comments received and placed them in the administrative record and will publish notice of the entry of the final Consent Decree. The State will make the final Consent Decree available to the public by placing it on our website.

Section II. Comment Summary and Response

Comment 1: This commenter indicated that given currently available technologies there is no reason for a pipeline to fail and suggested that jail time, in addition to a financial penalty, would encourage due diligence in operating the pipeline.

Response: The State acknowledges this comment, but notes it is outside the scope of the Consent Decree. The Consent Decree is not intended to address any criminal claims.

Comment 2: The Yellowstone River Conservation District Council (YRCDC) wrote to the state that the YRCDC completed a major scientific study in 2017 regarding the cumulative effects of human impacts on the Yellowstone River. This study resulted in a set of recommended practices to promote an ecologically sustainable Yellowstone River that preserves the long-term viability of residents and communities who rely on the Yellowstone River. The YRCDC requested that the State consider this study and the recommended practices when implementing the restoration actions following the consent decree. Also, YRCDC note that they are available for strategic planning and are interested in collaborating with NRDP.

Response: The State appreciates the resource provided by YRCDC and will evaluate the recommended practices and consider incorporating them, as appropriate, in the proposed restoration plan. We encourage YRCDC to remain involved in our process. We will be drafting a restoration plan and will put it out for public comment before the Governor, as Trustee, would sign a restoration plan.

Comment 3: Commenter 3 expressed support for the proposed Consent Decree.

Response: The State acknowledges these comments and appreciates the support for the proposed Consent Decree.

List of Public Comments

| No. | Individual/Organization |
|------------|---|
| 1 | Al Hayes |
| 2 | Dan Rostad on behalf of the Yellowstone River Conservation District Council |
| 3 | Wendy Weaver, Montana Freshwater Partners |