

EAST HELENA ASARCO SMELTER
FINAL RESTORATION PLAN
And
ENVIRONMENTAL ASSESSMENT CHECKLIST

November 2019

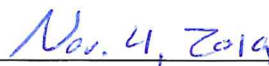
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As the Trustee, I hereby approve the East Helena ASARCO Smelter Final Restoration Plan and Environmental Assessment Checklist.



Governor Steve Bullock



Date

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List of Acronyms

ADA	Americans with Disabilities Act
CECRA	Montana Comprehensive Environmental Cleanup and Responsibility Act
CERCLA	Comprehensive Environmental Response Compensation and Liability Act
CFR	Code of Federal Regulations
DEQ	Montana Department of Environmental Quality
DNRC	Montana Department of Natural Resources and Conservation
DOI	U.S. Department of the Interior
EPA	U.S. Environmental Protection Agency
FWP	Montana Fish, Wildlife and Parks
gpm	gallons per minute
MEPA	Montana Environmental Policy Act
METG	Montana Environmental Trust Group
NPL	National Priorities List
NRD	Natural Resource Damage
NRDP	Natural Resource Damage Program
PPLT	Prickly Pear Land Trust
RCRA	Federal Resource Conservation and Recovery Act
U.S.C.	United States Code

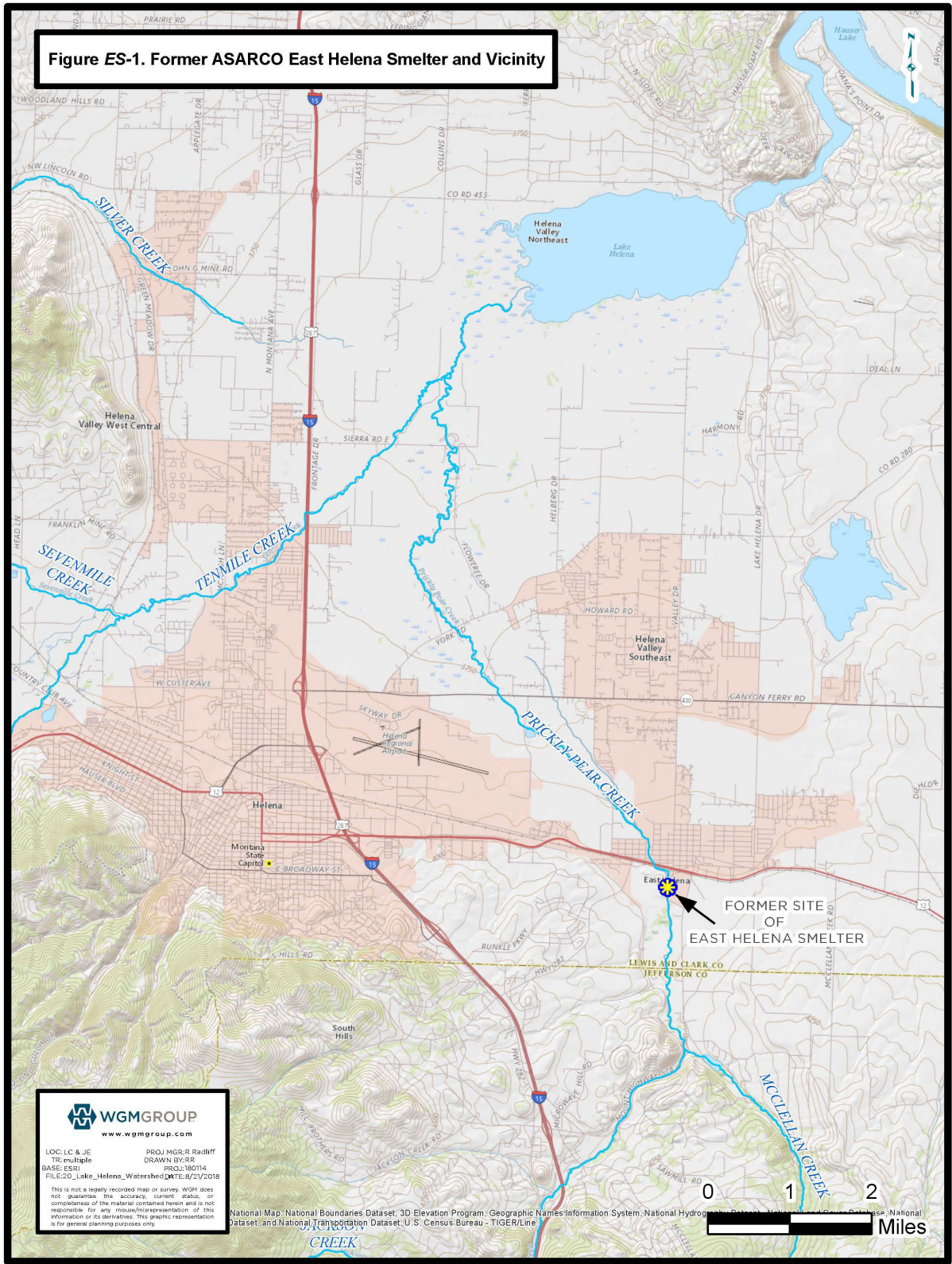
Executive Summary

The Montana Department of Justice, Natural Resource Damage Program (NRDP) has prepared this restoration plan to address injuries to natural resources from the ASARCO East Helena Smelter (Figure ES-1). In 2006, the State of Montana filed several environmental claims, including remediation and natural resource damages, against ASARCO in the bankruptcy proceeding that had been filed in the federal bankruptcy court in Corpus Christi, Texas in August 2005. The court approved a final settlement of the ASARCO bankruptcy litigation and adopted an ASARCO reorganization plan in December 2009 (*2009 Consent Decree and Settlement Agreement Regarding the Montana Sites* [Consent Decree]).

The Consent Decree specifically allocated \$5 million in natural resource damages to the State of Montana to restore, rehabilitate, replace, or acquire the equivalent of injured natural resources at the ASARCO East Helena Smelter to be paid into the East Helena Site Compensatory Natural Resource Damage Special Revenue Fund (East Helena Restoration Fund). The 2009 *Memorandum, Opinion, Order of Confirmation, and Injunction* in the Asarco, LLC, bankruptcy specified that every bankruptcy claim receive “post-petition” interest. The Consent Decree also required that all interest and other earnings on the damages subsequently would be paid into the East Helena Restoration Fund. As of July 2019, the State has approximately \$5.99 million available to restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources in the East Helena Restoration Fund. In addition, the State was provided an option to acquire at no cost 232 acres of ASARCO-owned land in the East Helena area to be used for public recreation, wildlife habitat, open space, and/or for wetlands. These restoration funds are in addition to the approximately \$112.1 million ASARCO paid to clean up and restore the former East Helena ASARCO Smelter and other contaminated lands in the East Helena area.

Natural resource damages under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U. S. C. § 9601 *et seq.*, (CERCLA) are designed to compensate trustees for injury to natural resources. The Governor of the State of Montana is a trustee of natural resources within the state (CERCLA Section 107 (f)(I), 42 U.S.C. § 9607(f)(1)). As Trustee, the State is entitled to “damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from” the release of a hazardous substance (CERCLA Section 107(a)(4)(C), 42 U.S.C. § 9607(a)(4)(C)). Natural resources include land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the State (CERCLA Section 101(16), 42 U.S.C. § 9601(16)).

Figure ES-1: ASARCO East Helena Smelter and Vicinity



Purpose and Scope of this Document

Superfund provides that prior to spending natural resource damage (NRD) funds, a state must prepare a comprehensive restoration plan that provides for the expenditure of such funds on appropriate projects that would restore, rehabilitate, replace or acquire the equivalent of the injured or lost natural resources that were the subject of the NRD claim. Superfund Law, 43 CFR 11.82(a) states that a reasonable number of possible alternatives for the restoration, rehabilitation or replacement of the injured natural resources be developed and considered.

Restoration Plan Goals and Alternatives

The overall goal of this restoration plan is to identify actions that singly or in combination restore, rehabilitate, replace, or acquire the equivalent of injured natural resources to a condition where they can provide the level of services available at baseline or to replace and/or acquire the equivalent natural resources capable of providing such services. In addition, the State has included a general plan for disposition of and future uses of the 232 acres of State-option land described in the Consent Decree. The specifics of the proposed land-conveyance plan are not part of this restoration plan but will be negotiated separately when the transfer takes place.

The restoration plan goals are:

- Replace injured groundwater resource and associated services
- Restore riparian vegetation, fisheries, and natural stream flow
- Compensate for lost recreational use

The alternatives considered are (see Table ES-1):

- Restoration Alternative 1: No Action
- Restoration Alternative 2: Groundwater Action Weighted
- Restoration Alternative 3: Recreation Action Weighted
- Restoration Alternative 4: Equal Groundwater and Recreation Action Weighted

Table ES-1: Approximate costs of alternatives

Alternative	Groundwater	Surface Water	Recreation	Total
Alternative 1	\$0	\$0	\$0	\$0
Alternative 2	\$3,850,000	\$160,000	\$1,447,000	\$5,487,000
Alternative 3	\$2,127,000	\$160,000	\$3,200,000	\$5,487,000
Alternative 4	\$2,663,500	\$160,000	\$2,663,500	\$5,487,000

The alternatives were evaluated according to Natural Resource Damage Assessment legal and policy criteria as defined in Chapter 1.

Preferred Alternative

The Trustee recommends Alternative 3 as the preferred alternative. Alternative 3 achieves the goals of the legal and policy criteria, produces benefits to the injured resources, replaces some of the services lost because of the injury, and aligns with significant priorities of the community.

Following consideration of public comment, the State will recommend a final version of this plan for consideration and approval of the Governor.

1 Introduction and Background

The Montana Department of Justice, Natural Resource Damage Program (NRDP) has prepared this restoration plan to address injuries to natural resources from the ASARCO East Helena Smelter (Figures 1 and 2).

In 2006, the State of Montana filed several environmental claims, including remediation and natural resource damages, against ASARCO in the bankruptcy proceeding that had been filed in the federal bankruptcy court in Corpus Christi, Texas in August 2005. The court approved a final consent decree and settlement agreement of the ASARCO bankruptcy litigation and adopted an ASARCO reorganization plan in December 2009 (*2009 Consent Decree and Settlement Agreement Regarding the Montana Sites* [Consent Decree]). The Consent Decree specifically allocated \$5 million in natural resource damages to restore, rehabilitate, replace, or acquire the equivalent of injured natural resources at the ASARCO East Helena Smelter to be paid into the East Helena Site Compensatory NRD Special Revenue Fund (East Helena Restoration Fund). The *2009 Memorandum, Opinion, Order of Confirmation, and Injunction* in the Asarco, LLC, bankruptcy specified that every bankruptcy claim receive “post-petition” interest. The Consent Decree also required that all interest and other earnings on the damages subsequently would be paid into the East Helena Restoration Fund. As of July 2019, the State has approximately \$5.99 million available to restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources. In addition, the State was provided an option to acquire at no cost approximately 232 acres of undeveloped ASARCO-owned land in the East Helena area, including approximately 192 acres in the vicinity of Upper Lake, and 40 acres in the vicinity of Prickly Pear Creek in the northern part of East Helena to be used for public recreation, wildlife habitat, open space, and/or wetlands (Figure 3). The Consent Decree provides that before these lands are conveyed, the precise location and future uses of the land shall be agreed upon and approved in a written agreement between the State and U.S. Environmental Protection Agency (EPA), after consultation with U.S. Department of the Interior (DOI) and the Custodial Trustee (Montana Environmental Trust Group [METG]). A general plan for the conveyance is described in Section 1.2.5. The specifics of the proposed land-conveyance plan are not part of this restoration plan but will be negotiated separately when the transfer takes place.

Figure 1: Former ASARCO East Helena Smelter and Vicinity

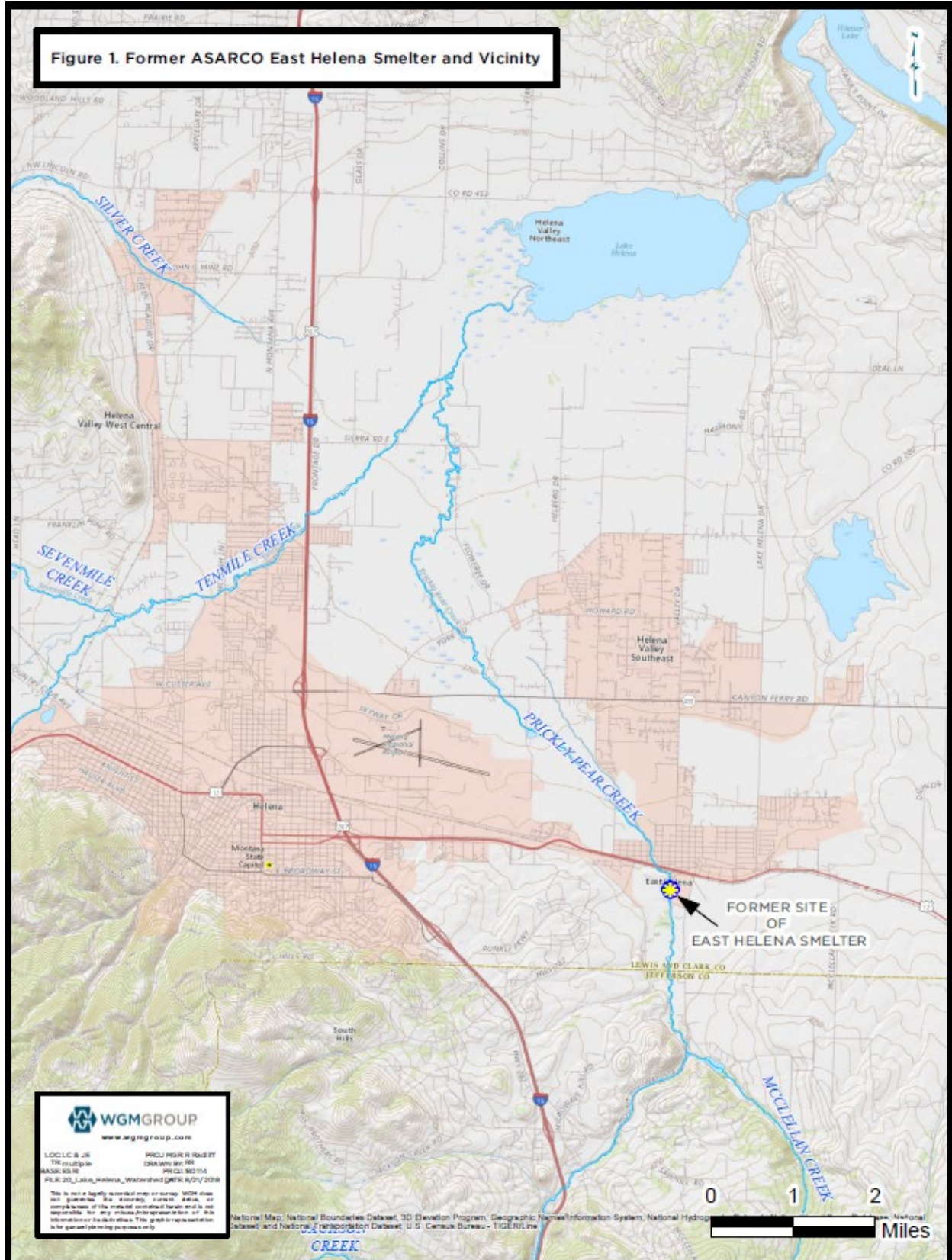


Figure 2: Geographic Boundaries of the Corrective Measures Study

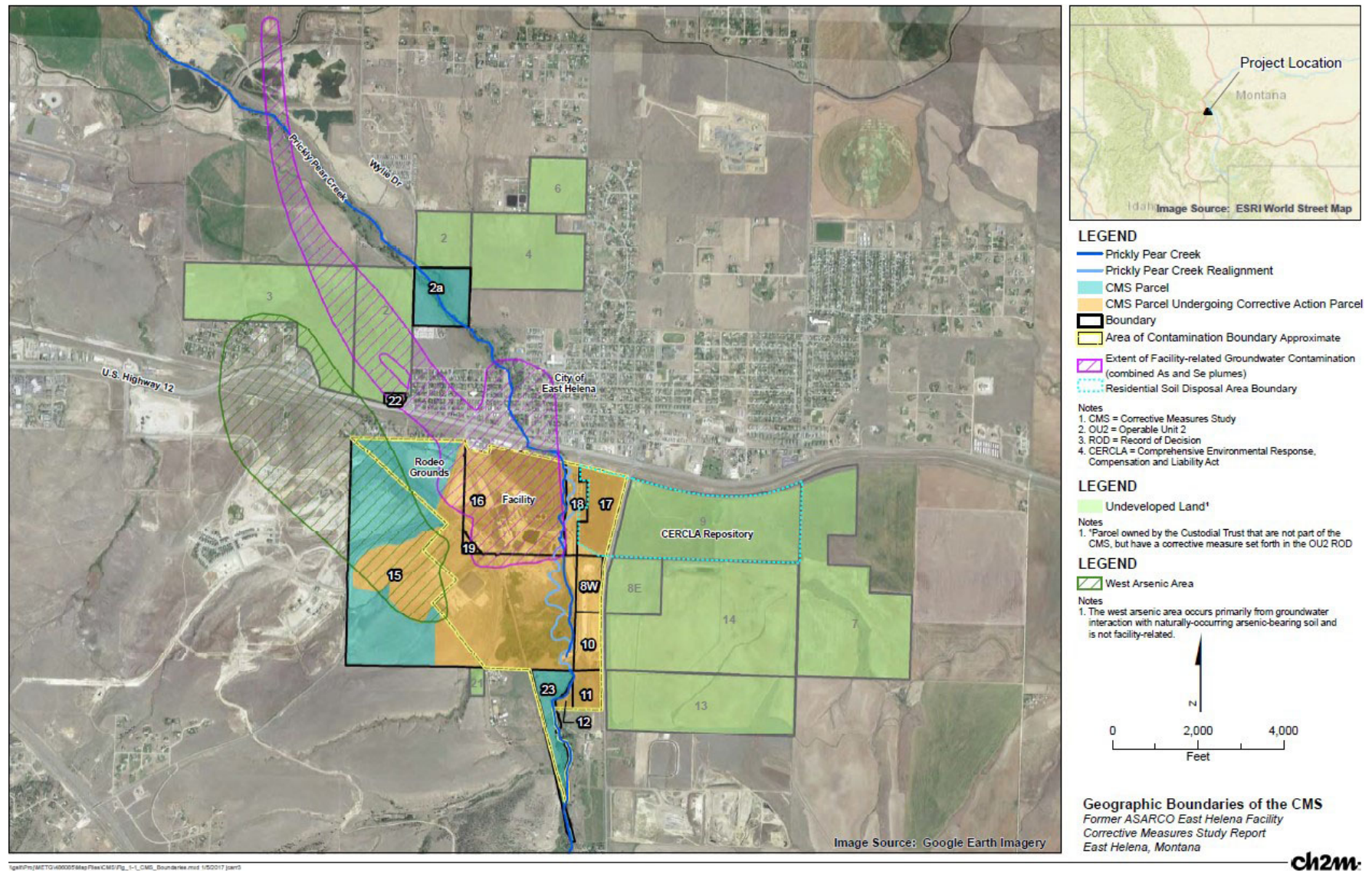
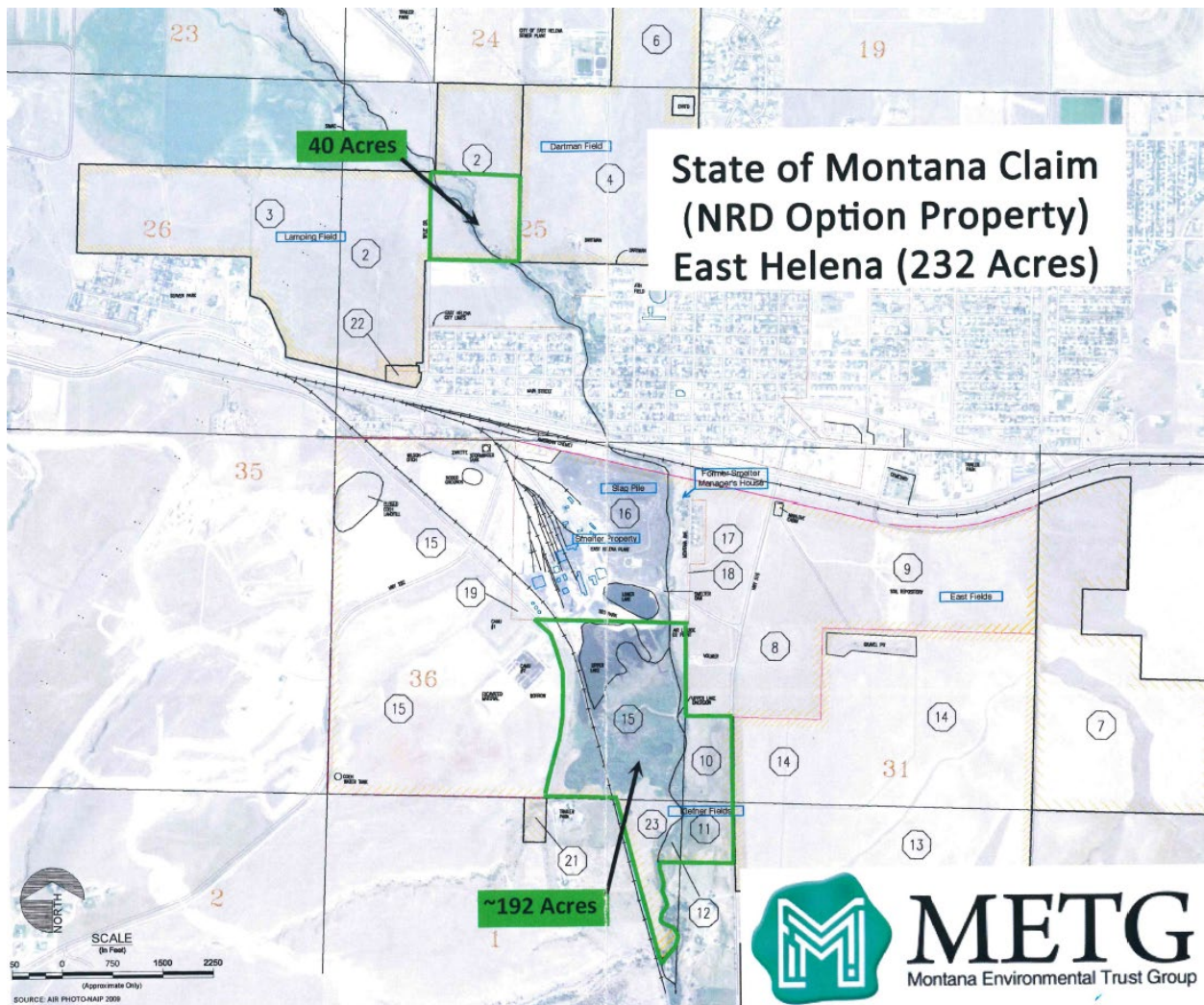


Figure 3: State-Option Land



The \$5.9 million for natural resources restoration was placed in an East Helena Natural Resource Damage (NRD) Settlement Restoration Fund (East Helena Restoration Fund), a State of Montana special fund created for the settlement. These restoration funds are in addition to the approximately \$112.1 million ASARCO paid to clean up and restore the former East Helena ASARCO Smelter and other contaminated lands in the East Helena area. The funds paid from the bankruptcy settlement for the East Helena Site are summarized in Table 1, below:

Table 1. Funds Paid from Bankruptcy Settlement for East Helena Site

Asarco Bankruptcy Fund Accounts	Initial Fund Amounts	Holder of Funds
East Helena Cleanup Fund	± \$96.3 million	Custodial Trust – EPA Lead Agency
East Helena NRD Fund	± \$0.8 million	Custodial Trust—USFWS Lead Agency
East Helena Special Account	± \$15.0 million	EPA—Special Account
Subtotal	\$112.1 million	

Natural resource damages under the Comprehensive Environmental Response, Compensation and Liability Act, 42 United States Code (U.S.C.) § 9601 *et seq.*, (CERCLA) are designed to compensate trustees for injury to natural resources. The Governor of the State of Montana is a trustee of natural resources within the state (CERCLA Section 107 (f)(I), 42 U.S.C. § 9607(f)(1)).

As trustee, the State is entitled to “damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from” the release of a hazardous substance (CERCLA Section 107(a)(4)(C), 42 U.S.C. § 9607(a)(4)(C)). Natural resources include land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the State (CERCLA Section 101(16), 42 U.S.C. § 9601(16)).

1.1 Purpose and Scope of this Document

Under Superfund, prior to spending NRD funds, a state must prepare a comprehensive restoration plan that provides for the expenditure of such funds on appropriate projects that would restore, rehabilitate, replace or acquire the equivalent of the injured or lost natural resources that were the subject of the NRD claim. Superfund Law, 43 Code of Federal Regulations (CFR) 11.82(a) provides that a reasonable number of possible alternatives for the restoration, rehabilitation or replacement of the injured natural resources be developed and considered. The overall goal of this restoration plan is to identify actions that singly or in combination restore, rehabilitate, replace, or acquire the equivalent of injured natural

resources to a condition where they can provide the level of services available at baseline or to replace and/or acquire the equivalent natural resources capable of providing such services.

This restoration plan describes the restoration actions the State of Montana will implement to restore, rehabilitate, replace, or acquire the equivalent of the injured resources at the ASARCO East Helena Smelter. Restoration funds will be allocated to the restoration alternatives up to the amount of approximately \$5.487 million. Following consideration of public comment, the State will recommend a final version of this plan for consideration and approval of the Governor.

This restoration plan is organized as follows:

- Chapter 1 describes the purpose and scope of this document, provides background on the ASARCO East Helena Smelter, describes the restoration planning steps that led to the development of this plan, including public involvement, outlines the criteria for decision making, and describes the environmental review process. In addition, the State has included a general proposed plan for disposition of and future uses of the 232 acres of State-option land described in the Consent Decree, but the details of this plan are not included in this restoration plan and will be negotiated when the transfer takes place.
- Chapter 2 describes the restoration project categories and restoration action ideas the NRDP developed in consultation with local resource managers, and the public scoping process.
- Chapter 3 describes the proposed restoration alternatives.
- Chapter 4 provides a comparative analysis of the proposed restoration alternatives.
- Chapter 5 is a summary of the restoration plan implementation process.
- Attachment A provides definitions for natural resource damage terminology.
- Attachment B is an environmental review narrative and checklist.
- Attachment C is a summary of additional proposed restoration action ideas and criteria screening for projects not included in the alternatives.
- Attachment D provides the State's responses to comments on the draft restoration plan.
- Attachment E provides copies of comments on the draft restoration plan.

1.2 Site Background

The former ASARCO East Helena Smelter is located in East Helena, in Lewis and Clark County, Montana. The site includes a 140-acre former lead smelter that operated from 1888 until 2001, and about 2,000 acres including the town of East Helena and surrounding rural agricultural lands (U.S. EPA, 2018). Prickly Pear Creek flows along the east and northern boundary of the former smelter property. Groundwater flows north-northwest from the former smelter toward East Helena.

For more than 100 years, lead and zinc smelting operations deposited lead, arsenic, copper, zinc, cadmium, and other hazardous substances into the air, soil, surface water, and groundwater of the Helena Valley (U.S. EPA, 2018; U.S. EPA, 2016). The sources of this contamination included the smelter stack, fugitive emissions from plant operations, process ponds, and direct surface water discharges. Historically, the mode of transport for the contaminants was air and surface water. Contamination affected an area over 100 square miles. Cleanup at the site is ongoing (U.S. EPA, 2018).

In September 1984, the U.S. Environmental Protection Agency (EPA) listed the ASARCO East Helena Smelter on the National Priorities List (NPL) pursuant to Section 105 of CERCLA. From 1984 through 1997, the limited investigations and remedial actions conducted at the site by ASARCO consisted of either voluntary actions or actions implemented as part of settlement agreements between EPA and ASARCO under CERCLA. Remediation of the East Helena facility was transferred from CERCLA to the RCRA Correction Program after 1997.

In 1997, EPA initiated transfer of responsibility for ongoing remedial activities at the Facility from its CERCLA program to its “Corrective Action” program under RCRA. A Consent Decree, effective May 5, 1998, initiated the RCRA corrective action process. Subsequent to the 2005 ASARCO bankruptcy, ownership of the Facility was transferred to the Montana Environmental Trust Group (METG), LLC, as Trustee for the Montana Environmental Custodial Trust, in December 2009. On January 12, 2012, the First Modification to the Consent Decree was filed and substitutes METG for Asarco as a party to the 1998 Consent Decree.

ASARCO filed for Chapter 11 bankruptcy in August 2005. In 2009, the Bankruptcy Court approved a consent decree and settlement agreement regarding ASARCO’s Montana sites. ASARCO transferred title to the East Helena Smelter to the METG as Trustee of the Custodial Trust on December 9, 2009. The State of Montana, represented by Montana DEQ and Montana DOJ, is a beneficiary of the Custodial Trust and Montana DEQ is the lead agency for Mike Horse Designated Property, the Black Pine Designated Property, and Iron Mountain Designated Property. EPA is the lead agency for the East Helena site and consults with the State and Federal beneficiaries on annual budgets and implementation of RCRA corrective actions. The ASARCO East Helena remediation funds (\$94 million) were earmarked for treatment of arsenic- and selenium-contaminated groundwater migrating off the former smelter site northwest toward the Helena Valley and for stabilizing, controlling, and/or removing lead- and arsenic-contaminated soils on approximately 2,000 acres of former ASARCO land. These lands also include ranches and farmland that encircle three-quarters of the smelter property that were purchased because of concerns that contamination might be impacting the growing and grazing uses of the property (METG, 2018).

Through the federal Resource Conservation and Recovery Act (RCRA) program, EPA is the lead agency responsible for enforcement and oversight of METG for the remediation being implemented at the ASARCO East Helena Smelter. For the purposes of this restoration plan, remediation refers to the work that was described in the East Helena Facility Corrective Measures Study Report (METG, 2018). The RCRA Corrective Measures study was issued for public comment on March 16, 2018. EPA has drafted responses to the comments received and is evaluating the final slag remedy. Once the Corrective Measure Study is approved, the Trust has 90 days to develop the Corrective Measure Implementation Plan and design of the final remedy on the slag pile will begin.

EPA consults with the U.S. Department of Justice, U.S. Fish and Wildlife Service, Montana Department of Environmental Quality, and Montana Department of Justice on Montana Custodial Trust environmental actions. METG has been conducting interim actions to clean up the site (Figure 4). These actions consist of multiple elements that work together to protect human health and the environment. The main cleanup actions are 1) construction of an evapotranspiration cover (a soil cover over the old smelter site); 2) South Plant hydraulic controls; 3) source removals; 4) slag pile cover (to be implemented); and 5) institutional controls.

- 1) Evapotranspirative Cover (ET Cover): entailed demolition of all remaining smelter structures, placement of subgrade fill, and construction of the final ET Cover system to prevent infiltration of precipitation into contaminated subsurface soils, control erosion, shed clean surface water and prevent contact with contaminated soils on the smelter property. The ET Cover System has been completed.
- 2) South Plant hydraulic controls: elements consisted of Upper and Lower Lake removal, Prickly Pear Creek Dam removal, and Prickly Pear Creek realignment. Surface water loading to groundwater was reduced by removing Upper Lake and Lower Lake. Wetlands were created as part of the mitigation required by the US Army Corps of Engineers under Section 404 of the Clean Water Act. Establishment of a natural stream channel flow reduced the hydraulic profile lowering groundwater elevations beneath the site to reduce the amount of contaminated soils in contact with groundwater thus reducing groundwater contaminate concentrations. These remedial actions also developed more natural geomorphic condition for Prickly Pear Creek within the former Smelter reach and established natural wetland/riparian conditions along the Prickly Pear Creek riparian corridor.
- 3) Source removal actions: removal actions consisted of excavation and removal of impacted soils at former acid plant and Upper Lake marsh. These actions reduced areas

of impacted soil and sediment that were or could leach to groundwater or surface water. The Tito Park Area Soil Removal has been completed.

- 4) Slag pile future action: planned actions are to cover portions of the slag pile once a design is approved. This action is expected to reduce infiltration through the unfumed slag which effect groundwater. The cover would be designed to allow for potential future reuse of slag. The slag pile covers approximately 45 acres and contains 16 million tons of material.
- 5) Institutional controls: Two primary institutional controls for the site are the East Valley Controlled Groundwater Area and the Lewis and Clark County Soils Ordinance. The City of East Helena also has an ordinance banning the drilling of new wells within the City limits.

Figure 4: ET Cover System



1.2.1 Injury Overview

In 2006, the State's Proof of Claim described the natural resources that were the subject of the claim as the "air, groundwater, surface water, and soils" which were injured from releases of hazardous substances from the ASARCO East Helena Smelter. The State's claim also makes explicit reference to the contaminated "groundwater plume" and "riverbed." In the Consent Decree the State resolved, subject to certain reservations of rights, all of its natural resource damage claims against ASARCO. Accordingly, the natural resources that may be funded for restoration or replacement using funds from the ASARCO East Helena Smelter natural resource damage settlement include the groundwater, surface water and soils, including the groundwater aquifer and riverbed in the vicinity of the site. The State has jurisdiction, as a natural resource trustee, of these natural resources that were injured as a result of the release of hazardous substances from the former smelter. Furthermore, funds from the natural resource damage settlement can be used to replace lost services these natural resources would have provided but for the release of the hazardous substances, such as lost drinking water, fishing, waterfowl hunting, bird watching, hiking, and other services normally associated with groundwater and surface water, and the river and lake beds, floodplain, riparian zones, and wetland areas.

Groundwater

Based on many investigations, arsenic and selenium have been identified as the primary chemicals of concern in groundwater. However, aluminum, antimony, cadmium, lead, manganese, mercury, thallium, vanadium, zinc, and the primary chemicals of concern (arsenic and selenium) were all identified in groundwater at concentrations above relevant State and federal drinking water standards (METG, 2018). These chemicals of concern are responsible for two contaminant plumes associated with the former smelter. An arsenic plume originates at the former smelter and extends north-northwest. A selenium plume originates at the former smelter process area and slag pile and extends north almost to Canyon Ferry Road. The plumes are migrating along the general direction of groundwater flow. Baseline water quality was potable absent the releases of the primary chemicals of concern associated with the former smelter. Impacted groundwater exceeds relevant State and Federal drinking water standards. Therefore, under U.S. Department of the Interior regulations for natural resource damages, the groundwater at the ASARCO East Helena Smelter is considered injured (43 CFR 11, Section 11.62(c)) (Maest, Stratus Consulting, 2007).

The Corrective Measures Study report released by METG and EPA in April 2018 identifies the highest potential future use of groundwater at and downgradient of the site as a drinking water source (METG, 2018). The EPA and METG are implementing cleanup measures to improve groundwater quality. The Corrective Measures Study states that samples collected from facility

wells have shown a decrease in selenium concentrations since the implementation of corrective measures but that concentrations in samples collected from down gradient wells are variable. Arsenic concentrations from samples collected at the facility wells have generally remained stable and concentrations collected in wells downgradient are variable (METG, 2018). East Helena is located north of the smelter with a portion of the main business and residential areas overlying the groundwater plumes (DNRC, 2014).

As part of environmental action at the site, the METG proposed to drill a new well for the community of East Helena to replace the Wylie Well #3 that is downgradient of the plumes. The project is described in Attachment C as “New Production Well to Replace Wylie Well #3.” In May 2019, the EPA approved METG’s budget request for \$1,467,000 to drill a new well to replace the Wylie Well #3 and associated infrastructure. The METG has also proposed protecting the caisson at the McClellan water source and improving access to the McClellan radial wells as part of remediation. These projects are also described in Attachment C. The projects are estimated to cost \$756,785 and at the time of this final restoration plan are pending U.S. EPA approval.

East Valley Controlled Ground Water Area: In 2016, the Montana Department of Natural Resources and Conservation (DNRC) established the East Valley Controlled Ground Water Area to prevent exposure to contaminated groundwater and to protect public water supplies. The East Valley Controlled Ground Water Area establishes restrictions on well construction and groundwater use to protect humans and livestock from exposure to contaminated groundwater and control groundwater pumping that could potentially spread the plumes. The East Valley Controlled Ground Water Area further defines land areas over and around the arsenic and selenium groundwater plumes where drilling wells is prohibited or restricted until groundwater quality meets required drinking water standards.

There are two designated “subareas” within the East Valley Controlled Ground Water Area. Subarea 1 conforms to the arsenic and selenium plume boundaries with a buffer zone to account for uncertainty in the exact plume boundaries. Drilling new wells is prohibited in Subarea 1 that extends vertically to a depth of 200 feet in the southern portion and 300 feet in the northern portion. Subarea 2 extends beyond the arsenic and selenium plume boundaries, where concentrations of arsenic and selenium are lower than safe drinking water standards although high enough to warrant controls, and is vertically below the depths established for Subarea 1. The East Valley Controlled Ground Water Area requires testing of all new wells for possible contamination in Subarea 2. Permits are also required for new wells within Subarea 2 as excessive pumping could cause contaminants to migrate beyond the current plume boundaries. Properties west of Montana Avenue, within the limits of the City of East Helena, are included in the East Valley Controlled Ground Water Area. Properties east of Montana

Avenue, within the limits of the City of East Helena, are prohibited by ordinance from drilling new water wells in areas served by the City's water system.

More information and maps of the East Valley Controlled Ground Water Area can currently be found at the following website:

<http://dnrc.mt.gov/divisions/water/water-rights/controlled-ground-water-areas/east-valley>

Surface Water

Prickly Pear Creek flows along the east and north boundaries of the ASARCO East Helena Smelter site. The creek flows northwestward from the smelter, through East Helena, and into the Helena Valley. The creek is a losing stream through most of this reach, meaning it leaks water to the underlying groundwater system, resulting in groundwater mounding. Prickly Pear Creek has a wild reproducing resident population of brown trout. Migratory rainbow and brown trout are also found in the system (FWP, 2017). The METG completed streambed reconstruction of 1.25 miles of Prickly Pear Creek in November 2016, adjacent to the smelter. The Prickly Pear Creek headwaters are in the Elkhorn and Boulder mountains about 30 miles south and west of the former smelter. The creek drains into Lake Helena approximately seven miles north of the site.

Prickly Pear Creek condition within site: The METG's remedial goal is to reduce contaminant loading to groundwater by reducing groundwater elevation under the former smelter property to limit the volume of groundwater in contact with contaminated soil. In 2014, METG removed saturated contaminated sediments next to and within the Upper and Lower Lake complex. In 2016, to further lower the groundwater levels at the site, the smelter dam was removed, and a new Prickly Pear Creek stream channel was constructed east of the slag pile. The length of the reconstructed channel is 1.25 miles (METG, 2018).

1.2.2 Overview of Settlement Agreement

The 2009 Consent Decree specifically allocated \$5 million in natural resource damages to restore, rehabilitate, replace, or acquire the equivalent of injured natural resources at the ASARCO East Helena Smelter to be paid into the East Helena Site Compensatory NRD Special Revenue Fund (East Helena Restoration Fund). The Consent Decree also required that all interest and other earnings on the damages would be paid into that fund. As of July 2019, the State has approximately \$5.99 million available to restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources. The requirements of the Consent Decree are consistent with the natural resource damage provisions of the federal Superfund law and associated regulations which specify that any damages recovered from natural resource damage lawsuits may only be used to restore, rehabilitate, replace, or acquire the equivalent of

the injured natural resources that were the subject of the lawsuit (42 U.S.C. 9607). Attachment A provides the general definitions and examples of these terms.

The Governor, as trustee of the natural resources, will approve a final restoration plan, after considering public input and the recommendations of the NRDP and NRD Trustee Restoration Council.

In August 2019, the U.S. Fish and Wildlife Service issued a restoration plan and environmental assessment for the East Helena Smelter site describing how federal natural resource damage settlement funds will be spent for natural resources and their supporting ecosystems, belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the U.S. Department of the Interior, such as migratory birds and endangered species, would be spent (U.S. Department of the Interior, U.S. Fish and Wildlife Service, 2019). As part of the 2009 ASARCO bankruptcy settlement, ASARCO paid \$706,000 to resolve its potential natural resource damage liability to the U.S. Department of the Interior at the site.

1.2.3 Overview of the Restoration Planning Process

Restoration typically follows remedy and is the residual of the remedial actions. Restoration is an effort to restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources. The State of Montana NRDP developed this restoration plan in consultation with the Montana Department of Fish, Wildlife and Parks (FWP), the City of East Helena, the Lewis and Clark County Water Quality Protection District, the Lake Helena Watershed Group, Prickly Pear Land Trust, U.S. EPA, U.S. Fish and Wildlife Service, METG, and the public. NRDP gathered restoration action ideas from all these entities from their planning documents, meetings, and a public solicitation for projects.

NRDP assigned each restoration action idea from the City of East Helena Water Master Plan, the Lake Helena Watershed Plan, the Prickly Pear Creek Greenway trail study, FWP resource managers, the Lewis and Clark Water Quality Protection District, Prickly Pear Land Trust, and the public into broad restoration categories: groundwater replacement, Prickly Pear Creek restoration, and recreation. The proposed restoration actions that are included in the alternatives analysis are presented in Chapter 2, organized by these restoration categories. Other proposed restoration action ideas are included in Attachment C but were not included in the restoration alternatives described in Chapter 3.

43 CFR 11.82(a) provides that a reasonable number of possible alternatives for the restoration, replacement, rehabilitation, or acquiring the equivalent of the injured natural resources be developed and considered. NRDP developed three alternatives, in addition to the no action alternative, based on the natural resource injuries included in the State's claim and

recommendations from city and resource managers. An emphasis was given to projects already vetted in existing plans prepared by the City of East Helena, the Water Quality Protection District, and the Prickly Pear Land Trust. Each alternative is a selected suite of technically feasible restoration actions chosen for how well they restore, rehabilitate, replace, or acquire the equivalent of the injured resources and meet the required legal and policy criteria.

In addition, the NRDP solicited early restoration proposals for the ASARCO East Helena Smelter site in 2013. The early restoration projects are described below in Section 1.2.4.

1.2.4 Early Restoration at ASARCO East Helena Smelter

Superfund allows for what is referred to as “early restoration.” While waiting for the determination of the final clean-up actions at the former ASARCO East Helena Smelter site, including Prickly Pear Creek as it runs along that site, the State established a process under which relatively small, but time critical, early restoration projects, which met certain criteria, were reviewed and funded prior to the development of this comprehensive restoration plan.

NRDP released an Early Restoration Funding Process Proposal for a 30-day public comment period at the beginning of May 2013 (there was not an end date to this period). The NRDP posted the proposal on the Montana Department of Justice website and placed display ads in the Helena Independent Record. Also, on May 22, 2013, a front-page article in the Independent Record was published that described the proposed solicitation process in detail. The State received three emails and one letter commenting on the early restoration process proposal.

The NRDP solicited early restoration proposals in June 2014. Governmental entities, private individuals, and private entities were all eligible to submit early restoration proposals. Early restoration proposals were required to be located in the vicinity of the former ASARCO East Helena Smelter, the area in and around the site that contained natural resources that suffered injury as a result of releases of hazardous substances from the smelter.

One proposal from Prickly Pear Land Trust was received, reviewed, and funded. Using ASARCO East Helena Smelter restoration funds, Prickly Pear Land Trust conducted a planning and visioning process for a proposed Prickly Pear Creek Greenway trail system. Prickly Pear Creek is an important amenity for the communities through which it flows. Currently, there is little access to the stream itself, and there are areas in need of restoration to provide a healthier stream and riparian corridor. Without easy ways to reach the creek, the public is unable to enjoy the riparian area. The trail, or Greenway, envisioned in the Prickly Pear Land Trust feasibility study would provide access to the creek for recreation and education. In addition, it would serve as a non-motorized transportation corridor for area communities that are currently only connected by highways that are unsafe for bicycle and pedestrian traffic.

The Prickly Pear Creek Greenway trail plan and feasibility study involved significant public outreach effort to engage area stakeholders, private developers, and the public, creating a common vision for the connectivity of three communities: Helena, East Helena, and Montana City.

Prickly Pear Creek Greenway Trail Plan and Trails Feasibility Study 2016

Using ASARCO East Helena Smelter restoration funds for early restoration, Prickly Pear Land Trust prepared a feasibility study for developing a non-motorized transportation corridor from East Helena to Montana City that would provide public access to Prickly Pear Creek for recreational purposes. The feasibility study looked at environmental constraints, land ownership, existing land use, permitting, construction barriers, funding opportunities, and public-private partnerships. The final report included conceptual trail alignments, design options, and signage options throughout the trail system.

The Greenway trail feasibility study proposed 11.4 miles of total trail that would extend from the Helena Regional Airport to Montana City. The feasibility study analyzed four segments, each with stretches along Prickly Pear Creek (Figure 5).

Greenway Trail Feasibility Study Construction Cost Estimates 2016:

- Segment 1 Airport to East Helena, runs through 40-acre State NRDP parcel (2.9 miles) \$916,360
- Segment 2 East Helena and NRDP parcel, looping around smelter site (5.2 miles) \$1,561,023
- Segment 3 Prickly Pear Creek south to canyon (2.1 miles) \$750,828
- Segment 4 Ash Grove to Montana City (.7 miles) \$184,178

Construction Cost estimate: \$3,412,389

The METG prepared updated cost estimates for the Greenway trail, discussed in Section 2.3.1.1.

The 2016 Greenway trail feasibility study, prepared under the early restoration process, referred to the 232 acres of State-option land that the Prickly Pear Creek Greenway trail would potentially cross, but did not address the ownership of the State-option lands. Furthermore, the feasibility study did not address the long-term operations and maintenance of the Greenway trail system. These costs could be substantial, on the order of millions of dollars.

Figure 5: Early Restoration Feasibility Study Proposed Greenway Trail Segments (note: these segments are conceptual only).



The full preferred alignment connects Helena to Montana City via East Helena and includes four segments, one of which is a loop. The proposed greenway trail route has several connection points to the existing trail networks. See the specific segments section for detailed ownership and alternatives information.

1.2.5 General Proposed Plan for State-Option Land Conveyance

The METG has been managing all of the former ASARCO lands conveyed in the Consent Decree as part of the environmental cleanup. According to the Consent Decree, “as additional consideration for the settlement of this compensatory claim, the State shall have an option to acquire approximately two hundred and thirty two (232) acres of undeveloped land at the East Helena Designated Property, including approximately one hundred and ninety two (192) acres in the vicinity of Upper Lake, and forty (40) acres in the vicinity of Prickly Pear Creek in the northern part of East Helena, from the Custodial Trust without further consideration.” These acres are shown in Figure 3. In the Consent Decree, the stated purpose of these undeveloped lands is that they will be “dedicated to public recreation, wildlife habitat, open space, and/or wetlands.” As provided for in the Consent Decree, prior to the conveyance of this land, “the precise location and future uses of this land shall be agreed upon and approved in a written agreement between the State and US EPA, after consultation with DOI and the Custodial Trustee.” Thus, the State is considering the best option for future use of this State-option land for public recreation, wildlife habitat, open space, and/or wetlands.

Other ASARCO Land

The METG has also been in discussion with Prickly Pear Land Trust and the City of East Helena and other entities about conveyance of ownership of other ASARCO land. This land is not part of the State-option land identified in the Consent Decree but might be adjacent to or near the State-option land. This other ASARCO land could be conveyed to Prickly Pear Land Trust, the City of East Helena, or other entities and would not be subject to the same restrictions that the Consent Decree places on the State-option land. The details of any possible transfers such as the potential owner, exact acreage, stewardship costs, future uses, and timing of transfer have not yet been agreed upon and are not part of this restoration plan. The possible conveyance of any additional lands related to the State-option land would be negotiated separately, but may be included in the discussions about the transfer of State-option land.

METG Stewardship Funds

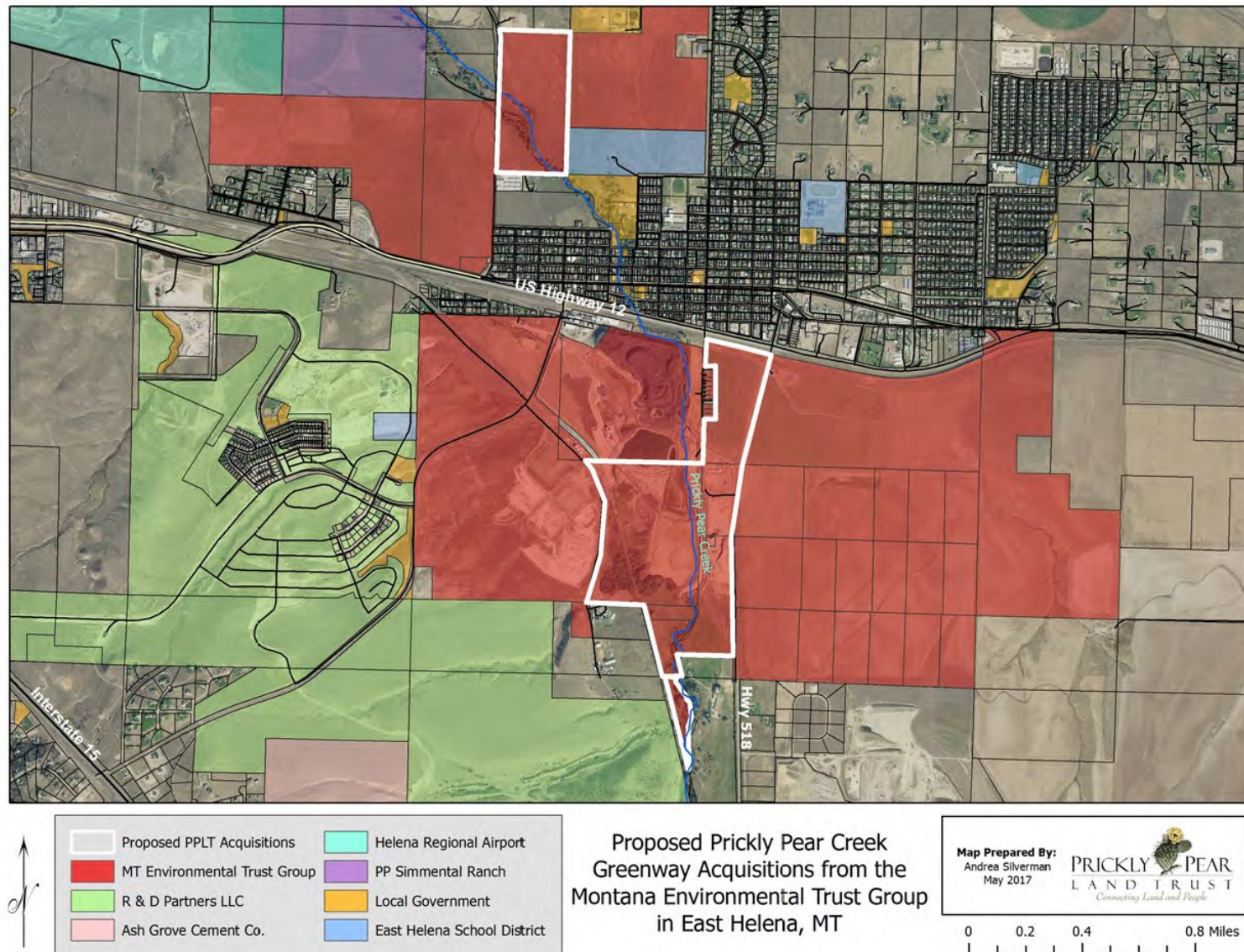
The METG intends to provide stewardship funds for some of State-option and other ASARCO lands that it would transfer to other parties. These funds reflect the stewardship cost of those lands that the METG would otherwise be incurring if the land were not transferred. The details of a land ownership transfer have not yet been negotiated (for example, different acreage or different time frame), so although the METG has estimates, the actual amount of stewardship funds has not yet been determined.

State-option Land and the Greenway Trail

METG has stated that because of liability concerns, the Greenway trail cannot be constructed on METG-controlled land. The State-option land is tentatively an important component of the Greenway trail proposal because a large portion of the trail crosses the State-option land. Therefore, this restoration plan anticipates that the transfer of some or all of the State-option land to other private or public owners would be a component of the Greenway trail project, even though the land conveyance approval process and other negotiated details are not part of this plan.

According to the Consent Decree, prior to the conveyance of the State-option land, the precise location and future uses of the land shall be agreed upon and approved in a written agreement between the State and U.S. EPA, after consultation with DOI and the METG. Part of the State's consideration is identifying the exact acreage and future owners for the State-option land. Since the Greenway trail feasibility study was prepared, METG, NRDP, Prickly Pear Land Trust, and other entities have discussed conveyance of ownership of the State-option land. Prickly Pear Land Trust has tentatively agreed to take ownership of State-option and other ASARCO land (see Figure 6, *Proposed Prickly Pear Creek Greenway Trail Project - Acquisitions*), but the details of this transfer such as the exact acreage, stewardship costs, and timing of transfer have not yet been agreed upon. Prickly Pear Land Trust has stated that they would tentatively hold the property title for approximately 10 to 15 years and help transition the property to public- or private-ownership with public access, as an interim owner, along with sufficient funds to operate and maintain the lands. If the land title transfer to Prickly Pear Land Trust or other entities cannot be completed, the State will work with EPA, DOI, the Trust, and other stakeholders to find a suitable owner. As required by the Consent Decree, the State would ensure that any future holder of the State-option property was legally required to maintain the State-option property for public recreation, wildlife habitat, open space and/or wetlands.

Figure 6: Proposed Prickly Pear Creek Greenway Trail Project - Acquisitions



1.3 Public Participation

NRDP recognizes the importance of public input and participation in the restoration planning process, and this input promotes better decision making. NRDP has engaged the public, local governments, local groups and organizations, and State and Federal agencies since starting to prepare this restoration plan.

NRDP designed the restoration plan with numerous opportunities for public comment in order to ensure that all viewpoints were considered to the fullest possible extent. The public comment on this restoration plan is just one of the several opportunities that have been provided to the public for participating in the restoration planning for the former ASARCO East Helena Smelter site.

Specific to the development of this restoration plan, NRDP started meeting with members of the public, local government, State agencies, and federal agencies as the EPA's Corrective Measures Study (METG, 2018) was nearing completion. NRDP met with the City of East Helena on April 4, 2018, to discuss technical memoranda prepared by the City's engineering consultant regarding proposed projects to address groundwater injury and recreation. On April 23, 2018, the NRDP met with the Lewis and Clark Water Quality Protection District to discuss proposed projects on Prickly Pear Creek that were identified as part of the Lake Helena Watershed Restoration Plan. On May 3, 2018, the NRDP met with Prickly Pear Land Trust to discuss their proposed Greenway trail project. NRDP considered comments and additional input from these entities as well as from the public during a public meeting attended by 25 members of the public on June 13, 2018. Considering this input, and with the CERCLA, Montana Comprehensive Environmental Cleanup and Responsibility Act (CECRA), and Montana Environmental Policy Act (MEPA) considerations outlined above, NRDP developed goals for each of the smelter area natural resources that were injured by the facility's release of hazardous substances. These goals will guide the future restoration actions and selection of alternatives.

On June 13, 2018, the NRDP held a public scoping meeting in the City of East Helena at the Fireman's Hall, East Pacific Street. The meeting was announced at the City of East Helena council meeting on June 6, 2018. The meeting was advertised in the Helena Independent Record legal ads on May 31 and June 7, 2018. Twenty-five people attended the public scoping meeting. The NRDP presented a summary of the ASARCO bankruptcy settlement, explained Natural Resource Damage Assessment laws, the purpose and scope of the restoration plan, ideas already scoped, and criteria for restoration alternative selection. The NRDP also explained how the public can be involved in the restoration plan preparation by submitting a restoration action idea and by conveying issues with the implementation of the proposed actions.

During the public scoping process, the following restoration actions were proposed:

- Creation of an outdoor classroom near the East Helena Public Schools
- Creation of a curriculum for high school students about what happened to the stream during the years of operation of the smelter or how normal streams should function
- Removal of slag from Prickly Pear Creek in town, especially in town and from Highway 518 bridge to Burnham's diversion
- A planning study and restoration of 1,800 linear feet of Prickly Pear Creek from Kennedy Park to the Prickly Pear Water Users irrigation diversion

Issues raised during scoping included:

- Considering incorporation of floodplain in trail development. Consideration should be given to development of vegetative strips that could act as flood plain for the stream where the trail is constructed.
- Considering incorporation of floodplain in land sales
- Flooding at bridges in East Helena

Support was offered for the following restoration actions:

- Greenway trail
- Prickly Pear Creek re-watering project
- Improvements to East Helena Water system

Four emails/letters were received during the scoping period (Kathie Moore, Prickly Pear Land Trust, Brian Obert, and Water Quality Protection District). Four support letters were also submitted by Prickly Pear Land Trust for the Greenway trail (City of East Helena, East Helena Public Schools, Representative Mary Ann Dunwell, and a letter signed by nine civic and community leaders).

Groundwater Replacement Restoration Actions

The City of East Helena prepared an updated Water Master Plan in spring 2018. The draft was released in March 2018. The City held two public meetings on the preparation of the master plan. The first meeting on February 27, 2018, was held to discuss the water system master plan efforts and seek public comment. The City held a second public meeting on the draft water master plan on April 5, 2018. The City prepared and published a checklist environmental assessment for the proposed East Helena water system improvements on March 12, 2018. Comments on the environmental assessment were due on April 10, 2018.

The City of East Helena Capital Improvements and Water Master plans also provided background for actions that would take place as part of groundwater replacement projects. The Capital Improvement Plan was vetted in the community with a public hearing on September 28, 2016. The Water Master Plan was finalized in April 2018.

Surface Water Restoration Actions

Projects in the Lake Helena Watershed Plan were vetted in the community during the development of the watershed restoration plan. The plan was developed by the Lewis and Clark County Water Quality Protection District, the Lake Helena Watershed Group, and an advisory committee that included local natural resource managers and private consultants. The advisory committee reviewed input and guided the plan development process. Between 2012 and 2014, interested parties were engaged with a restoration plan website page, a fact sheet, a letter sent to the watershed group mailing list of over 750 members, nineteen stakeholder interviews, four presentations to community organizations, a public meeting in 2013, surveys located on the website and available at public meetings, and news media coverage. Details on public involvement can be found here: <https://www.lccountymt.gov/health/water/lake-helena-watershed-group.html>. Some of the projects identified in the watershed plan could be used as restoration actions to meet the goals of this restoration plan.

Recreation Services Replacement Actions

The NRDP solicited the public for restoration actions to be considered for inclusion in alternatives for the expenditure of ASARCO East Helena Smelter restoration funds in 2013. The early restoration process discussed in Section 1.2.4 identified one recreation project that would be a restoration action to meet restoration plan goals, the Greenway trail project.

Under the early restoration process, the development of the Greenway trail project included several opportunities for public participation. Prickly Pear Land Trust held two open houses during which the project team members present information about the concept and receive feedback about the planning process. One meeting was held at the Montana City School Library in Clancy on March 2, 2016. The second meeting was held at the East Valley Middle School on March 3, 2016. Prickly Pear Land Trust also asked the community to take an on-line survey on the Greenway trail project feasibility study. Fifty-three survey responses were received either online or in hardcopy format. The Prickly Pear Land Trust maintains a website to keep the community informed about the development on the Greenway trail plan: <http://pricklypearlt.org/project/centennial-trail/>

On March 26, 2018, the City of East Helena provided the NRDP with projects that would assist the community in connecting their existing City parks with the proposed Greenway trail.

Other Community Involvement in East Helena

METG engages the community on remediation by engaging stakeholders through its website located here: <http://www.mtenvironmentaltrust.org/east-helena/east-helena-community-involvement/>. The METG posts cleanup documents, fact sheets, and links to media coverage of activities at the former ASARCO East Helena Smelter. The METG also hosts periodic meetings in the community to keep the citizens informed and to accept comments on work plans.

EPA and METG sponsored a public meeting and open house on April 11, 2018, to review the draft Corrective Measures Study report (METG, 2018) for the ASARCO East Helena Smelter site. The draft Corrective Measures Study describes the remedial action alternatives for addressing contamination in soil, groundwater, surface water and sediments from the former ASARCO East Helena Smelter. The public comment period on the draft Corrective Measures Study report closed on May 29, 2018.

Comments on the Draft Restoration Plan

On January 11, 2019, the State of Montana (State) issued for public comment a Draft East Helena ASARCO Smelter Draft Restoration Plan and Environmental Assessment Checklist (draft restoration plan). The public comment period for the draft restoration plan ran from January 11, 2019 through 5:00 PM on February 11, 2019. Starting on January 11, 2019, the document was available electronically on the Montana Natural Resource Damage Program website: <https://dojmt.gov/lands/notices-of-public-comment/>.

Legal notices announcing the availability of the draft restoration plan were published on January 11, 2019 in the Helena Independent Record newspaper. On February 11, 2019, the State sent notices of the draft restoration plan comment opportunity to 33 individuals and entities on its mailing list. On January 28 and 29, the State placed a legal advertisement in the Helena Independent Record newspaper announcing the January 29 public meeting about the draft restoration plan and included information about submitting comments. On January 29, 2019, the State presented the draft restoration plan at a public meeting at the City of East Helena Fireman's Hall at 2 East Pacific Street. Over 22 people attended the meeting.

The State received a total of 56 letters or emails during the public comment period. Five comments were received after the comment period closed but are considered as part of the response to comments. See Attachment D for the responses to comments. Copies of the comment letters are included in Attachment E, including the five late comments. Copies of comment letters are also available on the NRDP website at: <https://dojmt.gov/lands/notices-of-public-comment/>. Where appropriate, changes were made to the text of the draft restoration plan to reflect the responses to comments.

1.4 Criteria for Decision Making

Under the Federal NRD regulations, NRD settlement funds can only be spent to restore, rehabilitate, replace, or acquire the equivalent of injured natural resources, and natural resource trustees must complete a restoration plan and consider public input before NRD settlement funds can be spent (42 U.S.C. Section 9607 and 9611). The restoration plan must specify how funds will be spent and include an evaluation of various restoration alternatives according to criteria specified in federal NRD regulations (43 CFR Section 11.81).

The criteria that were used to analyze restoration alternatives and to decide on the preferred alternative are grouped into two sets reflecting their derivation from two different sources: legal and policy. The “Legal Criteria” are derived primarily from the criteria set forth in the U.S. Department of the Interior natural resource damage assessment regulations, which trustees are to use when selecting restoration alternatives. The “Policy Criteria” have been developed by the State to promote State of Montana goals.

The criteria descriptions provided below indicate the basis for how the NRDP qualitatively analyzed the restoration action ideas and restoration alternatives for each criterion. In applying these criteria to evaluate proposed restoration alternatives, the criteria were evaluated qualitatively rather than quantitatively. The importance of each criterion as applied to individual alternatives will vary depending upon the nature of the alternatives.

These criteria were also applied to a screening of the restoration action ideas to determine if they were eligible for inclusion in the restoration alternatives. If the restoration actions ideas were determined to be eligible, the actions are summarized in Chapter 3. If the restoration action ideas were determined not to be eligible, the proposed restoration actions and criteria evaluations are summarized in Attachment C. An evaluation of the restoration alternatives that include eligible actions, based on these criteria is found in Chapter 4.

1.4.1 Legal Criteria

Technical Feasibility: This criterion evaluates the degree to which a restoration action employs well-known and accepted technologies and the likelihood that the action will achieve its objectives. Actions that are technologically infeasible will be rejected. However, actions that are innovative or that have some element of uncertainty as to their results may be approved. Different actions will use different methodologies with varying degrees of feasibility. Accordingly, application of this criterion will focus on an evaluation of an action’s relative technological feasibility.

Relationship of Expected Costs to Expected Benefits: This criterion examines whether an action's costs are commensurate with the benefits provided. In doing so, the costs associated with a restoration action, including costs other than those needed simply to implement the action, and the benefits that would result from an action, will be determined. Application of this criterion is not a straight cost-benefit analysis, nor does it establish a cost-benefit ratio that is by definition unacceptable. While it is possible to quantify costs, quantifying benefits is more difficult. Requiring a restoration action to meet some established cost-benefit ratio would likely result in the rejection of many worthwhile actions because of the difficulty in quantifying the benefits to resources and services resulting from their implementation.

Cost-effectiveness: This criterion evaluates whether a particular restoration action accomplishes its goal in the least costly way possible. As outlined in the natural resource damage regulations, cost-effectiveness means that when two or more activities provide the same or a similar level of benefits, the least costly activity providing that level of benefits will be selected (43 CFR 11.14(j)). To apply this criterion in a meaningful fashion, all of the benefits restoration action would produce must be considered, not just cost; otherwise the focus would be too narrow. Take the example of a restoration action that would fully restore a given resource in a short period of time compared to another restoration action that would restore the same resource at less cost but over a longer period of time. Considering only that the second action is less expensive than the first action ignores the benefits resulting from a relatively shorter recovery period. In this example, since an accelerated recovery time is a benefit, it would need to be factored into a determination of cost-effectiveness.

Results of Response Actions: This criterion considers the results or anticipated results of response actions underway, or anticipated, in the ASARCO East Helena Smelter area. Major response actions, described above in Chapter 1, have been completed, but additional response actions are scheduled in the next couple of years. Application of this criterion will require assessment of response actions at an adequate level of detail in order to make projections as to their effects on the natural resources and services. Consideration of response actions will occur in two principal contexts:

- Evaluating what is necessary in the way of restoration of resources and services in light of the ongoing and planned response actions.
- Evaluating the degree of consistency between a restoration action and a response action looking at whether a project builds on a response action or, at the other end of the spectrum, seeks to undo a response action. Those restoration actions that do the former as opposed to the latter will generally be favored.

Adverse Environmental Impacts: This criterion weighs whether, and to what degree, a restoration action will result in adverse human or physical environmental impacts. Specifically, the State will evaluate significant adverse impacts, which could arise from the restoration action, short term or long term, direct or indirect, including those that involve resources that are not the focus of the project. To do so, the dynamics of a restoration action and how that action will interact with the environment must be understood.

Recovery Period and Potential for Natural Recovery: This criterion evaluates the merits of a restoration action in light of whether the resource is able to recover naturally and, if a resource can recover naturally (i.e., without human intervention), how long that will take. This will place a restoration action's benefits in perspective by comparing the length of time it will take for the resource to recover if the action were implemented, with the length of time for natural recovery. (The term "recovery" refers to the time it will take an injured natural resource to recover to its "baseline," i.e., pre-injury condition.) If a resource will not recover without some action or if natural recovery will take a long time, a restoration action may very well be justified. Conversely, if a resource is expected to recover on its own in a short period of time, a restoration action may not be justified.

Human Health and Safety: This criterion evaluates the potential for a restoration action to have adverse effects on human health and safety. Such a review will be undertaken not only to judge a particular action but also to determine if protective measures should be added to the restoration action to ensure safety.

Federal, State, and Tribal Policies, Rules and Laws: This criterion considers the degree to which a restoration action is consistent with applicable policies of the State of Montana and applicable policies of the federal government and Tribes (to the extent the State is aware of those policies and believes them to be applicable and meritorious). In addition, a restoration action must be implemented in compliance with applicable laws and rules, including the consent decree.

1.4.2 Policy Criteria

In addition to the legal criteria, the following policy criteria will be applied when considering prospective restoration projects.

Normal Government Function: This criterion evaluates whether a restoration action involves activities for which a governmental agency would normally be responsible or that would receive funding in the normal course of events and would be implemented if recovered natural resource damages were not available. Settlement funds may be used to augment funds available to government agencies, if such cost sharing would result in the implementation of a

restoration action that would not otherwise occur through normal government function. Based strictly on this criterion, a project involving activities that would fall within normal government responsibilities may be ranked lower than a restoration action that does not fall within this category.

Price: The State will evaluate whether the land, easements, water rights, or other property interests proposed to be acquired are being offered for sale at or below fair market value. Consideration of this criterion will likely require the State to conduct its own appraisal of the property. If the appraisal process for an acquisition was not subject to initial State review and approval, the State will, at a minimum, conduct a review appraisal and may conduct a full appraisal.

Location: Restoration actions will be considered in the Prickly Pear Creek drainage downstream approximately to Lake Helena, and upstream as far as Montana City. Actions will also be considered in the major tributaries to Prickly Pear Creek, such as Ten Mile Creek, McClellan Creek, and Jackson Creek.

1.5 Environmental Review

An environmental review of the implementation of the restoration plan is provided in Attachment B. This checklist is a standard checklist used by State of Montana agencies to evaluate impacts of proposed State action on the physical and human environment pursuant to the requirements of the Montana Environmental Policy Act (MEPA). This checklist covers impacts to the environment and human health and safety, two of the required Department of the Interior Natural Resource Damage criteria (43 CFR §11.82), plus it covers additional impacts to the human environment required to be analyzed under the Montana Environmental Quality Act (see “A Guide to the Montana Environmental Policy Act,” prepared by the Montana Environmental Quality Council, 2017). As part of its analysis of impacts to human health and safety, the State will determine if protective measures should be added to the restoration plan alternatives to ensure safety. The City of East Helena has already prepared and published a checklist environmental assessment for the proposed East Helena water system improvements on March 12. Comments on the environmental assessment were due on April 10, 2018.

2 Restoration Actions – Categories

The development of restoration alternatives is intended to identify restoration actions that address the natural resource injuries caused by the ASARCO East Helena Smelter. In addition, a general proposed plan is identified for future uses of the 232 acres of State-option land in the Consent Decree for public recreation, wildlife habitat, open space, and/or wetlands (Section 1.2.5).

Restoration action ideas were gathered from the public, the City of East Helena Capital Improvements Plan, the City of East Helena Water Master Plan, the Lake Helena Watershed Plan, the Prickly Pear Creek Greenway trail study, and conversations with local resource managers from the City of East Helena public works department, FWP, the Lewis and Clark Water Quality Protection District, Prickly Pear Land Trust, and the public. These restoration projects were identified as priority actions or action types by local resource managers to address the natural resource injuries at the site. Each restoration action idea was assigned into a broad restoration category: groundwater replacement, surface water restoration; and recreation replacement.

Some of the proposed restoration actions were less developed than others or had other components that did not allow them to be carried forward into the restoration alternatives. Actions that were determined to be ineligible based on not meeting Superfund legal or policy criteria are included in Attachment C, with a summary of the criteria analysis. The State of Montana, as Trustee for the natural resources, used the following eligible action ideas to develop the restoration alternatives described in Chapter 3. A detailed criteria evaluation for restoration actions included in the restoration alternatives is included in Chapter 4.

2.1 Groundwater Replacement

Goals: Replace injured groundwater resource and associated services

Objectives:

- Improve the City of East Helena water system components to reduce the loss of treated water from the existing system and to improve collection of water to replace the loss of use of the injured groundwater resources.

Water system improvements in East Helena constitute replacement of the injured groundwater resources and associated lost use services in and near the ASARCO East Helena Smelter area. The water system improvements constitute replacement of the injured groundwater resources and associated services in the Helena Valley that response actions have not returned to

suitability for drinking water. The Corrective Measures Study estimated that removal of all saturated soil exceeding 40 parts per million of arsenic, would require excavation of a minimum of approximately 1.5 million cubic yards of overburden to remove 600,000 cubic yards of contaminated saturated soil in the plant site area. This remedial action removal alternative would result in an estimated additional 8% reduction in total arsenic mass at an estimated cost of \$162 million. The East Valley Controlled Groundwater Area petition stated the time required to implement all corrective measures and for the full benefits or extent of benefits of the corrective measures on groundwater quality to be realized cannot be quantified at this time, but is on the order of hundreds to thousands of years (DNRC, 2014).

The proposed restoration actions outlined in this section all conserve existing sources of water, and allow East Helena to more reliably provide drinking water, and not require East Helena to find new sources of water that have not been contaminated by the ASARCO East Helena Smelter. The City of East Helena owns and operates the water treatment system that provides drinking water to residents of the city. The East Helena water system is supplied by two general sources, the McClellan groundwater source and the Wylie Drive groundwater source. The McClellan source is an infiltration gallery with two radial wells. Each radial well has two laterals approximately 12 feet below ground surface. Water is collected in these laterals and flows into a caisson that serves as a pumping basin. Water is pumped from the caisson, chlorinated, and stored in two concrete storage tanks. The Wylie Drive source is a system of three deep groundwater wells north of the city along Wylie Drive.

The two sources service a network of transmission and distribution pipes. The two radial wells at the McClellan source have a combined capacity of approximately 1,000 gallons per minute (gpm). The wells for the Wylie Drive source have a combined capacity of approximately 1,350 gpm, giving the total system a capacity of 2,350 gpm.

The City of East Helena's existing water system has excess capacity and the ability to accommodate future growth. Based on historical usage records, in conjunction with Montana Department of Environmental Quality (DEQ) requirements for water supply and storage capacity, the City estimates that the existing water system could serve an additional 300-500 residential connections, or an equivalent combination of residential and commercial. The number of additional water system connections would largely depend on the location of future annexations and the fire flow requirements needed for any larger structures within those annexations.

In 2017, the City of East Helena prepared a Capital Improvements Plan to evaluate long-term needs for maintaining, improving, and building new public facilities, including the community water system. Anticipated needs are based in part on the 2014 Growth Policy (East Helena

2014). The Capital Improvements Plan identified nine priority actions to upgrade the City of East Helena water system.

In 2018, the City of East Helena prepared a Water Master Plan (East Helena, 2018). The water master plan identified eight priority water projects that included a new water supply well, caisson protection and level monitoring improvements, replacement of the McClellan Storage Tanks, three distribution project priorities, a new bridge to the McClellan water source, and upgrades to the telemetry system. The distribution projects are not included for potential funding in this restoration plan (See Attachment C).

The water master plan states that groundwater evaluations in the area indicate that dissolved arsenic and selenium plumes originating from the ASARCO East Helena Smelter have migrated generally northward creating a potential vulnerability for Wylie Well #3. The selenium plume originating from the site is approximately 1,250 feet from the well. The Wylie Well #3 creates a cone of depression when pumping at its rate of 500+ gpm in the unconfined aquifer that could induce groundwater flow from a significant radial distance. In addition, operations at Helena Sand and Gravel's gravel pit near Wylie Well #3 could also create an even greater cone of depression which would contaminate the well with the selenium plume. If Wylie Well #3 becomes contaminated the City's water supply well would be unusable without expensive treatment.

As part of environmental action at the site, the METG proposed to drill a new well for the community of East Helena to replace the Wylie Well #3 that is downgradient of the plumes. The project is described in Attachment C as "New Production Well to Replace Wylie Well #3." In May 2019, the EPA approved METG's budget request for \$1,467,000 to drill a new well to replace the Wylie Well #3 and associated infrastructure. The METG has also proposed protecting the caisson at the McClellan water source and improving access to the McClellan radial wells as part of environmental action. These projects are also described in Attachment C. The projects are estimated to cost \$756,785 and at the time of this final restoration plan are pending U.S. EPA approval.

2.1.1 Proposed Groundwater Restoration Actions

The City of East Helena identified \$7,357,659 in priority actions in its 2018 Water Master Plan, including a new drinking water well and improvements in water distribution and transmission, telemetry, and storage (City of East Helena, 2018). As part of the environmental action, METG is funding drilling and development of a new drinking water well. The METG has also proposed protecting the caisson at the McClellan water source and improving access to the McClellan radial wells as part of environmental action. The projects are estimated to cost \$756,785 and at the time of this final restoration plan are pending U.S. EPA approval. The City's Water Master

Plan identifies several other projects, including replacing the McClellan water tanks, that would also be eligible for restoration funds.

In 2018, the City of East Helena also submitted grant applications to the Treasure State Endowment Program (TSEP) and the Montana Renewable Resources Grant and Loan Program (RRGL) to help fund the water system improvement priorities. The 2019 Legislature awarded a \$500,000 TSEP grant and a \$125,000 RRGL grant to the City of East Helena for their priority water projects.

The City of East Helena, using its Water Master Plan, would be the project sponsor for groundwater replacement actions. The City prepared detailed descriptions and cost estimates for the groundwater restoration actions described in the City's Water Master Plan.

2.1.1.1 Telemetry Equipment (SCADA)

The existing telemetry equipment was designed to control all the pumps for the system, allowing any of the pumps to be turned on and off from the wastewater treatment facility. Water levels at the tanks are also monitored at the treatment facility with the telemetry equipment.

The existing telemetry equipment for the City's water system is, at times, not communicating from the radial wells properly. During these periods no data is received, and operators are not certain of the status from the McClellan Radial Wells. Technology has improved a great deal since the late 1990s and an improved system would conserve water and provide more reliable communication.

Cost estimate: \$474,090

2.1.1.2 Storage Actions

Water storage for the City of East Helena is provided by three storage tanks. In 1999, a 1-million gallon buried pre-stressed concrete tank was constructed southwest of the city along Highway 282 and two side-by-side cast-in-place concrete storage tanks, commonly known as the McClellan Tanks, are located southeast of town above the McClellan Creek radial wells. The older of the two McClellan tanks was constructed in 1928 (McClellan Tank #2) and the other constructed in 1948 (McClellan Tank #1). Hydraulically, the McClellan Tanks operate as a single tank due to a direct connection between them. Currently, the City has a total of 1,550,000 gallons of storage available.

McClellan Storage Tanks

In October 2017, Robert Peccia & Associates (RPA) personnel tested the McClellan storage tanks for leakage over a 24-hour period (tested together as one unit including the connecting piping). According to the American Concrete Institute (ACI), the allowable leakage rate for an unlined concrete water-containment structure with a side water depth of less than 25 feet is 0.1 percent of the water volume in 24 hours. The allowable leakage rate for each tank would be:

Tank #1 – 250,000 gallons x 0.001 = 250 gallons/24 hours

Tank #2 – 300,000 gallons x 0.001 = 300 gallons/24 hours

Water levels were read over a 24-hour period and determined there was a loss of 17,110 gallons in Tank #1 and 26,734 gallons lost in Tank #2 for a total of 43,844 gallons of water lost within a 24-hour period (approximately 16 million gallons per year). This amount is much greater than the allowable leakage rate suggested by ACI.

In 2002, the lid on the McClellan Tank #2 was replaced and surface rehabilitation was done on McClellan Tank #1. New hatches and ladders were installed on both tanks to meet Montana Department of Environmental Quality's requirements. The concrete is showing its age however, particularly on the exposed portions of McClellan Tank #1. There is spalling concrete, and, in places, gaps are forming large enough to be concerning, due to the lost concrete. If not addressed, these gaps could allow surface water, insects, or rodents to enter the tank. Additionally, the valves and piping that connect these tanks have been constructed and repaired, as needed, and do not provide the operators methods for control or isolation.

Cost estimate: \$3,383,010

2.2 Prickly Pear Creek Restoration

Goals: Restore riparian vegetation, fisheries, and natural stream flow.

Objectives:

- Increase or maintain flow in Prickly Pear Creek
- Improve riparian vegetation and fish and wildlife habitat

2.2.1 Proposed Restoration Actions

The Water Quality Protection District and NRDP identified restoration action ideas for Prickly Pear Creek, described below. These restoration projects are included as restoration strategies in the Lake Helena Watershed Restoration Plan (Lewis & Clark Co Water Quality Protection District & Lake Helena Watershed Group 2015). The Watershed Restoration Plan identifies the following goals for this stretch of the Lower Prickly Pear watershed: ensure that water continues to flow throughout this reach; provide for cooler temperatures; improve fish and wildlife habitat; and reduce sediment, nutrients, arsenic, cadmium, copper, lead, and zinc from the slag piles and permitted discharges of the ASARCO East Helena Lead Smelter (Lewis & Clark Co Water Quality Protection District & Lake Helena Watershed Group, 2015). Some of these goals overlap with the goal outlined above in this restoration plan. The Water Quality Protection District and State will implement the projects they proposed.

2.2.1.1 Increase or maintain Prickly Pear In-stream Flow

Prickly Pear Creek Re-watering Project

Since 2009, the Water Quality Protection District, Lake Helena Watershed Group, Prickly Pear Water Users Association, and Helena Valley Irrigation District have participated in a Prickly Pear Creek re-watering project. The goal of this action is to maintain in-stream flows in Prickly Pear Creek in a reach directly below the Prickly Pear Water Users diversion during the irrigation season. In the past, this reach has been completely dewatered for about two to three miles during the irrigation season (north edge of City of East Helena almost to York Road). When flows in Prickly Pear Creek fall below 20 cubic feet per second, the Prickly Pear Water Users agree to stop diverting water from Prickly Pear Creek, and water is purchased from Bureau of Reclamation by the Helena Valley Irrigation District to provide water to the Prickly Pear Creek Water Users Association. This exchange provides a reliable source of irrigation water for the water users, while preserving summer flows in Prickly Pear Creek.

The Prickly Pear Creek fishery has responded positively to this project. Brown trout have increased in abundance 196% from pre-project numbers, 137 fish per mile to 405 fish per mile in 2016. The re-watering project is a priority in the Lake Helena Watershed Restoration Plan.

An ongoing stable source of funding to purchase water is necessary to establish a long-term agreement between Helena Valley Irrigation District and the Prickly Pear Creek Water Users Association to maintain Prickly Pear Creek as a suitable fishery. The cost to purchase the water is \$15,220 annually at present value. The Water Quality Protection District has applied annually for and received funding for this project via a number of sources like Northwestern Energy and

the Bonneville Environmental Foundation. In order to support this re-watering project for at least 10 years, the cost would be approximately \$150,000.

Cost estimate: \$150,000

2.2.1.2 Improve riparian vegetation/ riparian health

Plantings on New Prickly Pear Creek Channel

The NRDP proposes to augment riparian vegetation and health and improve fish and wildlife habitat along the newly reclaimed Prickly Pear Creek by planting large cottonwoods. These additional plantings decrease the recovery time of the reclaimed area and improve fish and wildlife habitat in the area shown on Figure 7. Approximately 125 large cottonwoods would be planted near Prickly Pear Creek as determined by METG's revegetation specialist.

Cost Estimate: \$40,000

2.3 Recreation Replacement

Goals: Compensate for lost recreational use.

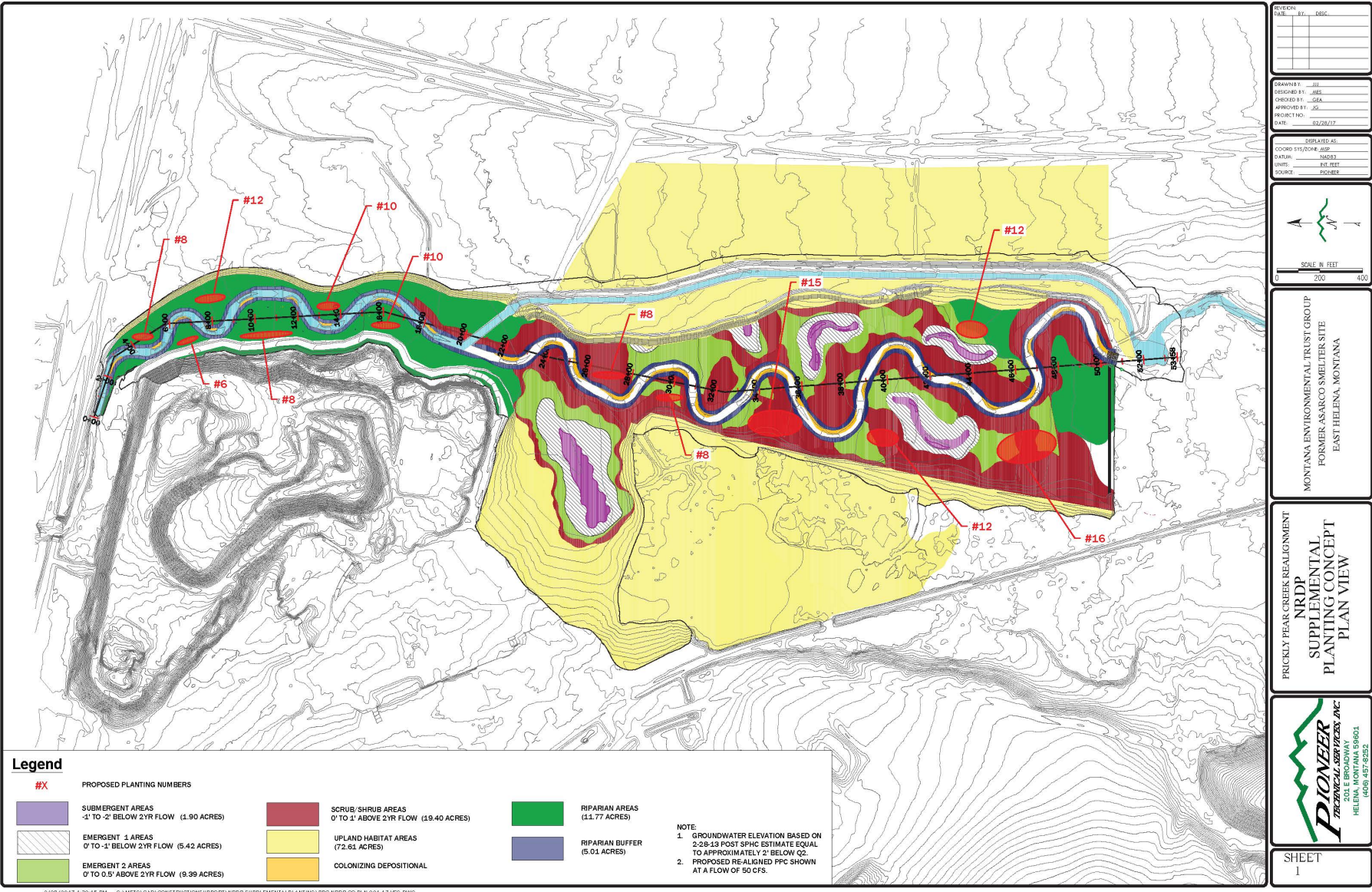
Objectives:

- Build trails
- Increase recreational access

2.3.1 Proposed Restoration Actions

Recreation projects were proposed by Prickly Pear Land Trust (see Section 1.2.4) and the City of East Helena. At this stage of planning, the State assumes that Prickly Pear Land Trust and the City would be the project sponsors for the projects they proposed. If that is not possible, the State would implement the projects or seek other suitable sponsors.

Figure 7: New Prickly Pear Creek Channel



2.3.1.1 Greenway Trail Project

The Prickly Pear Creek Greenway trail feasibility study proposed 11.4 miles of total trail that would extend from the Helena Regional Airport to Montana City (see Section 1.2.4). The feasibility study analyzed four segments, each with stretches along Prickly Pear Creek. The METG prepared construction estimates for the entire 11.4 miles of Greenway trail as \$4,309,933.

Segments 2, 3, and 4 include overall about 8 miles of trail, some of which would be paved and some gravel. Segment 2 includes the Greenway trail in East Helena, would loop around the smelter site, and be located on the State-option parcel along Prickly Pear Creek (5.2 miles). Segment 3 would follow Prickly Pear Creek south to the Prickly Pear canyon (2.1 miles). Segment 4 would run from Ash Grove to Montana City (.7 miles).

The METG-estimated cost for construction of 8 miles of segments 2, 3 and 4 is \$3,225,414, including construction and trailhead/parking, signs, fencing, and other components. These estimated costs for trail construction will be revised during trail design.

This restoration plan anticipates that the conveyance of some or all of the State-option land to private or public owners would be an essential component of the Greenway trail project (see Section 1.2.5), but the land conveyance is not part of this plan. Prior to the conveyance of the State-option land, the precise location, acreage, and future uses of the land shall be agreed upon and approved in a written agreement between the State and U.S. EPA, after consultation with DOI and the METG. Land conveyance is discussed in Section 1.2.5.

2.3.1.2 East Helena Connection to Greenway Trail System

Main Street Pedestrian Route

The City of East Helena proposed to connect to the Greenway trail by providing a designated pedestrian route down Main Street allowing pedestrians safe access to the Main Street City Park and the Kennedy Park. Connecting to the Greenway trail is expected to increase the number of visitors to the City's parks and buildings and will therefore require updates to City streets to manage this increase in pedestrian traffic.

Designating a pedestrian route through the City of East Helena in order to enhance recreation within the City limits would require upgrades to Main Street including:

- Interpretive signage to direct visitors to the City's attractions including Main Street Park, Kennedy Park, and the City of East Helena Public Library
- ADA bus stop improvements for pedestrian access to the trail
- Crosswalk at Main Street and Lane Avenue, and
- Mid-block crosswalk at Main Street Park from the City Library

Cost estimate: \$424,430

Upgrades to Main Street Park and Kennedy Park

East Helena proposed improvements to the Main Street Park and Kennedy Park to enhance them for the public and prepare for the increase in visitors that would occur with the connection to the Greenway trail. Improvements that are needed include:

- ADA upgrades at Kennedy Park including:
 - ADA picnic table with concrete slab and sidewalk.
 - Bathroom ADA Assessment and upgrades to existing facility.
- Security upgrades at Kennedy Park.
- ADA restroom upgrades at Main Street Park.

Cost estimate: \$155,260.

3 Restoration Alternatives

Restoration alternatives discussed in this Chapter are a combination of the eligible restoration actions discussed in Chapter 2. Each alternative represents a restoration plan based on technically feasible restoration actions, which restore, rehabilitate, replace, or acquire the equivalent of injured natural resources or services associated with those resources within and near the ASARCO East Helena Smelter site, but with a greater amount of funds or a lesser amount of funds allocated to different resources. The “no action” alternative, Alternative 1, is discussed to provide the baseline against which restoration alternatives are evaluated. Alternative 2 is weighted to groundwater replacement actions, Alternative 3 is weighted to recreation replacement actions, and Alternative 4 divides funding resources evenly between groundwater and recreation replacement.

All of the groundwater replacement actions were proposed by the City of East Helena. The recreation actions were proposed both by Prickly Pear Land Trust and the City of East Helena. The Water Quality Protection District proposed the Prickly Pear Creek re-watering project. NRDP has determined, based on available cost estimates and limited funding available, that all of the eligible restoration actions proposed by each sponsor cannot be funded. The allocation of funds identifies specific components of the proposed restoration actions that the funds could be used for, so as best to meet restoration plan goals.

Chapter 4 provides a comparative analysis of alternatives according to the legal and policy criteria outlined in Section 1.4. The preferred alternative delivers the most benefit to the injured resources in a cost-effective manner while incorporating the public participation process. Project implementation is discussed in Chapter 5.

3.1 Restoration Alternative 1 - No Action Alternative

U.S. Department of the Interior regulations outline that a “no action” alternative be considered. The no action alternative is the basis against which other restoration alternatives are compared. The no action alternative would leave the injured resources in their current condition, allowing only natural processes to restore them and providing for no additional restoration, rehabilitation, replacement, rehabilitation or acquisition of equivalent resources to take place. The no action alternative would not result in compensation for lost groundwater services, surface water services, or recreation services.

Because no additional restoration would take place, the cost of the no action alternative would be \$0. The no action alternative is not preferable because it does not meet the restoration plan goals of restoring, replacing, rehabilitating, or acquiring the equivalent of the injured or lost natural resources that were the subject of the natural resource damage claim, and it does not

comply with the legal and policy criteria for the use of restoration dollars described in Chapter 1 of this plan.

3.2 Restoration Alternative 2 – Groundwater replacement actions weighted

Alternative 2 would allocate available funding as follows:

Groundwater replacement actions: \$3,850,000 or approximately 70% of available funds.

- The McClellan tanks replacement project and telemetry upgrades project would be 100% funded. Priority groundwater projects that are not approved by the U.S. EPA (proposed by the METG and discussed in Section 2.1 and Attachment C) could also be substituted.

Prickly Pear Creek restoration actions: \$160,000 or approximately 3% of available funds.

- The Prickly Pear Creek re-watering project would be funded up to \$125,000.
- \$35,000 would be used to add structural diversity to the newly re-aligned portion of Prickly Pear Creek immediately east of the smelter slag pile.

Recreation replacement actions: \$1,477,000 or approximately 27% of available funds.

- The Prickly Pear Creek Greenway trail project would be allocated \$1,352,000 for construction of the Greenway trail. If all the funds are used for construction, approximately 3.35 miles of trail (42% of total) could be constructed. NRDP would work with the project sponsor to determine the portions of the proposed segments that would best meet restoration plan goals. The exact location of the trail would be determined at a later date, but construction would focus on a selection of the 5.2 miles identified for Segment 2, and would be in East Helena and in the immediate vicinity of the former smelter.
- City park upgrades that connect to the Greenway trail would receive \$125,000.

3.3 Restoration Alternative 3 – Recreation replacement actions weighted

Alternative 3 would allocate available funding as follows:

Groundwater replacement actions: \$2,127,000 or approximately 39% of available funds.

- The McClellan tanks project would receive 63% of estimated construction costs. Priority groundwater projects that are not approved by the U.S. EPA (proposed by the METG and discussed in Section 2.1 and Attachment C) could also be substituted.

Prickly Pear Creek restoration actions: \$160,000 or approximately 3% of available funds.

- The Prickly Pear Creek re-watering project would be funded up to \$125,000.

- \$35,000 would be used to add structural diversity to the newly re-aligned portion of Prickly Pear Creek immediately east of the smelter slag pile.

Recreation replacement actions: \$3,200,000 or approximately 58% of available funds.

- The Greenway trail project would receive \$3,200,000 for construction of the trail. Eight miles of the Greenway trail project could be constructed with the available funds. Segments 2, 3, and 4 include overall about 8 miles of trail. NRDP would work with the project sponsor to determine the exact location of the trail.

3.4 Restoration Alternative 4 – Equal weighted for groundwater and recreation restoration actions

Alternative 4 would allocate available funding as follows:

Groundwater replacement actions: \$2,663,500 or approximately 48.5% of available funds.

- The McClellan tanks project would receive approximately 79% of estimated construction costs. Priority groundwater projects that are not approved by the U.S. EPA (proposed by the METG and discussed in Section 2.1 and Attachment C) could also be substituted.

Prickly Pear Creek restoration actions: \$160,000 or approximately 3% of available funds.

- The Prickly Pear Creek re-watering project would be funded up to \$125,000.
- \$35,000 would be used to add structural diversity to the newly re-aligned portion of Prickly Pear Creek immediately east of the smelter slag pile.

Recreation replacement actions: \$2,663,500 or approximately 48.5% of available funds.

- The Prickly Pear Creek Greenway trail project would receive \$2,663,500 for construction of the trail. If all the funds are used for the estimated construction, approximately 6.61 miles of trail could be constructed. Table 2 summarizes the approximate costs of alternatives. NRDP would work with the project sponsor to determine the portions of the proposed segments that would best meet restoration plan goals. The exact location of the trail would be determined at a later date, but construction would focus on a selection of the miles identified for Segments 2 and 3, and would be in East Helena, in the immediate vicinity of the former smelter, and into the Prickly Pear canyon.

Table 2: Approximate costs of alternatives

Alternative	Groundwater	Surface Water	Recreation	Total
Alternative 1	\$0	\$0	\$0	\$0
Alternative 2	\$3,850,000	\$160,000	\$1,447,000	\$5,487,000
Alternative 3	\$2,127,000	\$160,000	\$3,200,000	\$5,487,000
Alternative 4	\$2,663,500	\$160,000	\$2,663,500	\$5,487,000

4 Comparative Analysis of Restoration Alternatives

The purpose of this Chapter is to compare the relative merits of each restoration alternative presented in this plan to determine their potential to meet the restoration plan goals. The restoration plan goals are:

- Replace injured groundwater resource and associated services
- Restore riparian vegetation, fisheries, and natural stream flow
- Compensate for lost recreational use

The alternatives are compared to both legal criteria and policy criteria as defined in Chapter 1. The alternatives considered in this analysis are:

- Restoration Alternative 1: No Action
- Restoration Alternative 2: Groundwater Action Weighted
- Restoration Alternative 3: Recreation Action Weighted
- Restoration Alternative 4: Equal Groundwater and Recreation Action Weighted

4.1 Legal Criteria

4.1.1 Technical Feasibility

The no action alternative is technically feasible; however, it would not meet the restoration plan goals of replacing the groundwater and associated services, restoring riparian vegetation, fisheries, and natural stream flow, nor would it compensate for lost recreational use or any other services that could have been provided by the injured natural resources.

Alternatives 2, 3, and 4 are approximately equivalent in terms of technical feasibility. Each alternative includes projects that use proven technologies, construction methods, and scientific principles, but each alternative would result in a different suite of projects, depending on funding awarded.

The groundwater replacement projects are described in Chapter 2 and would be implemented by the City of East Helena. All of the groundwater replacement projects are technically feasible, were identified in the East Helena Water Master Plan, and were preliminarily costed out by a professional engineering firm under contract with the City of East Helena, in consultation with the City Public Works Department.

The re-watering project on Prickly Pear Creek is technically feasible. It is an ongoing project with proven success of significantly increasing fish populations and enhancing vegetation along

Prickly Pear Creek and would continue to be implemented by the Water Quality Protection District. Additional plantings on the new Prickly Pear Creek channel are technically feasible and would enhance existing riparian vegetation by adding structural diversity and would be implemented by the State in cooperation with the METG revegetation specialist.

The construction of the Greenway trail would use proven construction methods. The Greenway trail construction cost estimates break the costs into segments, each of which could be a stand-alone project. Recreation tie-in projects proposed by East Helena are also technically feasible.

4.1.2 Relationship of Expected Costs to Expected Benefits

The no action alternative would not cost anything but would also not result in any natural resource benefits for groundwater and associated services replacement, would not restore riparian vegetation, fisheries, and natural stream flow, nor would it provide benefits for lost recreational use or any other services that could have been provided by the injured natural resources.

None of the action alternatives (Alternatives 2, 3, and 4) would address all the needs for groundwater, surface water, and recreational services replacement. Each of the action alternatives has the same overall total costs when an evaluation of benefits is applied, but would address different injuries in different amounts with commensurate benefits.

Groundwater replacement: Injury to groundwater was the primary basis for the claim that the State of Montana made for natural resource damage at the ASARCO East Helena Smelter. The amount of funding allocated under any of the alternatives to groundwater replacement would not be enough to construct all of the priority projects identified in the 2018 East Helena Water Master Plan, nor replace all the injured groundwater resources. The City's 2018 Water Master Plan was developed by an engineering firm, in consultation with the City Public Works Department, and vetted in the community. A new storage tank would have high net benefit by conserving the water resource and benefit the City of East Helena by providing the reliable storage the City requires to meet their average daily demands, as well as needed fire flow demand, and eliminate the substantial water loss to the City's water system. The tank would hold and protect the water from outside contaminants such as surface water, insects, and rodents. Storage is needed to use the McClellan Creek radial well source water. If there is no reliable storage, this source becomes less viable for the City. A new telemetry system would allow for effective management of the water supply, which would conserve water and save on the operation and maintenance costs of the system.

The engineer has provided cost estimates for the construction of the McClellan tanks and the telemetry system. In 2018, the City of East Helena submitted grant applications to the Treasure

State Endowment Program (TSEP) and the Montana Renewable Resources Grant and Loan Program (RRGL). The 2019 Legislature awarded a \$500,000 TSEP grant and a \$125,000 RRGL grant to the City of East Helena for their priority water projects. These grants leverage restoration funds and make the natural resource benefits greater in relation to the restoration funds spent. The cost estimates are preliminary and could be reduced with further development. The benefits are assumed to be commensurate with the costs, since water projects similar to the ones proposed are typical for projects that other Montana cities construct to provide clean, safe drinking water.

Alternative 2 actions would result in the highest cost/benefit to groundwater replacement compared to alternatives 3 or 4, because 100% of McClellan Creek tank replacement costs would be met; however, no alternative will replace all the injury to groundwater. Alternative 3, the recreation weighted alternative, would result in the least benefit to groundwater replacement and would consist of 63% of the cost of the McClellan Creek tank replacement. Alternative 4, equal groundwater and recreation weighting, would provide funds for some groundwater replacement, would be considered commensurate as per cost/benefits, and provide for 79% of the McClellan Creek tank replacement.

Surface water restoration: The same amount of restoration for surface water is proposed in all three action alternatives. The actions would result in high net cost/benefit.

The Prickly Pear Creek fishery has responded positively to the ongoing re-watering project implemented under the Lake Helena Watershed Restoration Plan. Brown trout have increased in abundance almost twofold from pre-project numbers, 137 fish per mile to 405 fish per mile in 2016. The re-watering project is a priority in the Lake Helena Watershed Restoration Plan. The proven success of the Prickly Pear Creek re-watering project provides a large benefit to the fishery resource and the riparian area for a very small amount of funding.

The additional plantings proposed within the reclaimed section of Prickly Pear Creek would decrease the time to restore Prickly Pear Creek to baseline conditions at a reasonable cost. The re-watering and revegetation actions are considered to have high net benefit.

Recreation replacement: The benefits of the Greenway trail are that it would provide needed access to Prickly Pear Creek for public recreation and provide open space. The benefits of the East Helena proposed recreation projects to tie into the Greenway trail are that the Greenway trail would be more visible and connected to the urban Main Street and City parks.

METG provided cost estimates for Greenway trail construction. According to METG construction cost estimates, the amount of funding allocated under any of the alternatives would not be enough to construct all of the Greenway trail sections proposed. For example, the

METG cost estimate provided for the construction 8 miles of the Greenway trail and other trail components such as fencing, ADA devices, signs, and trailhead parking, is \$3,225,414.

NRDP did an independent analysis of the construction costs for the trail and determined that the construction costs are reasonable. Because the design of the trail is at an early stage of development, there is likely to be flexibility in costs as the project is further developed and costs refined. The estimated cost to construct the trail could be reduced, and the project would have a higher cost/benefit.

The construction funds for the Greenway trail would be made available as part of an NRDP-approved work plan. Because the design of the trail is at an early stage of development, there is likely to be flexibility in costs as the project is further developed and costs are refined.

Alternative 2 would result in construction of fewer miles of Greenway trail (3.35 miles of trail), but the exact impact on the trail project is not known because of the early stage of development and the widely variable average costs to construct trails of this type and to maintain them. Alternative 3 would provide the highest benefit for replacing lost recreational services. The Greenway trail would receive enough funding to build 7.94 miles. Alternative 4 would provide the Greenway trail enough funding to build 6.61 miles of trail. Segment 2 of the trail is estimated to be 5.2 miles long and could be fully constructed with the available funds. Alternative 4 is considered to have commensurate cost/benefits compared to Alternatives 2 and 3.

4.1.3 Cost-effectiveness

The no action alternative is cost-effective, as no costs would be incurred. However, the no action alternative would not meet the restoration plan goals. In addition, the ability to accomplish more restoration through the use of matching funds and in-kind contributions from East Helena, Prickly Pear Land Trust, and the Water Quality Protection District is lost under this alternative. Alternatives 2, 3 and 4 would accomplish the restoration plan goals to varying degrees depending on the funding allocated to each project category. All action alternatives are considered to have the same overall cost effectiveness.

Groundwater replacement: The 2018 City of East Helena Water Master Plan reviewed multiple alternatives to address the City's water system and issues, including a no action alternative, and used a selection process that considered cost to help select the most cost-effective alternative. The costs of the groundwater replacement actions proposed for Alternatives 2, 3, and 4 were developed by engineers who design and oversee the construction of water projects throughout Montana, thus the costs for all alternatives are assumed to be cost-effective. In addition, the groundwater projects would be cost effective with the match contribution of East Helena to the

construction of the water system components, both in-kind and via grant or other funding sources. The potential for securing that match is the same for all alternatives, but Alternatives 3 and 4 would require the City to provide greater match to accomplish the same projects.

In order to complete the projects in the Water Master Plan and make the projects more cost-effective, the City has pursued other match sources of funding. In spring 2018, the City of East Helena submitted grant applications to the Montana RRGL Program and the Montana TSEP program. The 2019 Legislature awarded a \$500,000 TSEP grant and a \$125,000 RRGL grant to East Helena for their priority water projects. These grants funds leverage restoration funds and make the use of the restoration funds more cost effective. The City of East Helena has also informed the State of Montana Water Project Revolving Loan Fund of their potential interest in a loan to complete the projects. If the City chooses to pursue a loan, additional approvals would be needed locally and at the State.

Surface water restoration: All three action alternatives are considered cost-effective since the same amount of restoration for surface water is proposed in each alternative.

Re-watering of Prickly Pear Creek has been ongoing since 2009. The Water Quality Protection District has a commitment for \$5,000 for the next ten years by the Bonneville Environmental Foundation to fund this project. Based on past and projected costs, the Water Quality Protection District is proposing to fund the re-watering project for a longer term. The funds allocated to this very successful project are cost effective based on past costs and the matching funds already committed. The project would meet restoration plan goal of restoring riparian vegetation and fisheries.

Based on the cost to implement similar revegetation projects, the additional plantings proposed to improve riparian vegetation in the reclaimed Prickly Creek corridor are consider cost effective.

Recreation replacement: Each alternative would result in the construction of various lengths of the Greenway trail, meeting the restoration plan goals for replacing recreational services. NRDP did an independent analysis of the trail construction costs and determined that the costs are reasonable. Although routing alternatives were included, the Greenway trail feasibility study did not provide a range of alternatives (for example various widths of trail, various trail surfaces). The estimated linear per foot cost of the trail is approximately \$32 per linear foot for the asphalt parts of the trail. Because the design of the trail is at an early stage of development, there are likely to be opportunities to reduce costs as the project is further developed and costs refined and as opportunities to make the trail more cost-effective are considered. NRDP is not aware of efforts by Prickly Pear Land Trust to pursue match funding. For the Greenway trail, alternatives 2 and 3 would require a greater amount of match to accomplish the construction of

the proposed project. Although transfer of the State-option land would be addressed separately, the proposed transfer of State-option land to Prickly Pear Land Trust and their management of the land and construction of the Greenway trail could provide a cost-effective way to help transition the ownership of the land from the METG and allow for public recreation, wildlife habitat, open space, and/or for wetlands.

4.1.4 Results of Response Actions

The no action alternative would not interfere with planned ongoing interim corrective measures or planned future remedial actions. Alternatives 2, 3, and 4 would enhance these actions equally.

4.1.5 Adverse Environmental Impacts

Adverse environmental impacts from the implementation of Alternatives 2, 3, and 4 would be similar. The environmental impacts resulting from the proposed actions include both short-term transient impacts associated with construction and long-term benefits resulting from completion of the actions. Potential short-term impacts, except Alternative 1, to the environment during construction, would be effectively mitigated by compliance with permitting and best management practices to protect the environment. Long-term, the restoration alternatives, except Alternative 1, would benefit the environment by providing safe drinking water and improved riparian and recreation areas where the public can safely participate in outdoor recreation. The City of East Helena has already prepared and published a checklist environmental assessment for the proposed East Helena water system improvements on March 12, 2018. Comments on the environmental assessment were due on April 10, 2018. Additional review would be completed for certain aspects of the proposed Greenway trail, such as cultural resources, when the exact route is determined. See Attachment B for more information.

4.1.6 Recovery Period and Potential for Natural Recovery

Natural recovery to baseline under all alternatives, including the no action alternative, would be anticipated to take hundreds to thousands of years (Montana DNRC, 2014) for the groundwater injury. Alternatives 2, and 3, and 4 would result in replacement of water system components, increased water for fish and vegetation in Prickly Pear Creek, and public access to State-allocated land along Prickly Pear Creek in the vicinity of the smelter and downstream, although the exact acreage is not yet known.

4.1.7 Human Health and Safety

The human health and safety impacts resulting from the proposed actions include both short-term transient impacts associated with construction and long-term benefits resulting from completion of the actions. Potential short-term impacts, except Alternative 1, to human health and safety during construction would be effectively mitigated by compliance with permitting and proper best management practices to protect the public and workers against hazards. Long-term, the restoration alternatives, except Alternative 1, would benefit human health and safety by providing safe drinking water, and improved riparian and recreation areas where the public can safely participate in outdoor recreation.

4.1.8 Federal, State, and Tribal Policies, Rules and Laws

All alternatives are compliant with applicable law. The State would require that the project sponsors obtain all needed permits and authorizations.

4.2 Policy Criteria

4.2.1 Normal Government Function

Improvements to publicly owned municipal water systems are typically the responsibility of the local government. The NRDP considers the various water system improvement projects proposed in the alternatives in this plan to augment, not replace, normal government function because communities typically rely on a combination of grant funds, debt (including State and federal sources of low interest and forgivable loans), and user fees to fund such projects. The Prickly Pear Creek re-watering project that is included in all action alternatives is funded only through grant funds. The project would augment normal government function but is not otherwise funded. The Greenway trail proposal could likely be managed by a private nonprofit entity and would not affect normal government function. The criterion is inapplicable to the no action alternative.

4.2.2 Price

At this time, no private properties are proposed for acquisition or easement. If this were to become necessary to accomplish the restoration plan, the State will evaluate whether the land, easements, water rights, or other property interests proposed to be acquired are being offered for sale at or below fair market value.

4.2.3 Preferred Alternative

Of the four alternatives considered, the Trustee recommends Alternative 3 as the preferred alternative to meet restoration plan goals. Alternative 3 achieves the goals of the legal and policy criteria, produces benefits to the injured resources, replaces some of the services lost because of the injury, and aligns with significant priorities of the community.

5 Restoration Plan Implementation

As provided for in the 2009 Consent Decree, administrative costs incurred by the State related to the implementation of the East Helena Restoration Plan shall continue to be funded by the ASACRO East Helena Smelter Restoration Fund. Those costs shall include, without limitation, in appropriate instances: costs of contracting and overseeing design and construction; accounting and auditing costs; cost of preparing annual reports; costs of obtaining independent technical review; costs of assuring that restoration funds are spent per this restoration plan; and providing for public participation and the State's costs related thereto. As of June 30, 2019, the approximate balance of the East Helena Restoration Fund was \$5.99 million. The NRDP is reserving the remainder of the overall balance (approximately 7-8%) for administration of the restoration projects and to implement its responsibilities as Beneficiary of the Custodial Trust for the foreseeable future. Future interest on the restoration fund will also be reserved until the NRDP's responsibilities as Beneficiary are completed.

The restoration action sponsors/partners, if possible, will implement the projects that they proposed and are approved in the plan, pursuant to terms of a contractual agreement with NRDP. The NRDP will be responsible for overseeing implementation of the plan, including design and construction oversight, and ensuring the proper accounting of all expended funds. NRDP will strive to contract with the project sponsors to complete the projects, but if necessary, NRDP will be the sponsor for the projects, or portions of the projects, for the purposes of contracting the funds to complete the project.

Funding of sponsors for project development, design, and implementation of restoration actions will be on a reimbursement basis. Reimbursement will occur following the submittal of a completed and correct invoice, with proper cost documentation of, and a progress report on, the activities covered under the invoice, pursuant to provisions of the applicable contractual arrangement with the NRDP.

Upon approval of a restoration plan, the restoration project sponsor will be required to enter into a contract agreement with NRDP before any funds can be expended or received. The contracting must be in compliance with applicable State procurement requirements. NRDP can provide a model contract agreement upon request. Detailed scopes of work, budgets, and project schedules are required in all agreements, and must be approved by NRDP before any work paid for by restoration funds can begin. Expenses incurred by project sponsors before the contract agreement becomes effective will not be reimbursed.

The NRDP will ensure that all approved restoration projects implemented by the project sponsors are consistent with scope and budget, as approved. NRDP may terminate funding if it

finds that the project is not consistent with the approved contract. The implementation will include necessary oversight and review by NRDP, with funds distributed to project partners on a reimbursement basis.

Greenway Trail Operations and Maintenance as a Part of the Project

The funds allocated to the Greenway trail may be used for construction or operations and maintenance for a reasonable period of time, with NRDP approval, and with an NRDP-approved work plan. The METG calculated that Greenway trail operations and maintenance of segments 2, 3, and 4 for a total of 8 miles would require a set aside of \$1,361,791, assuming a 25-year project life. NRDP considers the METG-calculated trail operation and maintenance costs reasonable when considered over the 25-year life of the project. The State considers funding operation and maintenance for 10 years a more reasonable and manageable period of time. Based on the cost estimates provided for a 25-year project plan, estimated costs for 10 years of operations and maintenance for 8 miles of trail would be approximately \$544,716.

Transfer of State-Option Land

This restoration plan anticipates that the conveyance of some or all of the State-option land to private or public owners would be an essential component of the Greenway trail project (see Section 1.2.5), but the land conveyance is not part of this plan. Prior to the conveyance of the State-option land, the precise location, acreage, and future uses of the land shall be agreed upon and approved in a written agreement between the State and U.S. EPA, after consultation with DOI and the METG. The State and EPA will seek suitable owners for the purposes of constructing the Greenway.

Other Information for Project Sponsors

- Project sponsor costs for project administration activities will be capped at 5% of the total estimated project development and design costs.
- As part of the project development efforts, project sponsors should pursue opportunities to obtain matching funds or in-kind services for the full project to increase the project's cost effectiveness.
- Procurement for all projects must be consistent with the project sponsor's contract with NRDP and must meet or exceed State procurement requirements, including legal procurement for all environmental consulting, engineering, and design activities.
- If a project is completed under budget, the remainder funds will be used for the same

restoration project type. Some projects may not reach implementation phase, depending on the results of the project development phase.

- All restoration work on private land will require landowner agreement to protect projects for a specific length of time.
- Specific projects, such as the Greenway trail, may require additional MEPA review and public participation during project development and implementation.
- Entities contracted for project implementation must obtain all required permits and complete the project in compliance with all applicable laws and regulations.
- Projects selected will be required to initiate implementation within two years of the plan finalization. The implementation would take place over a period not to exceed 10 years.

The Governor shall make the final decision on the Restoration Plan after considering input of the NRDP and the public.

Restoration Plan Revisions and Updates

The Restoration Plan will be revised, as needed, specifically to re-allocate any unused restoration funds. If it is necessary to make significant, substantial changes to this plan, these changes would be subject to the same review and public comment steps prior to a final decision by the Governor.

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Attachment A: Definitions

Acquisition of Equivalent Resources or Replacement: Actions constituting acquisition of equivalent resources or replacement means the substitution for an injured resource with a resource that provides the same or substantially similar services, when such substitutions are in addition to any substitutions made or anticipated as part of response actions and when such substitutions exceed the level of response actions determined appropriate to the site pursuant to the NCP. Actions constituting “replacement” seek to create or enhance resources and services equivalent or very similar to those that have been injured, but away from the immediate site of the injury. For example, where an injury to a trout fishery has occurred, improvements to a nearby stream would enhance its trout fishery and would, in effect, constitute “replacement” of the injured fishery. Actions constituting “acquisition of equivalent resources” involve acquiring unimpaired resources comparable to those that are injured. Acquisition of equivalent resources can hasten recovery or protect the injured natural resources. For example, acquiring healthy land adjacent to injured land can relieve pressure on the injured land and hasten its recovery. Or acquisition of equivalent resources may compensate the public for its diminished ability to use the injured resources. For example, although acquiring unimpaired land for public use does not restore the land that has been injured, it does make other land available for public use.

Baseline: “Baseline” refers to the condition of a natural resource and the services it provided that would have existed had the discharge of the hazardous substance not occurred.

Injury: “Injury” to a natural resource is the measurable adverse change in the chemical, physical, or biological quality or the viability of a natural resource resulting directly or indirectly from exposure to a release of a hazardous substance. Injury can be a measurable adverse change in either the long- or short-term.

Natural Resources: “Natural resources” that may be addressed through East Helena Restoration Fund projects include the groundwater, surface water, and recreational resources.

No Action-Natural Recovery Period: “No Action-Natural Recovery Period” refers to the time needed for recovery of an injured resource to baseline conditions if no restoration efforts are undertaken beyond response actions. This time period depends on many factors, including the extent of the injury, the persistence in the environment of the hazardous substance to which the natural resource is exposed, and the extent of response actions or other human intervention.

RCRA Corrective Action: Corrective measures are those measures or actions appropriate to remediate, control, prevent, or mitigate the release, potential release, or movement of hazardous waste or hazardous constituents into the environment or within, or from one medium to another.

Remedial Actions/Remediation: “Remedial actions,” also referred to as response actions, are those measures undertaken by the EPA or the State of Montana at contaminated sites that are deemed necessary to clean up a site under State or Federal Superfund, including those actions needed to protect public health or the environment and comply with environmental laws. Although response actions are not designed to restore injured natural resources or services, they may have this effect to some extent. They may reduce or eliminate the length of time for natural recovery of an injured natural resource. Generally, and collectively, remedial, removal, or response actions are also commonly referred to as “remediation.”

Restoration: The term “restoration” is used in both a general sense and specific sense in this document. Used in a general sense, “restoration” generally refers to the four types of actions authorized under federal law to address injuries to natural resources (i.e., restoration, rehabilitation, replacement, and acquisition of the equivalent natural resources). Used in the specific sense, “restoration” refers to actions undertaken to return an injured resource to its baseline condition, as measured in terms of the injured resource’s physical, chemical, or biological properties or the services it previously provided, when such actions are in addition to resource actions completed or anticipated. For example, in a situation where numerous sources are contaminating groundwater, removing the most significant sources would lessen the injury and result in the groundwater’s recovery, or “restoration,” to baseline sooner than would otherwise occur.

Rehabilitation: Actions constituting “rehabilitation” attempt to return the injured resources and services to a state different than their baseline condition but still beneficial to the environment and the public. For example, where injury to a conifer forest resulted in a loss of upland big game habitat, planting grasses and shrubs would create upland bird habitat while only beginning the process of restoring upland big game habitat.

Services: “Services” are the physical and biological functions, including the human use of those functions, performed by the natural resource, or that would have been performed by the natural resource had it not been injured by the release of hazardous substances. These services are the result of the physical, chemical, or biological quality of the resource. Services include ecological services such as flood control and erosion control, habitat, and food chains, as well as human services such as recreation and drinking water consumption.

Attachment B: Environmental Review Narrative and Checklist

The purpose of this attachment is to briefly describe the physical, biological, and human environment resources that are potentially affected by the implementation of the restoration plan. Groundwater, surface water, and recreational resources are discussed in more detail in Chapter 2 of the restoration plan.

Geology

East Helena is in the Northern Rocky Mountains physiographic province. The Continental Divide, separating the Columbia and Missouri River drainages, is 15 miles west of the valley. Quaternary-age sediments up to 6,000 feet thick fill the valley and form a northeast-sloping alluvial plain measuring roughly 64 square miles. The Tertiary valley fill consists mostly of interbedded silt and clay with lenses of sand and gravel ranging from a few inches to a few feet. Lake Helena is the lowest point in valley at 3,650 feet. The sedimentary plain is bounded by broad erosional surfaces called pediments and alluvial fans of the Elkhorn Mountains, the Boulder Batholith, the Scratchgravel Hills, and the Big Belt Mountains.

Landscape

The former ASARCO East Helena Smelter is located in Lewis and Clark County, just north of the Jefferson county border, within the Prickly Pear Creek drainage. Prickly Pear Creek originates in the Elkhorn Mountains and flows north along Interstate 15, through the small towns of Clancy, Montana City, and East Helena, continues through agricultural farmlands, pastures and small rural subdivisions in the Helena Valley, and finally enters Lake Helena. Major tributaries to Prickly Pear Creek include Ten Mile Creek, McClellan Creek, and Jackson Creek.

Average annual precipitation in the drainage ranges from 30 inches along the Continental Divide to 10 inches in the lower parts of the valley (Water Quality Protection District and Lake Helena Watershed Group, 2015). Soils range from sand and gravels to loam to silty clay loam and are subject to erosion when vegetation is removed (Water Quality Protection District and Lake Helena Watershed Group, 2015).

Timber harvest, mining, smelting, industrial activity, transportation systems, and water withdrawal for agriculture and other uses have impacted Prickly Pear Creek. Legacy mining continues to contaminate groundwater. Prickly Pear Creek has also been chronically dewatered due to over-allocation of surface water rights.

Storm water runoff from East Helena streets and lawns flows into Prickly Pear Creek. Wastewater effluent from the Helena and East Helena treatment plants is released under

permit into Prickly Pear Creek. Segments of all the main stem creeks have been channelized in the upper and lower reaches, with channelization in the lower reaches causing adverse impacts to riparian vegetation within the Helena Valley.

Biological Resources

Common wildlife species found in the vicinity of the restoration plan include white-tailed and mule deer, pronghorn, black bear, mountain lion, fox, coyote, badger, beaver, muskrat, American mink, raccoon, skunk, and a variety of small mammals. A wide variety of resident and migratory bird species use or travel through the area on a seasonal basis, including Canada geese, sandhill crane, golden eagle, osprey, Hungarian partridge, ruffed grouse, and a variety of other raptors, waterfowl, and songbirds. The creek is home to a variety of fish species including brook, brown, rainbow, and westslope cutthroat trout.

Threatened and Endangered Species and Montana Species of Special Concern

Searches of US FWS databases and FWP databases show the following species in Lewis and Clark County and Jefferson County and in the Helena Area. None of these species are in the immediate vicinity of the proposed projects. The lists are attached.

Demographics, Economics, and Land Use

Montana's capital city, Helena, is the center of the watershed (Water Quality Protection District and Lake Helena Watershed Group, 2015). The population of the watershed is estimated to be 55,000 people. The area termed the Helena Valley and the area along the I-15 corridor have population densities ranging from 100 to over 5,000 persons per square mile. The Helena Valley is the primary population center and economic hub for Lewis and Clark County and northern Jefferson County. The Helena Valley continues to encompass the largest percentage of the Lewis and Clark County's population and growth (Lewis and Clark County Growth Policy Plan, 2004). According to the forecast, the population of the greater Helena Valley will increase to approximately 70,000 by 2020 (Lewis & Clark Growth Policy, 2004). Northern Jefferson County has grown at rates similar to the Helena Valley and this trend is predicted to continue due to the close proximity (6 miles) to the City of Helena and Helena Valley businesses.

Land use historically changed and continues to change, both geographically and over time, from mining and logging to areas of irrigated agriculture (hay, alfalfa, and other grasses), livestock grazing, industrial use, and residential and commercial development in the cities of Helena and East Helena, the Helena Valley, and northern Jefferson County.

Historical and Cultural Resources

As part of the remediation at the ASARCO East Helena Smelter, the METG conducted cultural research surveys, studies, and recordation under the National Historic Preservation Act. The former manager's house was eligible for listing on the National Register of Historic Places but was since lost to fire.

The proposed route of the Greenway trail passes through areas of archeological interest. There are teepee rings, a lithic quarry, and the historic railroad grade.

Human Use Services

Prickly Pear Creek flows through the Helena Valley within a few miles of the City of Helena. There are five fishing access sites (FAS) managed by FWP in the Helena Valley, including Olsen Road FAS (north of York Road in the Helena Valley), Valley Reservoir FAS (8 miles east of Helena on the Helena Valley Regulating Reservoir); Lake Helena FAS (7 miles north of Helena on Lake Helena); Causeway FAS (7 miles north of Helena on Hauser Reservoir); and York Bridge FAS (13 miles northeast of Helena on Hauser Reservoir). Public access to Prickly Pear Creek is also available in isolated locations off old Highway 15 near Montana City and the Ash Grove Cement Plant, on unmarked DNRC school trust land, and the Montana Law Enforcement Academy grounds.

EA CHECKLIST

Project Title East Helena ASARCO Smelter Restoration Plan

Project Description The ASARCO East Helena Smelter Restoration Plan would fund projects from the City of East Helena Water Master Plan, the Prickly Pear Creek Rewatering Project, the addition of mature vegetation to the reclaimed Prickly Pear Creek corridor, and the Greenway trail

Person Preparing Checklist Alicia Stickney Phone 406-444-1346

The public scoping process is discussed in Section 1.3, including a discussion of the comments received. The evaluation of the impacts of the alternatives, including direct, secondary, and cumulative impacts on the physical environment follows.

POTENTIAL IMPACTS ON THE PHYSICAL AND HUMAN ENVIRONMENT

(Check the appropriate column. State whether the impact is adverse or beneficial.)

	MAJOR	MODERATE	MINOR	NONE	UNKNOWN	COMMENTS
Topography				X		
Geology: Stability				X		
Soils: quality, quantity, distribution				X		Construction of the trail would result in soil disturbance. Use of best management practices would minimize disturbance.
Water: quality, quantity, distribution			X beneficial and adverse			Water distribution impacts were addressed in the City of East Helena checklist EAs for the water master plan projects. Water quality may be affected during the trail construction in areas that are close to Prickly Pear

						Creek. Use of best management practices would minimize impacts.
Air: quality				X		Minor and temporary dust and vehicle emissions would be created by equipment during construction, but would end after completion.
Terrestrial, avian, and aquatic: species and habitats				X		
Vegetation: quantity, quality, species			X adverse			Vegetation may be disturbed during trail construction. Disturbed areas would be reseeded. Weed-free seed would be required for any reseeding.
Agriculture, grazing, crops, production				X		
Unique, endangered, fragile or limited environmental resources				X		
Demands on environmental resources of land, water, air, and energy				X		
Historical and archaeological sites			X potential for adverse		X	For the water projects, paving of trails and parking areas would occur primarily over existing disturbed areas. Due to the previous alteration of these areas, there is a low likelihood that cultural properties would be affected. During development of the Greenway trail, the State Historic Preservation Office would be consulted to help with routing to avoid archeological and

						historical features and a clearance would be obtained.
Aesthetics			X beneficial			The Greenway trail with associated open space would improve the aesthetics of the East Helena Community
Social Structures & more				X		
Cultural uniqueness, diversity				X		
Population: quantity and distribution				X		
Housing: quantity and distribution				X		
Human health and safety				x		.
Community and personal income				X		
Employment: quantity, and distribution				X		
Tax base: local and state				X		If the land is transferred to a private entity, they would pay taxes.
Government services: demand on				X		
Industrial, commercial, and agricultural activities				X		
Recreation and wilderness			X beneficial			Recreational access to Prickly Pear Creek would be improved.
Environmental plans and goals, local and regional				X		
Demands for energy				X		

Transportation networks and traffic flows			X beneficial			This new trail would facilitate pedestrian and non-motorized use along Prickly Pear Creek.
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List all groups or agencies contacted.

Water distribution impacts were addressed in the City of East Helena checklist EAs for the water master plan projects.

Brad Koenig, Peccia Engineering

City of East Helena

Damon Murdo , Montana State Historic Preservation Office

Montana FWP

Montana Natural Heritage Program

Jennifer McBroom, Lake Helena Water Quality Protection District

U.S. Fish and Wildlife Service

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Montana Natural Heritage Program List of Species of Special Concern – Helena area

Black-tailed Prairie Dog
Spotted Bat
Wolverine
Hoary Bat
Canada Lynx
Little Brown Myotis
Pygmy Shrew
Northern Goshawk
Clark's Grebe
Great Blue Heron
Veery
Brown Creeper
Evening Grosbeak
Bobolink
Pileated Woodpecker
Pinyon Jay
Cassin's Finch
Black-necked Stilt
Lewis's Woodpecker
Clark's Nutcracker
Long-billed Curlew
Sage Thrasher
Green-tailed Towhee
Flammulated Owl
Brewer's Sparrow
Forster's Tern
Great Gray Owl
Western Toad
Plains Spadefoot
Westslope Cutthroat Trout

U.S. Fish and Wildlife Service list of endangered and threatened species for Lewis and Clark and Jefferson counties

Grizzly bear
Canada Lynx
Bull Trout
Red Knot
Wolverine
Whitebark Pine
Ute Ladies' Tresses

Attachment C: Summary of Restoration Action Ideas and Criteria Screening for Projects not Included in the Restoration Alternatives

The following restoration action ideas were identified during scoping and considered in relation to the Superfund legal and policy criteria. These criteria are described in detail in Section 1.4 of the restoration plan. The legal criteria are:

- Technical Feasibility
- Relationship of Expected Costs to Expected Benefits
- Cost-effectiveness
- Results of Response Actions
- Adverse Environmental Impacts
- Human Health and Safety
- Federal, State, and Tribal Policies, Rules, and Laws

The policy criteria are:

- Normal Government Functions
- Price
- Location

The proposed restoration action ideas described in this attachment were not selected to be included in the restoration alternatives because they did not meet one or more of the legal or policy criteria or are proposed to be paid for by the Montana Environmental Trust Group.

Groundwater Projects

The City's distribution system is a network of mains ranging in size from 4 to 8 inches. In 1999, the City replaced approximately 16,760 feet of water main within the City due to age and condition. This \$3.8 million project included new copper services to the property line and curb-stop where mains were replaced. However, the City still has several thousand feet of older 4-inch water mains and valves that do not meet Montana Department of Environmental Quality current design standards. The City of East Helena routinely uses maintenance funds to replace these 4-inch mains as budgets allow, and as issues arise, and is not seeking restoration funds for this work.

The City gets water from two main sources, the McClellan Creek system and the Wylie Wells. Water from the McClellan tanks flows by gravity to the City through a 10-inch transmission main constructed in 1928. A small 57-foot section of this transmission main was rerouted with 10-inch polyvinylchloride (PVC) pipe in 2013. The transmission main along Wylie Drive that conveys water from the Wylie Wells was replaced in 1999 and consists primarily of 10-inch PVC.

Water is pumped south through this transmission main to the City distribution system and the storage tank along Highway 282. A new transmission main will be required as part of the new well that METG has proposed to drill for the City.

Main Street Stream Crossing

The City of East Helena's distribution system is divided by Prickly Pear Creek, which flows through the center of the city. In 2012, the City of East Helena was forced to disconnect the water main on Main Street that ran below Prickly Pear Creek due to its exposure in the stream and its condition. This main was a critical piece of infrastructure in that it provided a crossing to convey water from one side of town to the other. There are only three places where mains cross the stream. Those crossings allow Wylie water to get to the east side of the City and McClellan water to the west side. The stream crossing at Main Street is critical to maintaining reliable service if one of these other sources is lost or out of service. Replacement of the main on Main Street main below Prickly Pear Creek would replace a critical conveyance of water from one side of town to the other. The Water Master Plan shows the location of the Main Street stream crossing improvements.

Cost estimate: \$214,830

Loop Distribution at Manlove

The 4-inch main on Manlove dead-ends at the American Chemet Complex and is the only source of water for this area. In addition, the City reports inadequate fire flows at this location. Installing a 6-inch main underneath Highway 12 would eliminate the dead-end main at Manlove, provide a backup connection of water to this area, and increase the inadequate fire flows. The water master plan shows the location of the Manlove looping. The area south of highway 12 is currently supplied by only one connection. If this connection was lost, all of the 29 residents in the area would be without water. Looping the distribution system at Manlove would benefit the City by providing a second connection to the City's water distribution system to ensure these residents have reliable water service and eliminating a "lollipop" connection that supplies the area.

Cost estimate: \$589,380

Eliminate Dead-End at 1st Street and West Groschell

Dead-end water mains can lead to low pressure, inadequate fire flow, and stagnant water that allow inorganic sediments to deposit, organic matter to accumulate, and allow biofilm and other organisms to grow. These organisms can deplete the available oxygen which in turn

causes anaerobic conditions. Anaerobic conditions cause corrosion issues in mains and potentially serious odor problems. DEQ Circular DEQ 1 recommends minimizing dead-end mains to increase the reliability of the service and reduce head loss in the system.

The City of East Helena has a dead-end main located on 1st Street between Gail Street and West Groschell. This dead-end main would be eliminated by extending the existing 6" main on 1st Street from West Groschell to Gail Street. The water master plan shows the location of the dead-end on 1st Street.

Cost estimate: \$144,890

Cost estimate for all three distribution and transmission main actions: \$949,100. These projects do not conserve water, but only provide greater conveyance and fire protection.

Surface Water Projects

Prickly Pear Creek - Stream restoration between Elliott and Montana Law Enforcement Academy

In December 2015, the Water Quality Protection District and the Lake Helena Watershed Group developed a DEQ-approved watershed restoration plan that identifies several stretches of Prickly Pear Creek as a priority area for addressing Prickly Pear Creek impairments (Lewis & Clark Co Water Quality Protection District & Lake Helena Watershed Group 2015). Stream banks along lower Prickly Pear Creek have little or no riparian vegetation, eroding banks due to grazing by livestock and other land practices. Lowered water table has led to stream channel incising and restricted access to the channel's historic floodplain. Sediment is the most cited non-point source pollutant leading to more impaired stream segments within the Lake Helena watershed. Prickly Pear Creek is listed by DEQ as an impaired water body.

As part of implementing the Lake Helena watershed restoration plan, the Water Quality Protection District has completed or is working on two segments of Prickly Pear Creek in the priority area. The Water Quality Protection District completed a restoration project in the segment of the creek just north of York Road in 2016. In 2018, the Water Quality Protection District is working on a similar project upstream from the law enforcement academy. The goals of these projects have been to minimize erosion, lower stream water temperature, improve stream function, and increase channel flood storage capacity and nutrients by conducting stream bank restoration work. Combined, these projects have addressed these goals on approximately over 10,000 linear feet of Prickly Pear Creek.

These projects have reduced sediment loads by re-establishing natural stream channel function, creating channel point bars and sloped streambanks, adding flood capacity within the stream channel, and increasing stream riparian woody vegetation. The stream restoration was designed to address instability, prevent avulsion areas, reduce excessive erosion from previous agricultural and land use practices, reduce stream incision, and improve floodplain access. Methods to include stream channel reconfiguration and bank modifications using tree revetments, rock, and root wads and re-vegetation with woody riparian vegetation. A grazing management plan has been implemented.

The Water Quality Protection District has identified a third area for restoration in the area of the Tryan irrigation diversion. This project could be split into two separate projects. The Water Quality Protection District estimates that an additional 4,000 linear feet of Prickly Pear Creek could be restored.

The landowner in this reach of Prickly Pear Creek is not interested in pursuing a restoration project on his property. Therefore, this project is technically infeasible.

Cost estimate: \$250,000

Stream restoration downstream from Wylie Drive to York Road

Because of historic mining, the stretch of Prickly Pear Creek between Wylie Drive and York Road is the most impaired reach of Prickly Pear Creek between East Helena and Lake Helena and sees the most benefit from the re-watering project described above. The stretch from Burnham's diversion to past Canyon Ferry Road used to be dry every year, now receiving water via the Water Quality Protection District project. There is very little overhanging vegetation in this stretch. The area is primarily owned by a single landowner. Prickly Pear Water Users diversion has a fish ladder. Fish also are known to use the braided channel at times to bypass the diversion. A stream restoration project in this area would be compatible with the Lake Helena Watershed Restoration Plan (see Section 5.2).

The area is now leased to a sand and gravel operation. It is unknown what the sand and gravel operation and the property owners are planning for future management of the area, so the technical feasibility is unknown. Other options in this area would be a conservation easement to preserve open space. It is impossible to determine the relationship of expected costs to expected benefits or the cost effectiveness of this project.

Cost estimate: unknown. In order to determine the costs for a project in this area, a stream assessment and engineering analysis would be required. This project is not developed enough to determine a cost.

Restoration of upstream Prickly Pear Creek and Upstream tributaries

McClellan Creek and Jackson Creek are both upstream tributaries that are within the location criteria. The Lake Helena Watershed Plan does not identify possible projects in McClellan Creek, but projects are identified in Jackson Creek. Jackson Creek has high zinc levels from upstream abandoned mines.

There are populations of Westslope cutthroat trout (a Montana species of special concern) in McClellan Creek, Warm Springs, Kady Gulch, and other tributaries. McClellan Creek is close enough to the ASARCO East Helena Smelter site that there may be some cutthroat that pioneer their way down to the restored reach. Aerial photos show that there may be some restoration opportunity in the Prickly Pear canyon, but there is a patchwork of land ownership downstream of the Ash Grove Cement property. Potential projects would need substantial more development. Because these projects are not identified, it is impossible to determine the technical feasibility, the relationship of expected costs to expected benefits, or the cost effectiveness of this project.

Cost estimate: Unknown.

Acquisition or Conservation Easement opportunities with larger landowners.

No specific acquisitions or conservation easement projects have been identified along Prickly Pear Creek north of the smelter. However, acquisitions and conservation easements would likely be compatible with the Lake Helena Watershed Restoration Plan (see Table 5-1 of the Lake Helena Watershed Restoration Plan). There are several landowners with large acreages. Because these properties are not identified, it is impossible to determine the technical feasibility, the relationship of expected costs to expected benefits, or the cost effectiveness of this project.

Cost estimate: Unknown

Build on restoration opportunities up Ten Mile Creek

Ten Mile Creek is a tributary to Prickly Pear Creek and is within the area defined in the location criteria. Prickly Pear Land Trust is presently working on projects on Ten Mile Creek. Improved fish habitat and fish abundance in Ten Mile Creek would also carry over to Prickly Pear Creek as migratory fish from Lake Helena would use both streams throughout their life history. Lower Ten Mile Creek (Montana Ave to Sierra Rd) is chronically dewatered, but there may not be a remedy as surface flows are lost in the alluvium of the Helena valley. Additional groundwater studies would be needed to evaluate the feasibility of restoring flow. There may also be

opportunities for conservation easements and fencing to improve vegetation growth in riparian areas.

Ten Mile Creek is in the restoration area, but no specific projects have been proposed. It is impossible to determine the technical feasibility, the relationship of expected costs to expected benefits, or the cost-effectiveness of this project.

Cost estimate: Unknown

Restoration of Prickly Pear Creek – removal of slag in town

Slag would be removed from Prickly Pear Creek downstream from the smelter and replaced by natural stream bedload. A detailed engineering analysis would have to be completed for any alternative that would address habitat enhancement in town. Any project that might include chances of increased flooding may not be socially acceptable in East Helena. With the ongoing risk of flooding there may be some additional sources of funding to look at ways to reduce flood risk and improve stream function (e.g., US Corps of Engineers). Because of physical space limitations, the stretch of Prickly Pear Creek through East Helena will never likely be a fully functioning stream. FWP fisheries biologists believe the slag may not be negatively impacting stream function, and slag removal may be more disruptive to stream function than leaving it in place.

Since Prickly Pear Creek has been realigned away from the slag pile, new slag should no longer be eroding into the creek and will eventually work its way out of the system. Furthermore, it is impossible to determine the relationship of expected costs to expected benefits or the cost effectiveness of this project. This restoration action idea was screened out because of the physical constraints of completing a habitat project in the urban area and the relationship of expected costs (high) with low benefits (never likely to be a fully functioning stream).

Cost estimate: Unknown

Habitat enhancement on Prickly Pear Creek in urban East Helena.

The stretch of Prickly Pear Creek that runs through East Helena is channelized with concrete banks. In its present configuration, the channel has no habitat values. The creek also has a major sedimentation problem. Enhancing habitat through the East Helena urban area without doing stream realignment would be difficult. Adding habitat structures to the existing channel in town could substantially increase flood risk (both in open water and through ice jams in the winter). A detailed engineering analysis would have to be completed for any alternatives that would address habitat enhancement in town. Any projects that might include chances of

increased flooding may not be socially acceptable in East Helena. With the ongoing risk of flooding there may be some additional sources of funding to look at ways to reduce flood risk and improve stream function (e.g., US Corps of Engineers). Because of physical space limitations, the stretch of Prickly Pear Creek through East Helena will never likely be a fully functioning stream. This restoration action idea was screened out because of the physical constraints of completing a habitat project in the urban area and the relationship of expected costs (high) with low benefits (never likely to be a fully functioning stream).

Cost estimate: Unknown

Restoration Prickly Pear Creek along RR ROW and Hwy 12.

The stretch of Prickly Pear Creek that runs between the railroad right of way and Highway 12 and the smelter, just north of East Helena and downstream of the newly constructed channel, runs in a straight channel between the two linear features. In its present configuration, it is just a channel and has no habitat values. As with the stretch that goes through town, the creek has a major sedimentation problem. Because of the limitations on space in this narrow right of way, any stream restoration would be difficult, if not impossible (technical feasibility is uncertain). Adding habitat structures to the existing channel in town could substantially increase flood risk (both in open water and through ice jams in the winter). A detailed engineering analysis would have to be completed for any alternatives that would address habitat enhancement in town. This restoration action idea was screened out because of the physical constraints of completing a habitat project in the tight space between the railroad and the smelter and the relationship of expected costs (high) with low benefits (never likely to be a fully functioning stream).

Cost estimate: Unknown

Prickly Pear Creek – change of use to instream flow water rights

The water rights used in the project described in Section 2.2.1 could be changed permanently to instream flow use. It is unclear what the process for this change of use would be. Therefore, it is hard to know what the cost or timeframe would be. The water rights users are not supportive of a change of use project. The water users would not like to pursue this water rights change of use. Therefore, the project is technically infeasible.

Cost estimate: Unknown

Remove Tryan irrigation diversion

The Tryan irrigation diversion structure approximately six miles above the confluence of Prickly Pear Creek with Lake Helena that acts as a fish barrier. It is the only fish barrier remaining

between Lake Helena and the ASARCO East Helena Smelter area and the headwaters beyond. FWP has identified removal as a high priority, but in 2017, FWP received funding to build a fish passage at the Tryan irrigation diversion structure. FWP would be interested in pursuing removal of Tryan Dam, but it will require an engineering feasibility study. A first step in this process would be to hire contracted services to prepare the engineering feasibility study. The landowner has indicated he is not interested in pursuing this project. Therefore, this project is technically infeasible. Note: a fish passage was constructed at this location in Fall 2018.

Cost estimate: \$50,000 for study

Prickly Pear Creek – Planning for restoration project between Kennedy Park and Burnham diversion project

The Water Quality Protection District identified a 1,800-foot reach of Prickly Pear Creek with several resource concerns. Prickly Pear Creek breeches at the ditch and runs across walking trails and infiltrates into sewer lines at times. There are car bodies, 55-gallon drums, and concrete structures in the creek that could be removed. The banks could be stabilized with vegetation. This project was not specifically identified in the Lake Helena watershed restoration plan but is likely compatible with the overall goals of the watershed restoration plan. The Water Quality Protection District requested planning funds to study the Wildcat ditch and creek in this reach.

This project is not well developed so it is impossible to determine the relationship of expected costs to expected benefits of this project. Other projects are already designed and could be more easily implemented.

Cost estimate: \$15,000 for planning and \$25,000 for restoration

Many smaller restoration opportunities

These projects would likely be landowner-driven and would include actions such as installing fencing in the riparian area. These smaller projects would be compatible with the Lake Helena Watershed Restoration Plan (see Table 5-1 in the Lake Helena Watershed Restoration Plan). The Water Quality Protection District would identify landowners and make contact with landowners they have not yet reached out to. Projects would include riparian fencing with livestock water gaps where appropriate. Priority area would be on the stretch of Prickly Pear Creek below Canyon Ferry Road.

Although these smaller restoration opportunities have not yet been identified, smaller projects like these are easier to develop and implement than larger-scale projects. In sum, they can

make a significant contribution to restoration, but smaller projects have not been identified at this time.

Cost estimate: \$15,000

Grazing management plan on NRDP 40-acre parcel

FWP identified the need for riparian fencing and a water gap for about 2 miles of Prickly Pear stream front on the 40-acre State-option land. Riparian fence could promote riparian vegetation growth and improve the riparian corridor. Fencing provides better grazing management flexibility while promoting streamside vegetation development. Grazing management plans that include riparian fencing and water gaps are compatible with the Lake Helena Watershed Restoration Plan (see Sections 4.1.2 and 5.2). METG or a future property owner could build wildlife-friendly riparian fence and limit the number of animals on this parcel. About two miles of fence are needed. This property may be transferred to Prickly Pear Land Trust under the proposed Greenway trail project, but the details of the transfer have yet to be negotiated. The grazing management would be addressed at that time.

Cost estimate: Unknown

Minor restoration on NRDP 40-acre parcel

The lead-contaminated soil and a riparian berm on south end of property could be removed, and some planting could be done. Restoration work could be implemented with a grazing management plan to protect the work. The U.S. EPA and U.S. Fish and Wildlife Service considering doing a restoration project for upland birds on this parcel.

Cost estimate: Unknown

Recreation Projects

Montana Fish Wildlife and Parks Fishing Access Site on 192-acre parcel

The concept is that FWP could take ownership of the State-option land. In discussions with the FWP fishing access program, they would not want to administer a parcel of this size. In addition, the site does not fit in well with State Park's priorities. FWP has also said that this potential project would need substantial more development. FWP has also said that they are not interested in taking on ownership of this property and developing a formal fishing access site at that location. It is impossible to determine the relationship of expected costs to expected benefits or the cost effectiveness of this project. FWP has a long-term fishing access site priority plan.

Cost estimate: FAS development costs, endowment

Park and Education center on 192-acre parcel plus restored PPC area east of slag pile

The concept of an outdoor classroom or education center and a curriculum for high school students to learn about the ASARCO East Helena Smelter was proposed as part of the scoping process. No specific plans have been developed. The concept of an outdoor classroom and a curriculum would not be precluded if the State-option land is transferred to an entity allowing public access and interested in working with the School District to build such a facility. The concept does not have a project sponsor and is not developed enough to consider further but would not be precluded in the future with other funding sources.

Cost estimate: Unknown. There would be planning costs as well as construction costs, plus a need for funds to operate an education center or outdoor classroom.

FAS on property immediately east of the slag by former plant manager house location

The area in this project concept is included in the land that may be transferred to Prickly Pear Land Trust under the Greenway trail proposal. Dispersed access to the creek would be available at this location, without developing a formal fishing access location. FWP has said that this potential project would need substantial more development. FWP has also said that they are not interested in taking on ownership of this property and developing a formal fishing access site at that location. FWP views this site as a good location for dispersed, informal access to Prickly Pear Creek. It is impossible to determine the relationship of expected costs to expected benefits or the cost effectiveness of this project.

Cost estimate: Fishing access site development costs would need to be prepared.

Access improvement in canyon and other easement opportunities for access (may be smaller parcels)

In the environmental assessment FWP prepared for the new Prickly Pear Creek Fishing Access Site near York Road in the Helena valley, FWP said that public recreational opportunities to streams in the Helena Valley are limited. Access opportunities could be pursued with private landowners in the area. No specific properties have been identified. Because these properties are not identified, it is impossible to determine the relationship of expected costs to expected benefits or the cost effectiveness of this project.

Cost estimate: Unknown

Groundwater Replacement Projects METG will complete (EPA has approved)

New Production Well to Replace Wylie Well #3

A new production well is needed to replace Wylie Well #3 to maintain consistent service over the long-term in East Helena. The new production well should be located away from any potential contamination from the plumes as well as other possible pollutants and out of the East Valley Groundwater Controlled Area. The East Valley Groundwater Controlled Area has been established in the area to prevent the drilling of new wells that may expose the public to specific contaminants in the groundwater as well as prevent groundwater withdrawal that may alter or induce contaminant migration. If a new production well was to be sited within this controlled groundwater area, the City would need to get approval from the Lewis and Clark County Board of Health.

The proposed location, as well as plans and specifications for the new production well, would need to be approved by DEQ and must be constructed by a licensed water well contractor in accordance with Title 37, Chapter 43, MCA and ARM Title 36, Chapter 21 along with requirements in Circular DEQ 1, Standards for Waterworks. Continued protection for a radius of at least 100 feet around the well from potential sources of contamination must be provided either through deed notice, zoning, easements, leasing, or other means accepted by DEQ.

Cost for the development of a new well would be \$1,812,238.

Groundwater Replacement Projects that are proposed to be paid for by METG, pending U.S. EPA Approval

Caisson Protection and Level Monitoring Improvements

The City relies on the McClellan source consisting of two radial wells, caissons, and submersible pumps to supply water to the McClellan tanks and eventually to the City's distribution system. A water shortage in Radial Well #1 as well as high water levels constituting a health risk at both Radial Well #1 and Radial Well #2 have been noted by City personnel.

This improvement includes measures to improve sanitary conditions and continuously monitor caisson water levels. Improvements would include removing the existing subfloor and installing a new floor slightly above finished grade. A small building would be constructed over the caisson to better protect the water collected therein. The pumps currently utilized at the radial wells are the original pumps and would be replaced concurrently with this work. This project is proposed to be completed by the METG, contingent on EPA approval.

Cost estimate: \$649,178

Radial Wells Access

Access to the radial wells is poor. The access road consists of a 2-track dirt road that is impassable during much of the winter. City personnel must drive or walk through McClellan Creek to access Radial Well #2 as shown in the photo below. This is unsafe for the City's personnel and causes damage to the creek. These wells are located in a remote area and are not inspected on a regular basis. The construction of a new pedestrian bridge across McClellan Creek between Radial Wells #1 and #2 would allow City personnel to access Radial Well #2 without having to drive through, or walk through, the Creek during routine maintenance.

Road improvements are needed to safely access the two radial wells. The City of East Helena will be improving the road using maintenance funds and will be working with the adjacent landowner to gain improved access across private property for an emergency or large-scale maintenance event. This project is proposed to be completed by the METG, contingent on EPA approval.

Cost Estimate: \$107,607

Attachment D: Response to Comments

Response to Public Comments on Draft East Helena ASARCO Restoration Plan and Environmental Checklist

November 2019

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Section I. Introduction

On January 11, 2019, the State of Montana (State) issued for public comment a Draft East Helena ASARCO Smelter Restoration Plan and Environmental Assessment Checklist (Draft Restoration Plan). The public comment period for the Draft Restoration Plan ran from January 11, 2019, through 5:00 PM on February 11, 2019. Starting on January 11, 2019, the document was available electronically at the Montana Natural Resource Damage Program website: <https://dojmt.gov/lands/notices-of-public-comment/>.

Legal notices announcing the availability of the Draft Restoration Plan were published on January 11, 2019, in the Helena Independent Record newspaper. On February 11, 2019, the State sent notices of the Draft Restoration Plan comment opportunity to 33 individuals and entities on its mailing list. On January 28 and 29, the State placed a legal advertisement in the Helena Independent Record newspaper announcing the January 29 public meeting about the Draft Restoration Plan and included information about submitting comments. On January 29, 2019, the State presented the Draft Restoration Plan at a public meeting at the City of East Helena Fireman's Hall at 2 East Pacific Street. Over 22 people attended the meeting.

The State received a total of 56 letters or emails during the public comment period. Five additional comments were received after the comment period closed. See Section IV of this Attachment for a list of topics addressed in the comments, identified by a letter. Each commenter's name is also listed, and identified by a number that serves as a reference to the comment throughout this document. Copies of the comment letters are included in Attachment E to the restoration plan, including the five late comments. The responses do not address the five late comments. Copies of comment letters are also available on the NRDP website at: <https://dojmt.gov/lands/notices-of-public-comment/>.

These responses to comments summarize the comments received and provide the State's responses. Where appropriate, changes were made to the text of the Draft Restoration Plan to reflect the responses to comments. Those changes are identified in Section III of this Attachment.

The Governor will make the final decision on the restoration plan.

Section II. Comment Summary and Response by Comments

Topic A: Comments in support of the Draft Restoration Plan

Comments: Four comments (#1, #14, #19, #43) indicated general support for the Draft Restoration Plan.

Response: The State acknowledges these comments and appreciates the support for the Draft Restoration Plan.

Topic B: Comments in Support of the Greenway

Comments: Twelve comments (#1, #7, #9, #10, #15, #16, #21, #22, #23, #26, #29, #49) offered support for the Greenway trail. Comment #26 (5 people) expressed a preference for 3.35 miles of Greenway trail only.

Response: The State acknowledges these comments.

Topic C: Comments Supporting the Preferred Alternative 3

Comments: Forty comments (#2, #3, #4, #6, #8, #9, #10, #11, #15, #16, #17, #19, #20, #21, #25, #28, #29, #30, #31, #34, #35, #36, #37, #38, #39, #40, #41, #42, #44, #45, #46, #47, #48, #49, #50, #51, #52, #53) supported the Preferred Alternative.

Response: The State acknowledges these comments.

Topic D: Comments Supporting Alternative 2

Comment: Seven comments (#5, #12, #13, #24, #26, #27, #33) supported Alternative 2.

Response: The State acknowledges these comments and appreciates the support for the Alternative 2. Comment 13 was from the City of East Helena. Comment #26 was signed by 5 people.

Topic E: Comments on the Trail Design/Weeds

Comments: Three comments addressed various aspects of the trail design (#9, #26, #28). Comment #9 asked for additional clarification and description of the length of the proposed trail in the alternatives. Comment #26 expressed support for the shorter segment of 3.35 miles of Greenway trail identified in Alternative 2. Comment #28 expressed concern that the trail construction or other disturbance would result in weeds.

Response: Alternative 3 would fund the entire proposed 8 miles of Greenway trail in Segments 2, 3, and 4 (discussed in Section 2.3.1.1). Alternative 2 would fund the least number of miles of the Greenway trail (3.35 miles), so only a portion of the proposed 5.2 miles in Segment 2 could be constructed. Alternative 4 would fund approximately 6.61 miles of trail. Figure 5 shows the segments of trail identified by the Greenway Trail feasibility study and Section 2.3.1.1 describes the Greenway trail project. NRDP would work with the project sponsor to determine the portions of the proposed segments that would best meet the restoration plan goals given the limited amount of funding. It should be noted that the restoration plan does not require matching funds, but if additional funding were provided, the Greenway trail length and design could increase and improve. The exact location of the trail would be determined at a later date, but construction would focus on a selection of the miles identified for Segments 2 and 3 and would be in East Helena, in the immediate vicinity of the former smelter, and into the Prickly Pear canyon. During the implementation of the Greenway trail, NRDP would work with the project sponsor to develop detailed scopes of work for construction. Weed control and reseedling with native plants will be part of best management practices for trail construction. See Chapter 5, Restoration Plan Implementation. See also response to Topic J, Comments about the Land Transfer.

Topic F: Comments on Cost-Effectiveness of Alternatives

Comments: One comment (City of East Helena) felt that Alternative 2 would be the most cost-effective alternative (#13).

Response: Alternatives 2, 3 and 4 would accomplish the restoration plan goals in cost-effective means to varying degrees depending on the funding allocated to each project category. In 2018, the City of East Helena also submitted grant applications to the Treasure State Endowment Program (TSEP) and the Montana Renewable Resources Grant and Loan Program (RRGL) to help fund the water system improvement priorities. The 2019 Legislature awarded a \$500,000 TSEP grant and a \$125,000 RRGL grant to the City of East Helena for their priority water projects. These grants leverage restoration funds and make the natural resource benefits greater in relation to the restoration funds spent. The State of Montana Trustee chose Alternative 3 as the best alternative to meet the restoration plan goals. See section 4.2.3, Preferred Alternative.

Topic G: Comments on Services Lost/ Injured Resources

Comments: Two comments addressed the services lost and injured resources (#13, #32). The City of East Helena (#13) stated that Alternative 2 most directly benefits the injured natural resources.

Response: All of the alternatives benefit the injured resources, groundwater, surface water, and recreation service losses, in varying degrees. The State of Montana Trustee chose Alternative 3 as the best alternative to meet the restoration plan goals. See section 4.2.3, Preferred Alternative.

Topic H: Comments Opposing Components of Alternatives

Comments: Two comments opposed specific parts of alternatives (#18, #32). Comment #18 said that replacement of the McClellan tanks should not be considered as part of the alternatives. Comment #32 stated that natural resource damage restoration funds should not be used to fund the Greenway trail.

Response: The State's Proof of Claim described the natural resources that were subject of the claim as the air, groundwater, surface water, and soils which were injured from the releases of hazardous substances from the ASARCO East Helena Smelter. The settlement provides for the replacement of lost services these resources would have provided such as drinking water, fishing, waterfowl hunting, bird watching, hiking, and other services normally associated with groundwater and surface water, and the river and lake beds, floodplain, riparian zones and wetland areas.

The McClellan tanks project is considered a groundwater replacement project, replacing the injured groundwater resource beneath the City of East Helena and was described and analyzed as part of the City of East Helena water master plan. NRDP considered all projects that were included in the Water Master Plan when preparing the restoration plan. A new storage tank would have high net benefit by conserving the water resource and benefit the City of East Helena by providing the reliable storage the City requires to meet their average daily demands, as well as needed fire flow demand, and eliminate the substantial water loss to the City's water system. The McClellan tanks are leaking approximately 44,000 gallons of water a day (16 million gallons annually) (East Helena 2018). The new tank would hold and protect the water from outside contaminants such as surface water, insects, and rodents. Storage is needed to use the McClellan Creek radial well source water. If there is no reliable storage, this source becomes less viable for the City.

The Greenway trail project is considered a replacement project, replacing lost services such as fishing, waterfowl hunting, bird watching, hiking, and other services normally associated with surface water, and the river and lake beds, floodplain, riparian zones and wetland areas. As part of the 2009 *Consent Decree and Settlement Agreement Regarding the Montana Sites* in the Asarco, LLC, bankruptcy (Consent Decree), the State was provided an option to acquire at no cost approximately 232 acres of undeveloped ASARCO-owned land in the East Helena area, including approximately 192 acres in the vicinity of Upper Lake, and 40 acres in the vicinity of

Prickly Pear Creek in the northern part of East Helena to be used for public recreation, wildlife habitat, open space, and wetlands (See Figure 3). The Greenway trail meets the objectives identified in the Consent Decree for these lands by providing access to Prickly Pear Creek for public recreation and providing open space, while still allowing for wildlife habitat and wetlands protection.

Topic I: Comments about Infrastructure

Comments: Six comments addressed infrastructure (#5, #12, #13, #26, #27, #32) and the number of people who would benefit from the updated water system in East Helena. All of these comments stated a preference for Alternative 2 because it includes a greater amount of funding for an updated water system.

Response: All of the alternatives benefit the East Helena water system in varying degrees. In spring 2018, the City of East Helena submitted grant applications to the Montana RRGL Program and the Montana TSEP program. The 2019 Legislature awarded a \$500,000 TSEP grant and a \$125,000 RRGL grant to East Helena for their priority water projects. These grants funds leverage restoration funds and make the use of the restoration funds more cost effective. The State of Montana Trustee chose Alternative 3 as the best alternative to meet the restoration plan goals. See Section 4.2.3, Preferred Alternative.

Topic J: Comments about Land Transfer

Comments: Two comments addressed the transfer of land (#32, #33). Comment #32 stated that the 192 acres identified in the Consent Decree are not necessary for a trail and open space, and that land fronting Hwy 518 should be made available for commercial or residential development. Comment #32 also stated that the 40 acres located along Prickly Pear Creek could be used for an open cut gravel source and reclaimed for storm water storage. Comment #33 stated that the details of the land conveyance are not decided and leaves many unanswered questions.

Response: As part of the Consent Decree, the State was provided an option to acquire at no cost approximately 232 acres of undeveloped ASARCO-owned land in the East Helena area, including approximately 192 acres in the vicinity of Upper Lake, and 40 acres in the vicinity of Prickly Pear Creek in the northern part of East Helena to be used solely for public recreation, wildlife habitat, open space, and/or wetlands. Because of the restrictions in the Consent Decree, the 40-acre parcel cannot be used for an open cut gravel mine. According to the Consent Decree, prior to the conveyance of the State-option land, the precise location and future uses of the land shall be agreed upon and approved in a written agreement between the State and U.S. EPA, after consultation with DOI and the METG.

Portions of the Greenway Trail are proposed to be constructed on land currently managed by the METG. METG has stated that because of liability concerns, the Greenway trail cannot be constructed on METG-controlled land. Therefore, this restoration plan anticipates that the transfer of some or all of the State-option land to other private or public owners would be a component of the Greenway Trail project, but the land conveyance approval process is not part of this plan. The Consent Decree outlines the process for disposition of METG-controlled property.

METG has been in discussion with Prickly Pear Land Trust and the City of East Helena and other entities about the conveyance of two additional parcels (40 acres and 55 acres for an additional 95 acres) for a total of 327 acres, adjacent to the State-option land. The details of any possible transfers such as the potential owner, exact acreage, stewardship costs, future uses, and timing of transfer have not yet been agreed upon and are not part of this restoration plan. The possible conveyance of any additional lands related to the State-option land would be negotiated separately, but may be included in the discussions about the transfer of State-option land.

Until these agreements are negotiated, the restoration plan cannot include any additional details about the land conveyance. See Section 1.2.5, General Proposed Plan for State-Option Land Conveyance.

Topic K: Comments Supporting Structural Diversity

Comments: One comment supported adding structural diversity to the Prickly Pear Creek restoration (#32).

Response: The State acknowledges this comment and appreciates the support for adding structural diversity to Prickly Pear Creek restoration. The NRDP proposes to augment riparian vegetation and health and improve fish and wildlife habitat along the newly reclaimed Prickly Pear Creek by planting large cottonwoods. These additional plantings decrease the recovery time of the reclaimed area and improve fish and wildlife habitat in the area shown on Figure 7. Approximately 125 large cottonwoods would be planted near Prickly Pear Creek as determined by METG's revegetation specialist.

Topic L: Comments Supporting Prickly Pear Creek Flow Project

Comments: Two comments supported the Prickly Pear Creek Flow Project (#43 and #52).

Response: The State acknowledges these comments and appreciates the support for the Prickly Pear Creek Flow Project.

Agency: METG Comments (#54)

Comment 54-1:

1. East Helena Funding from Asarco Bankruptcy Settlement

The Custodial Trust recommends that the EHRP clarify that funds paid from the bankruptcy settlement for the East Helena Site are summarized in Table 1 below (excluding the \$5.9 million held by NRD for East Helena restoration activities).

Table 1		
Asarco Bankruptcy Fund Accounts	Fund Amounts	Holder of Funds
East Helena Cleanup Fund	± \$96.3 million	Custodial Trust – EPA Lead Agency
East Helena NRD Fund	± \$0.8 million	Custodial Trust—USFWS Lead Agency
East Helena Special Account	± 15.0 million	EPA—Special Account
Subtotal	\$112.1 million	

In particular, the Custodial Trust requests that NRD clarify that cleanup funds for East Helena are \$96.3 million versus the \$115 million suggested in the EHRP.

Reference: EHRP Page ES1 and Page 1

Response: This table has been added to Section 1, Introduction and Background.

Comment 54-2:

2. Slag Pile Re-Grading and Capping

The first paragraph on Page 9 should be corrected to state that the Slag Pile cover system will be designed to allow for re-processing of Slag in the future. The Custodial Trust also notes that the Slag Pile consists of approximately 16 million tons of material.

Reference: EHRP Page 9 (First Paragraph carried over from Page 7)

Response: This editorial correction has been made.

Comment 54-3:

3. East Helena Smelter Facility Institutional Controls

Section 5) on Page 9 must be corrected to state that the two primary Institutional Controls (ICs) for the Site are the East Valley Controlled Groundwater Area (EVCGWA) and the Lewis and Clark County Soils Ordinance. The City of East Helena (COEH) Ordinance that bans drilling of new wells within the COEH limits is an IC that is layered on top of the two primary ICs—the EVCGWA and the Soils Ordinance. The Custodial Trust would not recommend relying on a City Ordinance to prevent a pathway for exposure to

contaminated groundwater and soils since the City code could be revised at some point in the future. The well abandonment program and groundwater monitoring activities are not ICs.

Reference: EHRP Page 9 (Section 5).

Response: The text in Section 1.2, Site Background, has been modified to refer to the East Valley Controlled Groundwater area and the County Soils Ordinance as the primary institutional controls and to state that in addition, the City of East Helena has an ordinance banning drilling of new wells within the City limits.

Comment 54-4: The last sentence of first full paragraph on Page 11 states that, *“Property within the limits of the City of East Helena are not affected by the East Valley Controlled Ground Water Area because of the City’s ban on drilling water wells in areas served by the City’s water system.”* This statement is not correct because: 1) all Custodial Trust property is located within the limits of the COEH; 2) property east of Valley Drive up to the boundary aligned with Plant Road is located within Subarea 1 and/or Subarea 2 (see attached map from EVCWA petition); and 3) as previously stated, the COEH ordinance banning the drilling of new wells within City limits would not, on its own, be deemed an effective, durable IC.

Reference: EHRP Page 11 (First Full Paragraph)

Response: The text in Section 1.2, Site Background, has been clarified to say that the two primary institutional controls for the site are the East Valley Controlled Groundwater Area and the Lewis and Clark County Soils Ordinance. The City of East Helena also has an ordinance banning the drilling of new wells within the City limits.

Comment 54-5:

4. Custodial Trust Land Holdings in East Helena

The first paragraph on Page 7 (carried over from the last paragraph on Page 6) should be corrected to reflect that the Custodial Trust took title to a total of approximately 2,000 acres of land (not 1,500 referenced in the EHRP).

Reference: EHRP Page 7 (First Paragraph)

Response: The text in Section 1.2, Site Background, has been corrected.

Comment 54-6:

5. Future Use of State-Option Property

Section 1.2.5 on Page 16 should be modified (or in some other section of the EHPR) to clarify that the State-Option Property is to be used for recreation, habitat and open

space. Specifically, Section 16 of the Bankruptcy Settlement Agreement states that, “The State avers that these undeveloped lands will be dedicated to public recreation, wildlife habitat, open space and/or wetlands.”

Reference: EHRP Page 16 (Section 1.2.5)

Response: Section 1, Introduction and Background, states that the State-option property is to be used for public recreation, wildlife habitat, open space, and wetlands. Section 1.2.5 states: The State is considering the best alternative for future use of the State-option land for public recreation, wildlife habitat, open space, and wetlands.

Comment 54-7:

6. Use of Custodial Trust Cleanup Funds for the East Helena Facility

The Custodial Trust requests that NRD include language in the description of the Greenway Trail Project (see Section 2.3.1.1 on Page 33), that clarifies that, “The Custodial Trust cannot use East Helena Cleanup (EHCU) Account for the construction and/or maintenance of trails and other improvements associated with the Greenway Project because such activities are not Environmental Actions pursuant to the Settlement Agreement.”

Reference EHRP Page 33 (Section 2.3.1.1) and Page 40 (Last Full Paragraph)

Response: “Environmental Actions” are specifically defined on page 9 of the Consent Decree. The definition includes restoration of natural resources as an eligible action. Trails are included in the East Helena Restoration Plan as natural resource restoration.

Comment 54-8: NRD should clarify that the Custodial Trust reviewed the cost estimates for trail construction as an accommodation to NRD and the PPLT, utilizing unit costs from the Greenway Project Study Report. Therefore, any such estimates should be reviewed and/or prepared by an entity that specializes in trail construction activities.

Reference EHRP Page 33 and Page 40

Response: The text in Section 2.3.1.1, Greenway Trail Project, has been edited to say that the METG-provided “estimated costs for trail construction will be revised during trail design.”

Comment 54-9: Page 1—Third sentence in second paragraph. The entire third sentence in the second paragraph (beginning with, “*The Consent Decree provides that...*”) is repeated (twice) in its entirety.

Response: This editorial correction has been made.

Comment 54-10: Page 5—Last Sentence in third paragraph. We recommend explaining the purpose, responsibilities and members of the Natural Resource Council Trustees (in either the main body of report or in Attachment A).

Response: Reference to the Trustee Restoration Council has been removed from the text.

Comment 54-11: Page 6—Section 1.2 – Site Background. In the second sentence of the first paragraph under Section 1.2, we recommend deleting “*several residential subdivisions*,” which could confuse the general public because it suggests the Custodial Trust property includes residential properties. While the property conveyed to the Custodial Trust did include the former Asarco housing area, the Custodial Trust arranged for the voluntary departure of all tenants before or shortly after the Custodial Trust was established on December 9, 2009.

Response: This editorial correction to Section 1.2, Site Background, has been made.

Comment 54-12: In the third sentence in the first paragraph under Section 1.2, we recommend changing the sentence, “*Prickly Pear Creek flows along the east and north boundary of the site*,” to “*Prickly Pear Creek flows along the east and northern boundary of the former smelter property*.”

Response: This editorial correction to Section 1.2, Site Background, has been made.

Comment 54-13: In the last sentence in the third paragraph under Section 1.2, we recommend specifically clarifying that remediation of the East Helena facility was transferred from CERCLA to the RCRA Correction program after 1997.

Response: This editorial correction to Section 1.2, Site Background, has been made.

Comment 54-14: The third sentence in the last paragraph under Section 1.2 states that, “*The State of Montana is a beneficiary of the Custodial Trust and together with other beneficiaries has final approval authority over funding, expenditures and contractors, consultants, and other professionals retained by the METG*.” We recommend clarifying that the State has such approval authority for the three sites where the State is the Lead Agency (i.e., the UBMC/Mike Horse, Black Pine and Iron Mountain sites) and for certain third parties retained to perform administrative activities. For the East Helena site, EPA has such approval authority.

Response: Text in Section 1.2, Site Background, has been clarified regarding the beneficiaries.

Comment 54-15: Page 7. As stated in comment 4 of the Custodial Trust’s memo, the reference to “*1,500 acres of former Asarco land*,” in the first sentence in the first paragraph (carried over from Page 6) should be corrected to state that the Custodial Trust took title to, “*approximately*

2,000 acres of former Asarco land.”

Response: This editorial correction to Section 1.2, Site Background, has been made.

Comment 54-16: The last sentence in the first paragraph (carried over from Page 6) states that, *“These lands also include ranches and farmland that encircle three-quarters of the smelter property that were purchased because of concerns that contamination might be impacting the growing and grazing uses of the property (METG, 2018).”* We recommend deleting this sentence because it implies that site contaminants adversely impact grazing and growing on the agricultural lands. The Custodial Trust has and continues to work with the ranchers and farmers who safely graze cattle and grow crops on former Asarco lands. Also, although we may suspect it is the case, we do not know definitively that Asarco acquired the agricultural land due to contaminant concerns.

Response: This direct quote came from the METG web site (<https://www.mtenvironmentaltrust.org/east-helena/site-history-and-custodial-trust-involvement/>). Accessed on February 25, 2019). The text in Section 1.2, Site Background, has not been changed.

Comment 54-17: Paragraph 1) (i.e., the second full paragraph on Page 7) states, *“Evapotranspiration cover (ET): elements consisted of building demolition at the plant site, subgrade fill, and final ET cover system to mitigate infiltration of precipitation at the facility and control erosion and surface water runoff.”* This sentence should be revised to state, *“Evapotranspirative Cover (ET Cover): entailed demolition of all remaining smelter structures, placement of subgrade fill, and construction of the final ET Cover system to prevent infiltration of precipitation into contaminated subsurface soils, control erosion, shed clean surface water and prevent contact with contaminated soils on the smelter property.*

Response: This editorial change to Section 1.2, Site Background, has been made.

Comment 54-18: Paragraph 2) (i.e., the third full paragraph on Page 7) states that, *“Wetlands were developed to reduce surface water loading to groundwater by removing Upper Lake and Lower Lake.”* This statement should be corrected to state that new wetlands were created as part of the mitigation required by the US Army Corps of Engineers under Section 404 of the Clean Water Act.

Response: This editorial change to Section 1.2, Site Background, has been made.

Comment 54-19: Page 10. The first full paragraph under the Section entitled *“Groundwater,”* states that, *“These chemicals of concern [attributed to the Asarco smelter] are responsible for*

three contaminant plumes associated with the former smelter. An arsenic plume originates at the former smelter and extends north-northwest. Another lower concentration arsenic plume is located north of the slag pile. A selenium plume also originates at the former smelter and extends north almost to Canyon Ferry Road. All three plumes are migrating along the general direction of groundwater flow.” The Custodial Trust’s technical and regulatory documents identify only two (not three) groundwater plumes. Specifically, the plume maps show one contiguous arsenic plume that is shaped like a mitt. There is a third arsenic plume that extends northwest to the Seaver Park subdivision that is believed to originate from naturally occurring arsenic. (The plume is identified as the “*West Arsenic Plume*” on [Figure 2](#) of the draft EHRP.) To avoid confusion about the groundwater plumes, the Custodial Trust recommends that NRD refer to only one arsenic plume attributed to smelter operations. Additionally, the Custodial Trust recommends that NRD clarify that the selenium plume originates from the former smelter process area and the Slag Pile.

Response: The discussion of the plumes in Section 1.2.1, Injury Overview, has been corrected to clarify that there are two plumes only. Clarification was also added regarding the origin of the selenium plume.

Comment 54-20: The first sentence in the first full paragraph states that, “*The Corrective Measures Study report released by METG and EPA in April 2018 identifies the highest potential future use of groundwater at and downgradient of the site ~~is~~ as a drinking water source (METG, 2018).*” NRD should delete “is” (highlighted in red).

Response: This editorial correction in Section 1.2.1, Injury Overview, has been made.

Comment 54-21: The fifth sentence in the first full paragraph states that, “*East Helena is located north of the smelter with much of the main business and residential areas overlying the groundwater plumes (DNRC, 2014).*” This statement should be corrected to say that, “East Helena is located north of the smelter with a portion of the main business and residential areas overlying the groundwater plumes (DNRC, 2014),” as indicated on [Figure 2](#) of the draft EHRP.

Response: This editorial correction in Section 1.2.1, Injury Overview, has been made.

Comment 54-22: Page 11. The fourth sentence in the third full paragraph (under the Section entitled “*Surface Water*”) states that, “*EPA completed streambed reconstruction of 1.25 miles of Prickly Pear Creek in November 2016, adjacent to the smelter.*” This sentence should be corrected to state that “METG” (not “EPA”) completed streambed reconstruction.

Response: This editorial correction in Section 1.2.1, Injury Overview, has been made.

Comment 54-23: The first sentence in the fourth full paragraph (first sentence under Section entitled *“Prickly Pear Creek condition within site”*) states that, “The METG’s remedial goal has been to reduce site groundwater elevation levels to keep contaminated soils from contacting groundwater.” The Custodial Trust recommends revising this sentence to state that, “METG’s remedial goal is to reduce contaminant loading to groundwater by reducing groundwater elevation under the former smelter property to limit the volume of groundwater in contact with contaminated soil.”

Response: This editorial correction in Section 1.2.1, Injury Overview, has been made.

Comment 54-24: Page 14 and Page 16. The last full paragraph on Page 14 states that, *“The METG prepared updated cost estimates for the Greenway trail, discussed in Section 3.2.1.1.”* However, there is no Section 3.2.1.1 in the draft EHRP.

Response: The cross reference has been corrected to refer to Section 2.3.1.1, Greenway Trail Project.

Comment 54-25: Page 16. The sixth sentence in the first paragraph under Section 1.2.5 entitled *“General Proposed Plan for State-Option Land Conveyance,”* refers to the possibility of long-term private ownership of the Greenway Project. The Custodial Trust is not aware of any options for long-term ownership of the Greenway Project lands by a private party. As a fiduciary, the Custodial Trust is unlikely to recommend a scenario under which a private entity could acquire the Greenway Project property (and associated long-term stewardship funds) from the Prickly Pear Land Trust for any non-public and/or private-sector use. As stated in comment 5 of the Custodial Trust’s memo, we also recommend referencing Section 16 of the Bankruptcy Settlement Agreement (i.e., that *“The State avers that these undeveloped lands will be dedicated to public recreation, wildlife habitat, open space and/or wetlands.”*) so that the public understands that the State- Option land will be used for beneficial public purposes.

Response: Section 1.2.5, General Proposed Plan for State-Option Land Conveyance, has been reorganized and additional information from the Consent Decree as it pertains to the conveyance of State-option land has been added.

Comment 54-26: Page 19—Third bullet under the third paragraph. The EHRP states that, *“During the public scoping process, the following restoration action were proposed:. . . Removal of slag from Prickly Pear Creek in town, especially in town but railroad bridge to Burnham’s diversion.”* The statement, “especially in town but railroad bridge to Burnham’s diversion” does not make sense.

Response: This project concept was paraphrased from comments made during the public

scoping process. The project concept has been clarified in Section 1.3, Public Participation.

Comment 54-27: Page 33, Page 40 and Page 46. NRD makes a number of references to the estimated costs for construction of the Greenway Project trail system that were prepared by the Custodial Trust, including:

- ✓ *“METG prepared construction estimates for the entire 11.4 miles of Greenway trail as \$4,309,933” (see first sentence of first paragraph under Section 2.3.1.1 on Page 33);*
- ✓ *“METG-estimated cost for construction of 8 miles of segments 2, 3 and 4 is \$3,225,414, including construction and trailhead/parking, signs, fencing, and other components” (see second paragraph under Section 2.3.1.1 on Page 33);*
- ✓ *“METG provided cost estimates for Greenway trail construction. According to METG construction cost estimates, the amount of funding allocated under any of the alternatives would not be enough to construct all of the Greenway trail sections proposed. For example, the METG cost estimate provided for the construction 8 miles of the Greenway trail and other trail components such as fencing, ADA devices, signs, and trailhead parking, is \$3,225,414.” (see last paragraph on Page 40); and*
- ✓ *“METG calculated that Greenway trail operations and maintenance of segments 2, 3, and 4 for a total of 8 miles would require a set aside of \$1,361,791, assuming a 25-year project life. NRDP considers the METG-calculated trail operation and maintenance costs reasonable when considered over the 25-year life of the project. The State considers funding operation and maintenance for 10 years a more reasonable and manageable period of time. Based on the cost estimates provided for a 25-year project plan, estimated costs for 10 years of operations and maintenance for 8 miles of trail would be approximately \$544,716.” (see first full paragraph on Page 46).*

The Custodial Trust offers the following comments and recommendations:

- ✓ The Custodial Trust asked Hydrometrics to review the Prickly Pear Land Trust (PPLT) cost estimates as an accommodation to NRD and PPLT; however, Hydrometrics and the Custodial Trust do not have specific expertise or experience in trail construction and/or maintenance costs. We therefore recommend that NRD include a disclaimer that the Custodial Trust’s cost information likely needs to be reviewed and confirmed by an individual or organization that has such expertise.

Response: Section 2.3.1.1, Greenway Trail Project, has been revised to state that the METG-provided “estimated costs for trail construction will be revised during trail design.”

Comment 54-28: The Custodial Trust recommends that NRD include a statement in one or more of the above-cited sections that clarifies that the Custodial Trust cannot use East Helena cleanup funds for design, construction and/or maintenance of trails, trail access or other infrastructure associated with the Greenway Project.

Response: “Environmental Actions” are specifically defined on page 9 of the Consent Decree. The definition includes restoration of natural resources as an eligible action. Trails are included in the East Helena Restoration Plan as natural resource restoration.

Comment 54-29:

- ✓ We are unable to confirm the source of the *“estimated costs for 10 years of operations and maintenance for 8 miles of trail would be approximately \$544,716.”*

Response: Because the estimated costs provided by METG were very preliminary, NRDP merely prorated the estimated costs for 10 years by multiplying the METG costs by .40 (that is, 40% of 25 years).

Agency: EPA Comments (#55)

Comment 55-1: The U.S. Environmental Protection Agency (EPA) is writing to support the proposed Restoration Alternative 3 – Recreation Action Weighted, identified in the *East Helena Asarco Smelter Draft Restoration Plan and Environmental Assessment Checklist*, January 2019 (2019 Restoration Plan). This proposed restoration alternative supports the implemented RCRA Corrective Actions, provides for public recreational access to the restored Prickly Pear Creek corridor, and allows for disposition and long-term stewardship using East Helena Cleanup Funds for 232 acres of Custodial Trust property.

Response: The State acknowledges this comment.

Comment 55-2:

1. General comment – The cleanup that the Montana Environmental Trust Group (METG) is implementing is jurisdictionally under the 1998 RCRA/CWA Consent Decree and is deemed corrective action. Using the term remediation could imply implementation under CERCLA. Substituting “cleanup” to replace remediation, could avoid confusion.

Response: The text in Section 1.2, Site Background, has been clarified to explain that for the purposes of the restoration plan, remediation refers to the work that was described in the East Helena Facility Corrective Measures Study Report (METG, 2018).

Comment 55-3:

2. Executive Summary (ES1 – first paragraph) - The 2019 Restoration Plan should reference the 2009 *Consent Decree and Settlement Agreement Regarding the Montana Sites* (Consent Decree).

Response: This editorial change in the Executive Summary has been made.

Comment 55-4:

3. Executive Summary (ES1 – first paragraph) - The Consent Decree states “the State of Montana shall have an allowed general unsecured claim in the total amount of \$5 million”. If correct, EPA suggests clarifying that the State received more than the \$5 million because of interest and other earnings on the NRD funds (pursuant to paragraph 17 on page 44 of the Consent Decree). If additional funds have been generated because of the State’s investment of the funds, those amounts should also be identified (see page 44 of the Consent Decree). Additionally, the total funds (excluding the NRD funds) distributed for East Helena is approximately \$110.2 million - \$96.3 million to the East Helena Cleanup Fund managed by METG; \$706,000 to the Department of Interior Natural Resource Damage fund; and, \$13.2 million to the East Helena CERCLA Special Account.

Response: The text in Section 1, Introduction and Background, and Section 1.2.2, Overview of Settlement, has been clarified to describe how interest and other earnings on the damages were added into the East Helena Restoration Fund.

Comment 55-5:

4. Figure 1 is repeated twice in the document.

Response: The figure number has been corrected.

Comment 55-6:

5. Introduction and Background (Figure 2 is the Geographic Boundary of the CMS) - EPA can provide a more accurate figure to define the CERCLA response area, and/or provide an explanation of the RCRA CMS at this point.

Response: For the purposes of the restoration plan, Figure 2 shows the Geographic Boundaries of the Corrective Measures Study.

Comment 55-7:

6. Introduction and Background (Page 1) - See comments above regarding monetary distribution.

Response: The text in Section 1, Introduction and Background, and Section 1.2.2, Overview of Settlement, has been clarified to describe how interest and other earnings on the damages were added into the East Helena Restoration Fund.

Comment 55-8:

7. Site Background (Page 6) – After the third paragraph, add a paragraph describing the 1998 EPA RCRA/CWA Consent Decree requiring Corrective Action at the smelter site, and the transfer of those responsibilities to METG in 2009, which was reflected in the 2012 First Modification of the 1998 RCRA/CWA Consent Decree.

Response: The following text has been added: “In 1997, EPA initiated transfer of responsibility for ongoing remedial activities at the Facility from its CERCLA program to its “Corrective Action” program under RCRA. A Consent Decree, effective May 5, 1998, initiated the RCRA corrective action process. Subsequent to the 2005 ASARCO bankruptcy, ownership of the Facility was transferred to the Montana Environmental Trust Group (METG), LLC, as Trustee for the Montana Environmental Custodial Trust, in December 2009. On January 12, 2012, the First Modification to the Consent Decree was filed and substitutes METG for Asarco as a party to the 1998 Consent Decree.”

Comment 55-9:

8. Site Background (Page 6) – Last sentence of fourth paragraph should be rewritten, as follows: “The State of Montana, both MDEQ and MDOJ, are beneficiaries of the Custodial Trust and are the lead agencies for the UBMC water treatment plant, Black Pine mine, and Iron Mountain. EPA is the lead agency for the East Helena site and consults with the State and Federal beneficiaries on annual budgets and implementation of RCRA corrective actions.”

Response: This comment is inaccurate. Clarification has been added to Section 1.2, Background, about the roles of beneficiaries.

Comment 55-10:

9. Site Background (Page 7 First sentence in the first paragraph) - For consistency, see comments above regarding monetary distribution.

Response: The text in Section 1, Introduction and Background, and Section 1.2.2, Overview of Settlement, has been clarified to describe how interest and other earnings on the damages were added into the East Helena Restoration Fund.

Comment 55-11:

10. Site Background (Page 7 First paragraph) - Recommend deleting the last sentence.

Response: This direct quote came from the METG web site (<https://www.mtenvironmentaltrust.org/east-helena/site-history-and-custodial-trust-involvement/>). Accessed on February 25, 2019).

Comment 55-12:

11. Site Background (Page 7 Second paragraph) – Recommend deleting CERCLA in the first sentence. METG is performing the RCRA Corrective Action under the 1998 RCRA/CWA Consent Decree. EPA is performing additional CERCLA work using funds from a separately funded special account.

Response: This editorial change to Section 1.2, Site Background, has been made.

Comment 55-13:

12. Site Background (Page 7 Second paragraph – Figure 4) – EPA can provide a figure showing all the implemented interim actions.

Response: The text in Section 1.2, Site Background, has been clarified to explain which interim actions discussed have been completed.

Comment 55-14:

13. Site Background (Page 7 – Second paragraph – last sentence) – Substitute “corrective” or “cleanup” for “remedial”.

Response: This editorial change to Section 1.2, Site Background, has been made.

Comment 55-15:

14. Site Background (Page 9 – First full sentence) – Delete the sentence, “The cover could eliminate the potential future reuse of slag.” Section 6.3 of the CMS Report states, “The regraded and covered unfumed slag can also be accessed for recovery in the future, if warranted by market conditions, by developing grading plans to specify removal (and

stockpiling) of the ET cover, removal of the desired quantity of slag material, regrading of the remaining material, and replacement of the ET cover.”

Response: The text in Section 1.2, Site Background, has been corrected to say the cover would be designed to allow for potential future reuse of slag.

Comment 55-16:

15. Site Background (Page 9) – See Section 6.4 of the CMS. Zoning, well abandonment and East Helena city ordinances are not the primary institutional controls (ICs) in East Helena. The Controlled Groundwater Area and the Lewis & Clark Soils Ordinance are the primary ICs to protect the groundwater and surface soil corrective actions.

Response: The text in Section 1.2, Site Background, has been corrected to say that the two primary institutional controls for the site are the East Valley Controlled Groundwater Area and the Lewis and Clark County Soils Ordinance.

Comment 55-17:

16. Site Background (Page 10 – Groundwater) – Use Section 3.4.3 in the CMS Report to discuss the current CSM for groundwater. There are not three plumes.

Response: This editorial change to Section 1.2, Site Background, has been made.

Comment 55-18:

17. Site Background (Page 10 – Groundwater) – Re-write the section, “As part of remediation of the site, the METG has proposed to drill a new well for the community of East Helena to replace the Wylie Well #3 that is downgradient of the plumes. The project is described in Attachment C as “New Production Well to Replace Wylie Well #3.” The METG has also proposed protecting the caisson at the McClellan water source and improving access to the McClellan radial wells as part of remediation. These projects are also described in Attachment C. The projects are estimated to cost just over \$2.5 million and are pending EPA approval”. Suggested edits are, “As part of the environmental actions performed in East Helena, METG has proposed to drill a new well for the community of East Helena to replace the #3 water supply well to ensure a long-term drinking water source for East Helena. METG has proposed other water source improvements as detailed in Attachment C. Both projects require EPA approval, which depends, in part, on the final restoration plan as well as METG’s submittal of a detailed scope and cost estimate for these activities. METG and EPA will work with the City of East Helena to define the community priorities and financial feasibility.”

Response: The text has been modified to say: “As part of environmental action at the site, the METG proposed to drill a new well for the community of East Helena to replace the Wylie Well #3 that is downgradient of the plumes. The project is described in Attachment C as “New Production Well to Replace Wylie Well #3. In May 2019, the EPA approved METG’s request to drill a new well to replace the Wylie Well #3 and associated infrastructure. The METG has also proposed protecting the caisson at the McClellan water source and improving access to the McClellan radial wells as part of environmental action. These projects are also described in Attachment C. The projects are estimated to cost \$756,785 and at the time of this final restoration plan are pending U.S. EPA approval.”

Comment 55-19:

18. Site Background (Page 11 - Groundwater – First partial sentence) – Revise ... “groundwater use to protect humans and livestock from exposure to contaminated groundwater and control groundwater pumping that could cause further migration of contaminated groundwater” to “groundwater use to protect humans and livestock from exposure to contaminated groundwater and control groundwater pumping that could potentially spread the plumes.”

Response: This editorial change to Section 1.2, Site Background, has been made.

Comment 55-20:

19. Site Background (Page 11 - Groundwater – First full paragraph, last sentence) – Revise the last sentence, “Property within the limits of the City of East Helena are not affected by the East Valley Controlled Ground Water Area because of the City’s ban on drilling water wells in areas served by the City’s water system” to “Properties west of Montana Avenue, within the limits of the City of East Helena, are included in the East Valley Controlled Ground Water Area. Properties east of Montana Avenue, within the limits of the City of East Helena, are prohibited by ordinance from drilling new water wells in areas served by the City’s water system.”

Response: This editorial change to Section 1.2, Site Background, has been made.

Comment 55-21:

20. Site Background (Page 12 – Groundwater – The first partial sentence) – Suggest revising, “In 2014, METG removed saturated **contaminated** sediments next to and within the Upper and Lower Lake complex”. Suggest removing the sentence, “As of fall 2016, both Upper and Lower Lakes were dewatered”.

Response: These editorial changes to Section 1.2, Site Background, have been made.

Comment 55-22:

21. Overview of Settlement (Page 12) - See comments above regarding monetary distribution, re: \$5.9 million.

Response: This editorial change to Section 1.2.2, Overview of Settlement, has been made.

Comment 55-23:

22. General Proposed Plan for State-Option Land Conveyance (Page 17 – First paragraph, second sentence) – The sentence should be revised to read, “The METG land stewardship cost estimate is \$2,345,278 for 25 years of stewardship for ~~the 327 acres~~ trail segments 1 through 4”. The land stewardship cost estimate for segment 2 (the 327 acres), mostly on Trust property is \$1,907,111.

Response: NRDP is aware that the METG has been in discussion with Prickly Pear Land Trust and the City of East Helena and other entities about conveyance of ownership of State-option and other ASARCO land. This other land is not part of the State-option land identified in the Consent Decree but might be adjacent to or near the State-option land. The details of any possible transfers such as the potential owner, exact acreage, stewardship costs, future uses, and timing of transfer have not yet been agreed upon and are not part of this restoration plan, so these cost estimates have been removed from the restoration plan text in Section 1.2.5, General Proposed Plan for State-Option Land Conveyance.

Comment 55-24:

23. Groundwater Replacement (Page 28 – Second full paragraph) – Suggest revising these sentences, “As part of the remedial action, the METG is funding some of the actions identified in the Water Master Plan, such as a replacement well, north radial well improvements, and McClellan tanks caisson repairs. See Attachment C for a description of these projects.” to “As part of the environmental actions performed in East Helena, METG has proposed to drill a new well for the community of East Helena to replace the #3 water supply well to ensure a long-term drinking water source for East Helena. METG has proposed other water source improvements as detailed in Attachment C. [As explained in comment 17, EPA has not yet approved these projects.] METG and EPA will work with the City of East Helena to define the community priorities and financial feasibility”.

Response: Section 2.1, Groundwater Replacement, has been edited to reflect that EPA has approved some but not all of METG’s proposed groundwater remediation actions at the site:

“As part of environmental action at the site, the METG proposed to drill a new well for the community of East Helena to replace the Wylie Well #3 that is downgradient of the plumes. The project is described in Attachment C as “New Production Well to Replace Wylie Well #3. In May 2019, the EPA approved METG’s budget request for \$1,467,000 to drill a new well to replace the Wylie Well #3 and associated infrastructure. The METG has also proposed protecting the caisson at the McClelland water source and improving access to the McClellan radial wells as part of environmental action. These projects are also described in Attachment C. The projects are estimated to cost \$756,785 and at the time of this final restoration plan are pending U.S. EPA approval.”

Comment 55-25:

24. Proposed Groundwater Restoration Actions (Page 28 – Second sentence) – Revise sentence, “As part of the remedial action, METG has proposed to fund, contingent on EPA approval, \$1,812,238 for a new drinking water well and \$779,488 for the north radial well improvements, leaving \$4,806,200 in priority actions to be potentially funded with ASARCO East Helena Smelter restoration funds”. EPA recommends taking out the cost estimates and use of the language in comment 23.

Response: Please see response to Comment 23.

Comment 55-26:

25. Attachment A – EPA suggests addition of a definition of RCRA Corrective Action.

Response: The definition of Corrective Actions used in the Correction Measures Study has been added to Attachment A: Corrective measures are those measures or actions appropriate to remediate, control, prevent, or mitigate the release, potential release, or movement of hazardous waste or hazardous constituents into the environment or within, or from one medium to another.

Comment 55-27:

26. Attachment C (Page C11) – Recommend changing the title, “Groundwater Replacement Projects that are proposed to be paid for by METG, pending EPA Approval” to “Groundwater Projects proposed by METG that will be evaluated by EPA based on community priorities, financial feasibility, and final restoration plans.”

Response: EPA has approved funding for a new well to replace the Wylie Well #3 that is downgradient of the plumes. The METG has also proposed protecting the caisson at the McClellan water source and improving access to the McClellan radial wells as part of

remediation. The projects are estimated to cost \$756,785 and at the time of this final restoration plan are pending U.S. EPA approval. See response to comment 17.

Agency: USFWS Comments (#56)

The U.S. Fish and Wildlife Service (Service) reviewed the East Helena ASARCO Draft Restoration Plan and Environmental Assessment Checklist and would like to provide the following editorial and substantive comments.

Comment 56-1: The Service supports the selection of Restoration Alternative 3: Recreation Action Weighted.

Response: The State acknowledges this comment.

Comment 56-2: In Section 1.2.1 Injury Overview, water fowl should be one word.

Response: This editorial correction has been made.

Comment 56-3: In Section 1.2.5 General Proposed Plan for State-Option Land Conveyance, the Service supports any State-option land transfer to other public organizations that would provide public access, and protect the restored lands in perpetuity. Developing the land would not be supported.

Response: The details of the land conveyance have not yet been negotiated. Section 1.2.5, General Proposed Plan for State-Option Land Conveyance, has been reorganized and additional information from the Consent Decree has been added. Thank you for your comment.

Comment 56-4: In Section 2.2.1.2 Improve riparian vegetation/ riparian health the Service suggests adding additional options besides planting large cottonwood trees. The proposed option is an expensive option for a small number of trees. Did METG's revegetation specialist have any other recommendations?

Response: NRDP worked with the METG revegetation specialist to determine a general plan and cost.

Comment 56-5: In Section 2.3.1.1 Greenway Trail Project, the Service would encourage any paving of trails be completed outside the floodplain. Asphalt surfaces can leach contaminants into surface water when inundated.

Response: The details of Greenway trail routing and construction materials have not yet been determined; this comment will be taken into consideration when further developing the proposal.

Comment 56-6: Also in the last sentence in the second paragraph in this section, did you mean fencing instead of fending?

Response: This editorial correction has been made.

Section III. Summary of Changes to Document

Executive Summary

The text was modified to reflect changes listed below.

Chapter 1

Chapter 1 was modified to reflect that the restoration plan is no longer a draft, but now is a final. References were added to two new attachments, D (Responses to Public Comments on Draft Restoration Plan) and E (copies of comment letters).

Chapter 1 changes also included a few technical corrections regarding the settlement, the legal management, the settlement agreement, and the land conveyance plans.

- Section 1, Introduction and Background, added clarification about the East Helena Site Compensatory NRDP Special Revenue Fund and its purpose. A table was added outlining funds paid from the bankruptcy settlement for the East Helena Site.
- Section 1.1, Purpose and Scope of this Document, was modified to remove reference to the NRD Trustee Restoration Council. Reference to the Trustee Restoration Council was a holdover from the Upper Clark Fork River Basin plan used as a template and language source in the drafting of this East Helena ASARCO Restoration Plan and Environmental Checklist. The East Helena ASARCO Restoration Plan does not require NRD Trustee Restoration Council review.
- Section 1.2, Site Background, was modified to add information about remediation of the facility under CERCLA and RCRA, the status of the RCRA Corrective Measures Study, and the status of the interim actions. More information about the groundwater contamination and proposed new well for East Helena are included. Clarification of the METG's remedial goal for Prickly Pear Creek surface water is clarified.
- Section 1.2.2, Overview of Settlement Agreement, added clarification about the East Helena Site Compensatory NRDP Special Revenue Fund (East Helena Restoration Fund) and its purpose.
- Section 1.2.5, General Proposed Plan for State-Option Land Conveyance, was revised to clarify the general proposed plan for land conveyance.
- Section 1.3, Public Participation, includes a discussion of public comment on the Draft Restoration Plan.

Chapter 2

- Section 2.1, Groundwater Replacement, was changed to include discussion of the new drinking-water well the METG is installing for the community. The METG has also proposed protecting the caisson at the McClellan water source and improving access to the McClellan radial wells as part of environmental action. The projects are estimated to cost \$756,785 and at the time of this final restoration plan are pending U.S. EPA approval.
- Section 2.1.1, Proposed Groundwater Restoration Actions, was changed to add new information about which projects METG will complete for the City of East Helena and which are still pending approval.
- Section 2.3.1.1, Greenway Trail Project, was modified to add clarity on the proposed segment and construction costs.

Chapter 3

Additional clarification was added to the descriptions of each of the alternatives to explain that the exact location of the proposed trail would be determined at a later date.

Chapter 4

Chapter 4 changes include a number of technical clarifications:

- Section 4.1.2, Relationship of Expected Costs to Expected Benefits, minor corrections were made to the percent calculations and mileage calculations.
- Section 4.1.3, Cost-effectiveness, language was added to clarify the Recreation replacement discussion.
- Section 4.2.3, Preferred Alternative, language was added to clarify that the Trustee recommends Alternative 3 as the preferred alternative to meet restoration plan goals.

Chapter 5

Chapter 5 changes include the following technical clarifications:

- The text has been clarified to state that the remainder of the overall balance (approximately 7-8%) of the East Helena Restoration Fund will be reserved for administration of the restoration projects and to implement the State's responsibilities as Beneficiary of the Custodial Trust for the foreseeable future.
- Reference to the NRD Trustee Restoration Council was removed.

Figures

No changes to figures.

Attachment A:

Definitions for RCRA Corrective Action and Trustee Restoration Council were added.

Attachment C:

Technical clarification was added to several of the restoration action ideas or to update their status.

Section IV. Comments Received and Comment Topics

No.	Individual/Association	Comment Category
1	Kris Stockton	A, B
2	Chris Evans, Lewis & Clark Conservation District	C
3	Nora Harper	C
4	Darla Fitzpatrick	C
5	Don Dahl	D, I
6	Bill Shropshire, CEO – American Chemet Corp	C
7	Richard Johnson – Ash Grove	B
8	Dennis Milburn	C
9	David and Connie Cole	B, C, E
10	Clint Pullman	B, C
11	Sisi Carroll	C
12	Blair Verbenac	D, I
13	City of East Helena	D, F, G
14	Crystal Eckerson	A
15	Ron Marcoux	B, C
16	Citizen’s Advisory Committee, Lewis and Clark County Open Space Program	B, C
17	Gregory Normandin	C
18	Bob Bugni	H
19	Robert Rasmussen	A, C
20	Adam Strainer, FWP	C
21	John Kilgour	B, C
22	Andrew Carroll	B
23	Pam Perry	B
24	James	D

25	Kristin Drees	C
26	Kit, Viola, & Kacy Johnson and Nikita & Chris Pratt	B, D, E, I
27	Cheryl Verbanac	D, I
28	Maryalice Chester	C, E
29	Annie Kilgour	B, C
30	Sarah Jaeger	C
31	Jim Barnes	C
32	Scott St. Clair	G, H, I, J, K
33	Blaine Verbanac	D, J
34	Chris Barry	C
35	Paula Jacques	C
36	Adolph Timm	C
37	Janet Hedges	C
38	John Beaver	C
39	Nicole Merrill	C
40	Edward Santos	C
41	Erin Woodrow	C
42	Sue McNicol	C
43	Lewis and Clark County Water Quality Protection District	L
44	Alayna White	C
45	Lyn Stimpson	C
46	Travis Vincent	C
47	Blue Cross and Blue Shield of Montana, John Doran	C
48	Breena Buettner	C
49	Jim Utterback	B, C
50	Prickly Pear Land Trust, Mary Hollow	C
51	Andrea Silverman	C

52	Barbara Chillcott	C, L
53	Dick Anderson	C
	AGENCY COMMENTS	
54	Cindy Brooks, Montana Environmental Custodial Trust	
55	EPA	
56	U.S. Fish and Wildlife Service, Karen Nelson	
	LATE COMMENTS	
L57	Mark Runkle	
L58	Max Pigman	
	Joice Franzen (email was corrupt/unreadable – comment not attached)	
L59	Jeff Herbert, Helena Valley Gun Dog Club	
L60	Judy Merickel Rawlings	

Comment Category Key:

Topic A:	Comments in support of the Draft Restoration Plan
Topic B:	Comments in Support of the Greenway
Topic C:	Comments Supporting the Preferred Alternative 3
Topic D:	Comments Supporting Alternative 2
Topic E:	Comments on the Trail Design/Weeds
Topic F:	Comments on Cost-Effectiveness of Alternatives
Topic G:	Comments on Services Lost/ Injured Resources
Topic H:	Comments Opposing Components of Alternatives
Topic I:	Comments about Infrastructure
Topic J:	Comments about Land Transfer
Topic K:	Comments Supporting Structural Diversity
Topic L:	Comments Supporting Prickly Pear Creek Flow Project

Attachment E: Copies of Comment Letters

From: [Kris Stockton](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Friday, January 25, 2019 8:37:57 AM

Please note my support of the East Helena Restoration Plan. This proposed greenway would provide many outdoor recreational opportunities for our community and our schools. Please consider approving this project.

A

Thank you!

B

Kris Stockton
East Helena

Sent from my iPhone

From: [Chris Evans](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Friday, January 25, 2019 10:34:04 AM

Lewis & Clark Conservation District would like to go on record supporting the preferred alternative for the East Helena Restoration Plan. We have partnered with PPLT many times over the years as they've done good work in the county and are very supportive of this project.

C

Chris Evans
District Administrator
Lewis & Clark Conservation District
790 Colleen Street
Helena MT 59601

406.449.5000 x5
www.lccd.mtnacdnet.org

From: [Nora Harper](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Friday, January 25, 2019 11:33:44 AM

To whom it may concern,

I'm taking the time today to let you know that I support the preferred alternative. I'd like to see the Prickly Pear Land Trust get the funding they need to begin construction on the proposed Prickly Pear Creek Greenway.

C

Thanks for your time,

Nora Harper
Helena, MT

From: [Darla Fitzpatrick](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Saturday, January 26, 2019 4:43:10 PM

Hello!

I am voicing support for the Preferred Alternative plan to allow Prickly Pear Land Trust to complete the proposed greenway.

C

What a great way to both reclaim the area and provide a beautiful place for families to enjoy the outdoors. It would not only encourage more visitors to pass through East Helena (possibly spending money there), but would encourage many more people from the surrounding area to come and use the greenway and its trails. A win-win! I know I would use the proposed improvements for running and biking frequently. We're always looking for more safe routes to do our "long runs" and bike rides without interfering with vehicle traffic.

Thank you,

Darla Fitzpatrick
1355 Charlie Russell Dr
Helena

From: [Don Dahl](#)
To: [Natural Resource Damage Program](#)
Subject: restoration plan
Date: Monday, January 28, 2019 12:44:05 PM

I would like to recommend you reconsider your support of alternative 3. While trails are nice there were no trails damaged by the smelter but the residents of East Helena were affected. Alternative 2 would benefit the most people for generations to come with an updated water supply. Trails would benefit maybe 10% or less of the population but a water system upgrades with no tax increase would benefit all the population of East Helena and for future growth in the area. I would urge your support of alternative 2 for the benefit of the local residents who were affected the most by the smelter.

Thank You for your consideration:
Don Dahl
Box 863
East Helena, MT

From: [Bill H Shropshire](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, January 28, 2019 5:06:35 PM

Greetings!

I'm writing to express American Chemet's support for the state's preferred alternative in the restoration plan draft, which includes infrastructure improvements for EH and funding for the Greenway project.

C

I am hoping to stop in at the meeting tomorrow evening after a 6pm "lunch and learn" with Chemet's 2nd shift. (Probably a little after 7pm.)

Best regards,

Bill H. Shropshire
President, CEO
American Chemet Corp

From: [Johnson, Richard \(Ash Grove\)](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Wednesday, January 30, 2019 8:15:29 AM

COMMENT #7

To whom it may concern,

Although I do not speak for all of Ash Grove Cement, we at the Montana Plant have worked with PPLT for several years on the possibility of a trail system that joins our walking trail along Prickly Pear Creek. It is an opportunity to put these kind of recreational projects in place ahead of development, as it is very difficult to do them after. I strongly support this project.

B

Dick Johnson

From: [Dennis Milburn](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Wednesday, January 30, 2019 6:32:12 AM

COMMENT #8

To Whom It May Concern,

I would like to express my enthusiastic support for the "Preferred Alternative" for described for East Helena Restoration Plan. This would provide a fantastic recreational opportunity for East Helena as well as the Helena Valley in general.

Dennis Milburn

C

From: [David and Connie Cole](#)
To: [Natural Resource Damage Program](#)
Cc: [Stickney, Alicia](#)
Subject: East Helena Restoration Plan
Date: Friday, February 1, 2019 8:09:01 AM

COMMENT #9

Thank you for the opportunity to comment on the draft Restoration Plan for East Helena that includes the Prickly Pear Land Trust proposed Greenway project. The preferred alternative will continue to benefit the surface and groundwater resources in the project area. I have had the opportunity to follow PPLT's progress on the Seven Mile and Ten Mile creek restoration projects as part of the Peaks to Creeks proposal for Open Space Bond funding. I recently heard a report from Eric Roberts (FWP fisheries manager) regarding the progress these restoration projects have achieved. The improvements to the creeks have exceeded expectations and we look forward to the continued beneficial results PPLT and its contractors will continue to have on these important watersheds. PPLT's success on these two creeks bodes well for Prickly Pear Creek in East Helena. The preferred alternative would provide PPLT with the needed funds to continue work to heal the surface and groundwater in the vicinity of the smelter. Eric Roberts is very hopeful that the presence of monster 'bows and browns are a possibility not far in the future for Prickly Pear Creek in East Helena.

The second reason I support the preferred alternative is that it includes the construction of a public trail system and provides for its long-term maintenance and management. Alternative 3 maximizes the funding available for recreation. The alternative would make the 232 restored acres available for public access and use, an option not maximized in other alternatives. One of the underlying positive benefits of the Superfund program is the potential that restored areas can be developed to provide projects with public access. We have seen the truth to the adage that "if you build it, they will come" in the popularity of the trails systems in the South Hills, in the Scratch Gravels, and adjacent to Fort Harrison. The public was excluded from using the Prickly Pear Creek corridor for recreation for decades. The smelter's water management needs precluded public use during the period when those activities negatively impacted surface and groundwater quality. With surface and groundwater quality restored, recreational uses can now be contemplated. The populations of East Helena and Montana City will be well served by the PPLT Greenway project, as will the residents of Lewis and Clark County as a whole.

I did note some confusion regarding the extent of the proposed trail system and the impact of a trail that would extend to Lake Helena on private landowners. Apparently, earlier iterations of the trail were much longer than what is currently proposed – basically from the plant site to Montana City. Emphasis of the smaller footprint of the trail in the description of the proposed alternative could diffuse some of the anxiety expressed in the meeting last night at the City of East Helena Fireman's Hall.

There was also some hopeful speculation regarding future recreational usage of the slag pile for riding motorized trail bikes, etc. I would oppose use of the slag pile for this purpose for a couple of reasons: 1. The potential for dirt bikes to create dust containing elevated levels of silica and metals; and 2. The potential for nuisance levels of noise created by dirt bikes riding on the slag pile. My husband and I lived on East Riggs Street for 12 years right across from the slag pile and would have

found both dust and noise an unwelcome consequence of such activities.

Again, thank you for the public meeting in East Helena Tuesday night and the opportunity to comment on the goals and alternatives contained in the Restoration Plan. We are grateful for an organization like the Prickly Pear Land Trust to provide the bridges needed between public and private engineering developments to bring a beneficial closure to this phase of the East Helena Smelter Restoration plan.

Sincerely,
Connie Cole

Connie and David Cole
6040 Ferry Dr.
Helena, MT 59602
Phone: 406-458-6240
Connie cell: 406-431-4931
Dave cell: 406-465-1787

From: [Clint Pullman](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Tuesday, February 5, 2019 5:06:43 PM

COMMENT #10

My family supports the preferred alternative to provide \$3.2 million toward recreation and trails from the \$5.9 million East Helena NRD Settlement Restoration Fund. We think a Prickly Pear Greenway trail system is an excellent idea.

We utilize the trail systems in the MT City area a lot and would really like the opportunity to safely use a trail that connects the school to East Helena. Highway 518 is very dangerous to run or bike along and this new trail would be a great recreational opportunity for the East side of the Helena valley where there is really very little recreational opportunities. Thank you.

Clint Pullman
16 Arrowhead Lane
MT City, MT 59634

C
B

From: [Sisi Carroll](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Tuesday, February 5, 2019 5:32:48 PM

COMMENT #11

To whom it may concern,

I am writing to voice my full support of alternative 3 which includes the Prickly Pear Greenway trail in the East Helena Restoration Plan- a trail that links East Helena and Montana City to the rest of the trails in Helena.

C

I can not imagine a trail that would get more use than this one - it would be such a great alternative to get into town vs driving. The benefits are endless: better physical fitness, time in the great outdoors, better mental health, time spent with family and less use of carbon emissions. This would bring 4 season access to the amazing trails already built in Helena. This opportunity would be healthy access for ALL ages.

I envisage my kids and their friends riding their bikes to soccer practice, lacrosse practice, tennis lessons, to the movies, to visit their "in town" friends- all on their own. A safe clean option for fitness and freedom! This is the model used in Europe- kids ride their bikes everywhere on safe bike trails and paths that cut through woods, commercial and residential areas. We would set an example for the rest of Montana.

Please please consider my strong support to alternative 3. It would reap rewards for decades to come.

Respectfully submitted,
Sigrid Carroll
Mom to William 13; Andrew 12 and Chappy 10
Montana City, Montana

DRAFT EAST HELENA ASARCO SMELTER RESTORATION PLAN COMMENT FORM

The State of Montana, through the Natural Resource Damage Program (NRDP), welcomes your comments on the Draft East Helena Restoration Plan. Comments must be submitted by **Monday, February 11, 2019 by 5:00 PM** and should be sent via email to NRDP@mt.gov with "East Helena Restoration Plan" in the subject line, or via U.S. Mail to the Montana Natural Resource Damage Program, 1720 9th Ave., P.O. Box 201425, Helena, MT 59620-1425, (406) 444-0205, Attn: East Helena Restoration Plan Comments. For more information, please contact Alicia Stickney, aliciastickney@mt.gov, (406)444-1346.

Your Name and Contact Information:

Name: Blair Verbance 2-5-2019
 Mailing Address: _____
 Phone Number: _____
 Email Contact: _____

Comments:

Common sense dictates, that Alternative 2 - fully
funding a water system (tank rebuilds) Benefits greater than
10,000 People - Call me stupid, but I think drinking water
takes precedents, over a near trail thats unmaintained

D

Alt-3 - 1,723,000 would have to be paid by increased taxes
on L&C & Jefferson County to finish tank Replacements -

Alt-4 - 1,186,500 would do the same

Alt-3 - Calls for 65,000 less than a water system - for
some trails & recreation, that is not maintained - more tax
dollars

I

Alt-4 - 1,186,500 - same as Alt 3 - WOW!!

Clean water that is paid for! (Alt 2) benefits the best -
over 10,000 People - As a few unmaintained trails, a 100 or so
would use, must greatly love tax Hikes!!!
where do you people come from?

RECEIVED

FEB 06 2019

NATURAL RESOURCE
DAMAGE PROGRAM

City of East Helena

www.easthelenamt.us


Mayor
James Schell

Council Members
Don Dahl
Kit Johnson
Judy Leland
Mike Misowic

City Attorney
Peter K. Elverum

City Clerk/Treasurer
Amy Thorngren

Deputy Clerk
Julia Shannon

Public Works Director
Scott St. Clair

Acting Chief of Police
William Harrington

Fire Chief
Troy Maness

City Judge
Dennis Loveless

P.O. Box 1170
East Helena
Montana 59635

City Offices
406-227-5321

City Fax
406-227-5456

Police Admin.
406-227-8686

State of Montana
Montana Department of Justice
Natural Resource Damage Program (NRDP)
1720 9th Ave., P.O. Box 201425
Helena, MT 59620-1425

February 5, 2019

RECEIVED
Feb. 6, 2019

RE: Response to East Helena ASARCO Smelter Draft Restoration Plan

Natural Resource
Damage Program

To Whom It May Concern,

The City of East Helena received the East Helena ASARCO Smelter Draft Restoration Plan on January 11, 2019. The Plan was reviewed and discussed at public city council meetings on January 15, 2019 and February 5, 2019. While the City greatly appreciates the work being done by the NRDP it wishes to express its concerns with the plan's ultimate recommendation of Alternative 3 (Recreation Action) and alternatively seeks to highlight and promote Alternative 2 (Groundwater Action).

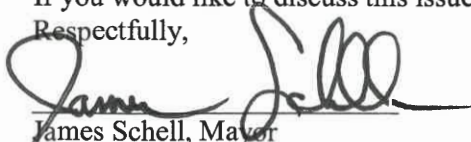
The four proposed alternatives are primarily distinguishable by the amount of funding dedicated to either Groundwater Action or Recreation Action. The Groundwater Actions highlighted in the proposed plan are the product of the City of East Helena's efforts to move itself and the ASARCO lands forward from the damage left in the wake of the ASARCO smelter (All ASARCO properties were annexed into East Helena as of 2010). On the other hand, the Recreation Actions covered in the plan primarily envision an eight-mile Greenway Trail Project costing in excess of 3.2 million dollars which was proposed by an entity outside of the local community and which has no known ultimate benefactor.

The City understands the importance of walking trails and greenspace in the community and the benefits they provide. However, we believe that the funding allocation under Alternative 2 better aligns the limited resources available with the priorities of the community and the services lost due to the injury while also achieving the legal and policy goals and benefiting the injured resources.

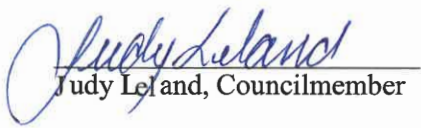
The City of East Helena respectfully requests that the NRD Trustee Restoration Council and Governor adopt a final version of the Plan that shifts funding to Groundwater Actions (Alternative 2). This alternative directly benefits the injured natural resources which are entirely encompassed within the City of East Helena and provides the most cost effective benefit to those resources specifically injured by the ASARCO smelter and resulting environmental catastrophe in our community.

If you would like to discuss this issue further, please contact the City of East Helena.


Respectfully,


James Schell, Mayor


Don Dahl, Councilmember


Judy Leland, Councilmember


Kit Johnson, Councilmember


Mike Misowic, Councilmember



We Support Fair Housing

Equal Opportunity Employer

From: [Crystal Eckerson](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Wednesday, February 6, 2019 2:42:31 PM
Attachments: [image001.png](#)

COMMENT #14

CAUTION: This email message may contain an unsafe attachment.

We scan email attachments for malicious software to protect your computer and the State's network. If we determine that an attachment is unsafe, then we block it and you will only see an attachment called 'Unsupported File Types Alert.txt'. If we cannot scan an attachment, then we provide this warning that the attachment may be unsafe and advise you to verify the sender before opening the attachment. If you don't see a file attached to this message, it doesn't mean that we blocked it, some email signatures contain image files that we cannot scan. Please contact your agency IT staff for more information.

I fully support the plan as written. My children and I all use the roads from MT City school toward Asarco on our bikes and feet, and the curves in the road are dangerous to pedestrians. Thank you.

A

Crystal Eckerson
AVP/Branch Manager NMLS 400351

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1400 Prospect Ave., Helena, MT 59601
Direct: (406) 457-4062 | Fax: (406) 403-0232

ceckerson@oppbank.com



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From: [ronmarcoux](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena restoration plan
Date: Wednesday, February 6, 2019 5:55:39 PM

COMMENT #15

I am in support of the preferred alternative which provides for a trail from Montana City to East Helena and a recreation greenway. This will be positive for our community and preserving the many attributes provided by Prickly Pear Creek.
Ron Marcoux
Helens

C
B

Sent from my Verizon, Samsung Galaxy smartphone

Doug Martin
Restoration Program Chief
Montana Department of Justice
Natural Resource Damage Program
PO Box 201425, Helena, MT 59620

COMMENT #16

February 6, 2019

Dear Mr. Martin,

The draft restoration plan prepared by the Montana Department of Justice, Natural Resource Damage Program (NRDP), provides the history of environmental claims filed by the State of Montana in the federal bankruptcy case against ASARCO. In the final settlement of the bankruptcy, ASARCO paid approximately \$5.9 million to the State of Montana for the restoration of natural resources in the East Helena area to settle the State's compensatory natural resource damage claims. In addition, the State was provided an option to acquire 232 acres of ASARCO-owned land in the East Helena area to be used for "public recreation, wildlife habitat, open space, and/or for wetlands." (NRDP).

The restoration plan goals are:

- Replace injured groundwater resource and associated services
- Restore riparian vegetation, fisheries, and natural stream flow
- Compensate for lost recreational use

The alternatives considered are:

- Restoration Alternative 1: No Action
- Restoration Alternative 2: Groundwater Action Weighted
- Restoration Alternative 3: Recreation Action Weighted
- Restoration Alternative 4: Equal Groundwater and Recreation Action Weighted

The goals for Restoration Alternative 3 include compensation for lost recreational use of the Prickly Pear Creek corridor. Objectives of this alternative include building trails and increasing recreational access; including utilization of the 232 acres acquired by the State in the settlement.

In November 2008, voters in Lewis and Clark County, Montana, approved the Land, Water and Wildlife Bond measure, a \$10 million general obligation bond measure for preserving open lands and natural areas. The Board of County Commissioners (BOCC) appointed the Citizens Advisory Committee on Open Lands (CAC) to make recommendations on project applications. In 2015, Prickly Pear Land Trust (PPLT), an approved sponsor under the Open Lands Program, was granted funding from the NRDP Early Restoration Fund to initiate a planning and visioning process for the proposed trail corridor. In addition, PPLT and communities of East Helena and Montana City will cooperatively develop proposals for recreational use of the remaining acreage of the 232 acres. According to the settlement, these lands are to be used for public recreation, wildlife habitat, open space, and wetlands. PPLT made a presentation

to the CAC when the planning grant was made and we have followed the progress of the restoration plan since then.

NRDP has requested public comment on the draft restoration plan and the CAC submits the following comments:

1. Following the success of restoration and rehabilitation of Seven Mile and Ten Mile Creeks, we have great confidence in the ability of PPLT, its subcontractors and associates to restore riparian vegetation, fisheries, and natural stream flow.
2. Following the success of the Peaks to Creeks project, in which PPLT worked with federal, state and local agencies to develop engineering and restoration plans, we have confidence that PPLT will work successfully with the NRDP, Cities of East Helena and Helena and residents of Montana City to continue to plan for and develop recreational projects on the 232 acres included in Alternative 3. C
3. And, finally, we look at the extensive and successful trail systems developed around the City of Helena, to underscore PPLT's ability to establish and maintain trails, including ADA compliant trails, by cost-effective and low maintenance means. B

Taking these considerations into account, I have been authorized by the CAC to recommend the NRDP to choose Alternative 3 as the final restoration alternative for the EAST HELENA ASARCO SMELTER DRAFT RESTORATION PLAN. We feel this alternative most completely meets the stated goals of the restoration plan. We appreciate the years of effort it has taken to develop the draft restoration plan and hope for a beneficial outcome for its implementation. B

Sincerely,

Connie Cole, Chair
Citizen's Advisory Committee
Open Lands Program
Lewis and Clark County

From: [gregory normandin](#)
To: [Natural Resource Damage Program](#)
Subject: Prickly pear Creek Greenway
Date: Thursday, February 7, 2019 8:42:06 AM

COMMENT #17

I support the prickly pear Creek Greenway preferred alternative plan

C

From: [bob bugni](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Thursday, February 7, 2019 9:03:04 AM

COMMENT #18

Replacement of the McCellan tanks should not be considered. This sounds like a political decision to get the City of East Helena on board. This has nothing to do with cleaning up the damage done over the past 100 years from the plant. Secondly, the slag piles need to be address since they are such an eye sore and a detriment to future growth.

H

I
Bob Bugni
3865 Remington Street
East Helena

[Sent from Yahoo Mail for iPad](#)

From: [Robert Rasmussen](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Thursday, February 7, 2019 11:35:18 AM

COMMENT #19

Please accept this comment: I support the Preferred Alternative outlined in the NRDP's draft Restoration Plan for East Helena. I have read the document and participated in some of the meetings. I realize the importance of water quality and of recreation opportunities for the East Helena community.
Robert

C

A

From: [Strainer, Adam](#)
To: [Natural Resource Damage Program](#)
Cc: [Mary Hollow](#)
Subject: East Helena Restoration Plan
Date: Thursday, February 7, 2019 12:25:49 PM

COMMENT #20

Good afternoon,

I'm writing today to support the preferred alternative as stated in the Draft East Helena Restoration Plan. Landscape level habitat restoration and enhancement is difficult and costly, but the described preferred alternative is a thoughtful and thorough approach to future restoration and enhancement (e.g. additional access) efforts on Prickly Pear Creek (PPC) throughout the Helena Valley.

C

In addition, I support the preferred alternative from the standpoint of a kid who grew up in East Helena fishing and exploring PPC. Restoration and enhancement efforts outlined in the preferred alternative will genuinely benefit all future PPC anglers and explorers, and that puts a pretty big smile on my face.

Thank you for the opportunity to comment and please move forward with the preferred alternative as described in the Draft East Helena Restoration Plan.

Sincerely,

Adam Strainer

Helena Area Fisheries Biologist
Fisheries Division
Montana Fish, Wildlife & Parks

930 Custer Avenue West
Helena, MT 59620
Ph: (406) 495-3263
[Montana FWP](#) | [Montana Outdoors Magazine](#)



THE **OUTSIDE** IS IN US ALL.

From: [John Kilgour](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Thursday, February 7, 2019 12:49:32 PM

COMMENT #21

Hello,

I am a resident of Helena and am writing to express my support for the preferred alternative to provide the Prickly Pear Land Trust with \$3.2 million from the \$5.9 million East Helena NRD Settlement Restoration Fund. The Prickly Pear Creek Greenway project will provide a valuable community asset for recreation, and the Prickly Pear Land Trust has a track record of success with similar projects in the Helena area. I fully support their efforts to develop the Prickly Pear Creek Greenway.

C

B

Thank you for your consideration.

Sincerely,
John Kilgour

1758 N Cooke St. #2
Helena, MT 59601

From: [Sisi Carroll](#)
To: [Natural Resource Damage Program](#)
Subject: Prickly pear greenway
Date: Thursday, February 7, 2019 5:22:50 PM

COMMENT #22

To whom it may concern,

I really want the green way trail from Montana city to east Helena. The whole city will benefit from it because of the pollution concerns. It would be a fun trail so we can visit our in town friends a lot more easily. Also, I love to bike the trails and I don't have a good shuttle to access the trail system, but with the new Greenway, I can get to all the Helena mountains. I hope that you and the Prickly Pear trail builders can do this.

B

Respectfully submitted,
Andrew Carroll
6th grade, Montana City School
Montana City

From: [Pam Perry](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Thursday, February 7, 2019 6:53:58 PM

COMMENT #23

Hello NRDP!

I am writing to provide my support for the Prickly Pear Creek greenway through your restoration plan. I live in East Helena and LOVE our small community and small parks but yearn for more! Please let me know if I can do anything else.
Thank you!!

B

From: [james](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena restoration plan
Date: Thursday, February 7, 2019 8:45:44 PM

COMMENT #24

After reading the proposals i vote for #2 to make sure ground water is restored soley. Thank you.

D

Sent from my iPhone

From: [Kristin Drees](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Friday, February 8, 2019 1:01:41 PM

COMMENT #25

Good Day:

I am writing in support of the preferred alternative plan proposed for the Prickly Pear Creek Greenway in East Helena, allocating money from the fund to the Prickly Pear Land Trust for restoration.

C

As an active user of the more mountainous trails in and around Helena, I see a need for more areas accessible to folks with mobility issues. The recent opening of the Tenmile Creek Park to folks of all abilities has been a great boon for Helena residents. One of the first active users was a man who could roll his oxygen tank with him while he walked in nature for the first time in years! And, like at Tenmile and Spring Meadows, opening the Prickly Pear Greenway allows for non-auto commute alternatives.

Of course, more opportunities for exploring nature (including fishing Prickly Pear Creek itself) means more visitors and business for our beautiful city.

Thank you for your time, and the opportunity to communicate with you.

- Kristin Drees
Helena, MT

From: [Kit Johnson](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Friday, February 8, 2019 2:27:47 PM

COMMENT #26

Dear NRDP Staff,

This letter is in regard to the NRDP's solicitation of public comments concerning the East Helena ASARCO Smelter Draft Restoration Plan. We are long-time citizens and business owners in East Helena and are very active in our community, hence our desire to share our opinions and concerns regarding the Restoration Alternatives presented by the NRDP.

We appreciate the many advantages a trail system would bring to our community and are anticipating the addition of this system and its contribution to a healthy life style. The benefits are numerous, including the recruitment of growth in both the private and commercial sectors, creating enhanced lifestyles and promoting our quality of life. We eagerly await the ability to recreate along a beautiful, public corridor within walking distance of the city.

With that being said, we are very aware of the impact our community has suffered as we pull ourselves out of the era of a Super Fund clean-up site. State-wide, there are very few communities more impacted by injured natural resources than the City of East Helena. The presented restoration Alternative 2 would help rebuild our infrastructure while also promoting recruitment of growth in both the private and commercial sectors. Infrastructure investment is a predominant, and often cited, primary goal of both the Legislative and Executive branches of our State's Government.

D

I

As is often the case, a compromise between two ideology's is being sought to find a tolerable median, and we would like to suggest the NRDP consider our comments in the decision-making process.

We feel the proposed 3.35 miles of Greenway trail presented in Alternative 2 is a wonderful addition to our community, and additional trail sections can be added in the future. We suggest that since there has not been an injury to a trail system that has never existed, and as such, should not be weighted as heavily as the obvious impact to our ground water resources. The loss of 16 million gallons a year to storage tank leaks, and the possible public health impact of a deteriorating potable water supply system, are a primary concern to this community. Specifically, we suggest the NRDP consider a weighted approach more in favor of groundwater restoration as presented in Alternative 2.

E

D

Thank you for your consideration for our concerns and comments.

Sincerely,

Kit Johnson
Viola Johnson
Kacy Johnson
PO Box 173
706 East Clark Street
East Helena, MT 59635
406-465-8960

Nikita Pratt
Chris Pratt
PO Box 192
901 East Riggs Street
East Helena, MT 59635
406-475-2348

From: [C.V.](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Saturday, February 9, 2019 8:43:42 PM

COMMENT #27

To Whom It May Concern,

Please accept these comments regarding the East Helena Asarco Smelter Draft Restoration Plan and Environmental Assessment Checklist dated January 2019.

As stated in the Executive Summary portion of the draft document, the restoration plan goals are;

- replace the injured ground water resource and associated services
- restore vegetation fisheries and natural stream flow
- compensate for lost recreational use

The draft document outlines four alternatives broken down by funding amounts for groundwater/surface water actions and recreation actions.

After reading the draft, Alternative 3 was noted as being the preferred alternative. Alternative 3 has more of an emphasis relating to recreation actions and less of an emphasis relating to groundwater/surface water replacement. I am aware of the benefits the walking trails and recreational areas provide, however, it is unclear how many people will ultimately benefit from them. I urge you to reconsider and respectfully request Alternative 2 as the best option for the East Helena community as it relates to the groundwater replacement actions. East Helena has come a long way regarding the recovery of environmental contamination sustained in the wake of the smelter operation and approval of Alternative 2 would only further us along. Sanitary water/water storage is crucial to the survival and health of East Helena as the city expands to accommodate new homes, schools and businesses. Alternative 2 would not only provide a great service to the citizens of East Helena but also the citizens from the surrounding areas that may be enrolled in the school system or visiting the city. The emphasis of groundwater/surface water replacement has a clear and concise benefactor; ALL citizens.

Also noted in section 1.2, Site Background, line item number 4 discusses future action regarding covering portions of the slag pile. This line item states that the cover could eliminate the potential future reuse of the slag. If there are resources that may be recovered and utilized in a manner that is safe to the community and could potentially benefit the community, I would fully support and encourage allowing the reuse of the slag.

Respectfully,
Cheryl Verbanac
East Helena, MT

D
I

From: [Maryalice Chester](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Sunday, February 10, 2019 10:40:10 AM

COMMENT #28

I support the preferred alternative for the East Helena trails plan. Please do your best to ensure the wild animals (esp. fish) and wild plants can flourish in this area. Any trail construction or other disturbance exposes weed seeds, getting native plants started in our dry climate is difficult -- I hope you have a botanist on hand to help with this project.

C
E

Thank you,
Maryalice Chester
520 Clarke St.
Helena, MT 59601

From: [Annie Kilgour](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Sunday, February 10, 2019 7:07:54 PM

COMMENT #29

Hello,

I am a resident of Helena and am writing to express my support for the preferred alternative to provide the Prickly Pear Land Trust with \$3.2 million from the \$5.9 million East Helena NRD Settlement Restoration Fund. The Prickly Pear Creek Greenway project will provide a valuable community asset for recreation, and the Prickly Pear Land Trust has a track record of success with similar projects in the Helena area. I fully support their efforts to develop the Prickly Pear Creek Greenway.

Thank you for your consideration.

Sincerely,
Annie Kilgour

1758 N Cooke St. #2
Helena, MT 59601

C

B

From: [Sarah Jaeger](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Sunday, February 10, 2019 8:27:20 PM

COMMENT #30

To the Natural Resources Damage Program:

I am writing to voice my support for the preferred alternative for the East Helena Restoration Plan. I believe that this alternative provides the best balance to meet the various needs that the plan addresses and will bring the greatest public benefit.

I should also state that I am a board member of Prickly Pear Land Trust. I have long advocated for open space. It is my current health situation that has taught me the about the scarcity and urgent need for accessible open space. Over the past six or so years I have developed a neurological disease which has affected my ability to walk (I need poles or a walker) among other symptoms. I have been a lifelong hiker, and being outdoors off pavement has been important to my sense of well-being and to my physical and mental health. That is no less true now than it ever was, but the opportunities are severely limited. As I read the preferred alternative, I understand that most of the public trails would be wheelchair accessible, so that I and others like me would be able to use them. I can't overstate to you what a huge benefit this would be to the many members of our community who have mobility limitations, and who are now underserved by public open space.

I hope you will consider this aspect as you make your decision. Thank you.

Sincerely,

Sarah Jaeger
60 Sand Piper Loop
Helena, MT 59602
406.449.3786
Sarahmjaeger908@gmail.com

C

From: [Jim Barnes](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Sunday, February 10, 2019 10:34:23 PM

COMMENT #31

Please use the preferred plan for the funds that are available to build trails and access to the Prickle Pear creek. Urban trails like these are so important to the health of a community. People get exercise, recreation, stress relief, and environmentally friendly transportation from trails like this. The community is benefited as a whole by the increased property values near recreational trails and economically by the visitors that will come to East Helena to walk and ride bikes.

Thanks,
Jim Barnes
510 Leslie Ave.
Helena, MT 59601

C

RECEIVED
Feb. 11, 2019
Natural Resource
Damage Program

State of Montana
Natural Resource Damage Program
1720 9th Ave., P.O. Box 201425
Helena Mt. 59602-1425

February 11, 2019

RE: Response to the Draft East Helena Smelter Restoration Plan

To whom it may concern,

My name is Scott A. St. Clair thank you for the opportunity to comment. Hopefully you don't mind a little history and background first. I am a 63 year old third generation lifelong resident of the City of East Helena. I do and have owned multiple properties in the City of East Helena since the mid 70's. My grandfather, my father and I all worked at ASARCO. My father as well as myself have actively served the City of East Helena most of our lives in one way or another. Hopefully this helps you understand my compassion and loyalty to the City of East Helena and its residents.

Please consider my opinion regarding the East Helena restoration plan. I have attended many meetings and presentations since the beginning concerning the clean-up of yards, the plant site, the ground water, zoning of annexed property, as well as future intended uses. Some meetings include but are not limited to METG, City, NRD, Prickly Pear Land Trust, DEQ, DNRC, Irrigation, Engineers and Developers.

It would be hard to put in words how valuable ASARCO was to the City of East Helena while operating. The tax base was huge, local employment was very significant to East Helena area's economy. ASARCO was always there in a time of need, they willingly donated to all. As a past Fire Chief I can tell you they supported our department and the City without question. I recall up to 8 firemen responding from the plant for fire calls or medical calls as needed, no questions asked. I recall on a moment's notice them sending a 988 loader over to help fight the IGA fire downtown, them sending a P&H crane with operator to lift a grain truck off a trapped truck driver, during the flood in 1981 we had access to anything they had that we needed. I can attest ASARCO was a huge asset to the City of East Helena not only financially but as a good neighbor.

Obviously when the plant shut down in 2001 it was not only a blow to hundreds of employees and the local economy but also the City of East Helena. Over time as buildings and processes were torn down tax income from ASARCO continued to decrease. Currently nearly all of the annexed ASARCO property is taxed as agriculture. When annexation of ASARCO properties took place, East Helena unfortunately inherited a large liability for a significant amount of main roads in the area. Since the annexation and by the end of this summer East Helena will have spent nearly \$120K maintaining Valley Drive and Highway 282. Keep in mind this is after the majority of ASARCO taxes ceased. Unfortunately around 80 acres of the most friendly residential developable property has been purchased by the East Helena School District for schools. Currently school district's pay no property taxes (another blow).

I can't help but believe the priority should be to repair and restore the damaged land and water caused by ASARCO.

G

I feel the best use of the restoration money is to help the City of East Helena recover from the blow of ASARCO shutting down while protecting our greatest natural resources "Water and Land". East Helena has done a good job identify its source water needs thru the recent Water Master plan. These improvements are needed for many reasons. In many ways they would improve the cities use of the valuable natural resource "water" and public safety.

I

Please understand I do enjoy trails and open space. I'm not opposed to the green way project it would be nice for some folks. As I recall prior to ASARCO owning the property between 518 and the creek it was a private ranch. There were no trails or public access unless the landowner allowed. I find it hard to restore a trail system damaged by ASARCO that did not exist. A trail is a great idea; however bluntly it should be funded by another source not the NRD monies.

H

I would like to speak briefly to the 232 acres of NRD land, specifically the 192 acres to the South of highway 12 and west of highway 518 to the plant site. I know folks have said it is not part of this restoration plan; however the distribution of the land is talked about throughout the draft plan. I have a little trouble keeping up with what is involved specifically, it seems the amount of land and the locations of the land keep changing. I'm not opposed to a narrow corridor along the newly developed creek realignment and flood plain area designated for a trail; however I do not feel the entire 192 acres is necessary for a trail and open space. The land fronting 518 and as much to the West as possible allowing a corridor for a trail along the new flood plain should be developed for commercial and or residential; putting the land back into use while establishing a healthier tax base for the City of East Helena. I have heard EPA state the bulk of this land is contaminated and can't be used for residential. I understand that; in its current state; however it could and should be remediated to levels pre ASARCO which would meet residential levels. Saying it is safe for a trail or open space is a cop out, it should be remediated.

J

The 40 acres to the North West of JFK Park are primarily in the flood plain. This land is appropriate for open space and trails, possibly a dog park. Although not a popular idea I would like to see it also put to use; It could be open cut mined, reclaimed and provide storm water or flood water storage allowing infiltration back to ground water.

J

I am opposed to using this restoration money for the proposed greenway project. I feel a trail would be nice but a greenway is not necessary. I do not feel a City the size of East Helena needs open space. We have hundreds of thousands of acres of National Forest around East Helena which is open space. I feel the needs of the City of East Helena needs should be met first.

H

Another comment; I have a hard time understanding why the large cottonwood trees were not replaced during the creek realignment project. Many large cottonwood trees were destroyed by the project and they should have replaced by the project.

K

I would like to mention my concern for the rules that seem to keep changing. I have been told many times trust group money can't be spent for projects off site. Now it appears they want to shift monies they would spend maintaining the NRD acres to whoever takes ownership of it. Is that legal? These NRD acres were previously offered to the City of East Helena but there was no development or maintenance monies offered with it. Why is money now being offered to potentially the Prickly Pear Land Trust group? I have heard several times the Prickly Pear Land Trusts intention is to get the land, get the money, and develop it as trails and open space for a period of 10 to 15 years then pass it on to someone else to maintain. From what I understand the Prickly Pear Land Trust is not in the business to own property. Personally I think this is a short sighted solution. The bulk of the land needs to be put back into pre ASARCO condition for taxable development.

Lastly I would like to see the sample results of all ASARCO annexed property including the acres in question. I would like to see sample results of the previous repository to the West of 518, sample results of the previous repository to the East of 518 as well as the current repository east of 518. After seeing how the contaminated ground the Prickly Pear Elementary school was built on was remediated makes me wonder. In most cases if not all it seems deep tilling and mixing of the soils would remediate it to allowable residential levels.

Please understand I am available to further discuss with whoever might be interested in further discussion.

Thank You for allowing my comments.

Scott A. St. Clair

EAST HELENA RESTORATION PLAN COMMENTS

COMMENT #33

To whom it may concern;

Just in response to the Executive Summary prepared by the NRDP, I feel the # 2 option is the most preferred option for the community of East Helena, MT.

D

This option best applies for the funding of Groundwater replacement actions for the increased health and welfare benefit to the City of east helena, its citizens and the future of the surrounding areas to the city for growth and expansion. I may be crazy, but I'd rather see more of the ASARCO resturation funds put forth toward clean drinking water.

As stated in the Greenway plan, Land conveyance will be negotiated seperatly and the details of this plan are not included in this restoration plan, and does not address the ownership of the state allocated lands, nor the long term operations and maintenance of this proposed trail system. This seems to me that lands may be transferred to the city of East Helena, or to private individuals or parties. Meaning pay to use? I don't know because the details of any possible transfers such as the potential owner, exact acerage, stewardship costs, future uses, and timing of transfer have not yet been agreed upon and are not part of this restoration plan. The METG says the Greenway trail cannot be constructed on METG controlled land, so this land will be transfered to private or public owners, but the land conveyance approval process is not part of this plan.

J

There just seems to be alot of unanswered questions in this Executive summary for any of the options other than Option 2 to be considered. This is my feeling, and thank you.

Blaine Verbanac, East Helena citizen.

Flugge, Meranda

From: Chris Barry <chris@gruberexcavating.com>
Sent: Monday, February 11, 2019 10:10 AM
To: Natural Resource Damage Program
Subject: East Helena Restoration Plan

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: East Helena

We support the preferred alternative!

C

CHRIS BARRY / PRESIDENT
GRUBER EXCAVATING
DUSTMASTER
A-10 DRILLING & TONEY WATER SYSTEMS
PHONE: 406-449-3927
CELL: 406-202-2114
www.gruberexcavating.com
www.a10drilling.com

Flugge, Meranda

From: Paula Jacques (AZ) <pjacques@azworld.com>
Sent: Monday, February 11, 2019 4:07 PM
To: Natural Resource Damage Program
Subject: East Helena Restoration Plan

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: East Helena

Good afternoon,

I am writing to express my support for the State's "preferred alternative" for the future of the Asarco property. This would be such a great benefit to the East Helena residents and the broader Helena area – and a great example of a community working together to resolve an issue in a way that will provide incredible future benefits – turning a liability into a long-lasting community asset. This alternative represents the consensus of those involved over the years in the project and deserves our support.

Thank you for your consideration!

Paula Jacques | CPA, Shareholder
 828 Great Northern Blvd
 P.O. Box 1040
 Helena, MT 59624-1040
 Direct: 406.457.7037 | Main: 406.442.1040 | Fax: 406.442.1100
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Flugge, Meranda

From: adolph@gruberexcavating.com
Sent: Monday, February 11, 2019 10:40 AM
To: Natural Resource Damage Program
Subject: East Helena Restoration Project

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: East Helena

I support the preferred alternative!

C

Adolph Timm
Gruber Excavating, INC
Montana City
406-459-6087

From: [Janet Hedges](#)
To: [Natural Resource Damage Program](#)
Subject: Preferred alternative #3
Date: Monday, February 11, 2019 1:20:58 PM

COMMENT #37

Thanks for the opportunity to comment. I would like to lend my support for the preferred alternative #3 on the E Helena Smelter Restoration Plan.

C

Janet Hedges, CERTIFIED FINANCIAL PLANNER TM
Branch Manager
7 W 6th Ave, Suite 518
Helena, MT 59601
406-442-1128

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From: [John Beaver](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 1:25:11 PM

COMMENT #38

Hello-

I would like to support the Preferred Alternative for the ASARCO East Helena Smelter Restoration Plan.

I appreciate the effort NRDP has extended to remedy the injury to the site and provide safe, healthy landscapes for future generations.

Sincerely,

John Beaver

WESTECH Environmental Services, Inc.

P.O. Box 6045 | Helena, MT | 59604

Office 406.442.0950 | Cell 406.459.4150

WESTECH-ENV.COM



From: [Nicole Merrill](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 1:33:10 PM

COMMENT #39

I support the preferred alternative bike/pedestrian path that would link East Helena, Montana City and Helena.

C

Our community needs more outdoor spaces for walking, hiking, biking...!!

Thank you!
Nicole Merrill
406-202-1370

From: [Edward Santos](#)
To: [Natural Resource Damage Program](#)
Subject: I support the Greenway (Preferred alternative) plan
Date: Monday, February 11, 2019 1:47:58 PM

COMMENT #40

I strongly support the Greenway Plan preferred alternative. I live off of the South Helena exit and hike/bike mostly in the South Hills, however I would like more routes closer to home. Hiking and biking for me is how I stay healthy and young and these projects are vital for me, my family, and our community.

Thank You
Edward Santos
ed@mt.net

C

From: erinwoodrow@charter.net
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 1:53:31 PM

COMMENT #41

I am writing to support Preferred Alternative 3 of the East Helena Restoration plan. While I live in Helena, I frequently ride bikes through Montana City, East Helena, and near the Airport. I am excited for the new recreation opportunities that will exist as a result of this project. I believe it will open up new educational opportunities for the local school district, especially as they grow with a new high school. With preventable chronic disease reaching epidemic proportions, this project will give folks a safe and easy way to recreate outside and increase physical activity as well as improve mental health.

C

Thank you!

Erin Woodrow

From: [smcnicol](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 2:10:33 PM

COMMENT #42

Please add me to the list of those in favor of the ***preferred alternative*** in East Helena's Restoration Plan.

C

I am all in favor of connecting East Helena to the larger trail system in our greater Helena area. The preferred alternative offers a healthy approach to East Helena's water infrastructure needs as well as the town's critical need to reclaim critical public space. I am in awe of current efforts by state, federal and local employees to mitigate the negative impact of a century of degradation, pollution and the rerouting of the Prickly Pear. At the same time, it is important not to lose sight of the long-term recovery of our community and economy.

The full funding of the Prickly Pear Creek Greenway is a vital piece to that future-growth equation. The creation of a recreational corridor in and between East Helena and Montana City will provide a vital connection for East Helena residents, visitors and outdoor enthusiasts. I celebrate the day when East Helena residents you can use these new trails to enjoy their community alongside the growth of new schools and expanded businesses.

Thank you for your time and work on making this happen,

Sue McNicol

Sent from my Verizon, Samsung Galaxy smartphone



RECEIVED
Feb. 11, 2019
Natural Resource
Damage Program

**Lewis and Clark County
Water Quality Protection District**



COMMENT #43

316 North Park, Room 220
Helena, MT 59623
(406) 447-8351 Fax (406) 447-8388

February 11, 2019

Alicia Stickney
Montana Natural Resource Damage Program
1720 9th Ave
P.O. Box 201425
Helena MT, 59620-1425

RE: State of Montana Natural Resource Damage Program - East Helena Restoration Plan

Greetings;

The Lewis & Clark County Water Quality Protection District (WQPD) would like to offer our support for the State of Montana Natural Resource Damage (NRD) Program East Helena ARSARCO Restoration Plan and the allocation of funding to restore injuries that occurred to the natural resources around East Helena.

The WQPD board would like to thank the NRD program for this opportunity to comment and we fully support the allocation of funds for the Re-watering project including the creek restoration on Prickly Pear Creek. The Re-watering project is a collaborative effort that benefits water availability to water users including recreation as well as increased stream flows to support riparian areas, fish habitat and aquatic life.

The WQPD was formed in 1992 with the mission to: protect, preserve, and improve water quality within district boundaries. These projects support the WQPD commitment to protecting water resources for the benefit of the community and watershed.

On behalf of the WQPD Board,

Jennifer McBroom
Lewis & Clark County
Water Quality Protection District, Supervisor

From: [Lanie White](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 2:32:14 PM

COMMENT #44

Dear NRDP and State of Montana Personnel,

Please add me to the list of those **in favor of the *preferred alternative*** in East Helena's Restoration Plan.

C

It's time for East Helena citizens to have access to their recreational and natural surroundings. The preferred alternative is carefully crafted to balance East Helena's water infrastructure needs as well as the town's critical need to reclaim public space. I am impressed with the efforts of state, federal and local employees in mitigating the devastating impacts of a century of degradation, pollution and the rerouting of the Prickly Pear Creek. But while the health of the waterway is returning, it is important not to lose sight of the long-term recovery of this community and economy.

The full funding of the Prickly Pear Creek Greenway is a vital piece of creating long-term economic and health outcomes for East Helena. The creation of a recreational corridor between East Helena and Montana city will encourage new residents, visitors and businesses and provide a space for all community members to enjoy the health and lifestyle benefits of connecting with the outdoors and nature. I look forward to the day, hopefully soon, when East Helena kids can ride their bikes, learn to fish and enjoy the outdoors to their hearts' content. The preferred alternative of East Helena's Restoration Plan will make this possible.

Thank you for your time and work on making this happen,
Alayna White

From: [Lyn Stimpson](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 2:37:25 PM

COMMENT #45

Thank you for the opportunity to comment on the draft Restoration Plan for East Helena. I am a nearby resident and writing to support the preferred alternative number 3. This alternative will help the ASARCO site become a natural and recreational treasure for East Helena and the surrounding communities. The reconstruction of Prickly Pear Creek and the greenway construction in the preferred alternative will create public stream access unlike anything else in the Helena Valley area, and the greenway will improve community health and well-being. Thank you for your consideration of my comment in support of the recreation weighted alternative.

Lyn Stimpson
10 Wildflower Ln.
Montana City, MT 59634

C

From: [Travis Vincent](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 2:58:51 PM

COMMENT #46

Dear NRDP,

Please add me to the list of those in favor of the ***preferred alternative*** in East Helena's Restoration Plan.

C

I believe the preferred alternative does the best job of balancing the community's infrastructure needs as well as the town's critical need to reclaim critical public space. I am impressed with the efforts of state, federal and local employees in mitigating the devastating impacts of a century of pollution. But while the health of the waterway is returning, it is important not to lose sight of the long-term recovery of this community and economy.

The full funding of the Prickly Pear Creek Greenway is a vital piece to that puzzle. Local recreational opportunities are high in demand and low in availability in this part of the valley. But the creation of a recreational corridor in and between East Helena and Montana city will not only serve to connect residents to our local environment and history, it will encourage new residents, visitors, businesses to come to East Helena. There several examples across Montana, where small communities have invested in public access and community and are now experiencing a revitalization of their economies. Of course, the corridor won't answer all of East Helena's problems, but it can certainly help.

Please support the balanced approach. Thank you for your time and work on making this happen,
Travis

--

Travis Vincent
E: travispvincent@gmail.com
T: +1 (406) 471-5652

From: [John Doran](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 3:11:54 PM

COMMENT #47

Natural Resource Damage Program
Attention: Alicia Stickney
1720 9th Ave.
P.O. Box 201425
Helena, MT 59620-1425

Dear Ms. Stickney:

Blue Cross and Blue Shield of Montana (BCBSMT) strongly supports the Natural Resource Damage Program East Helena Asarco Smelter Draft Restoration Plan **Alternative 3: Recreation Action Weighted.**

C

With continued growth and accelerated change impacting the greater Helena and East Helena area, the NRDP's efforts can influence a positive approach to managing the damages from the East Helena Asarco smelter, while providing additional safe outdoor recreational opportunities for local residents and tourists that can positively influence physical and mental wellness.

At BCBSMT, we value the incredible access to trails and other recreational opportunities available to our employees, their families, fellow residents and visitors. There is a direct correlation between more time spent outdoors and improved physical and mental wellbeing. This benefits all Montanans. We believe a project to develop a sustainable Greenway Trail Project would amplify those opportunities, while also providing easier access to healthy outdoor activities for larger portions of our community. In addition, restoring Prickly Pear Creek and improving groundwater systems ensure water quality and other outdoor recreation opportunities for generations to come.

Writing as an avid trail user myself and advocate for healthy lifestyles, BCBSMT welcomes the opportunity to work alongside the NRDP and other local organizations to make this worthwhile project a reality.

Respectfully,

JOHN DORAN

Divisional Vice President of External Affairs
Chief of Staff
Blue Cross and Blue Shield of Montana
Email: john_doran@bcbsmt.com
Desk: 406.437.6195
Cell: 406.422.6894
www.bcbsmt.com

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From: [Breena Buettner](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 3:22:35 PM

COMMENT #48

Dear NRDP and State of Montana,

I am writing to you today in support of the preferred alternative in the East Helena Restoration Plan.

C

As a resident of Helena, I am incredibly grateful for the access I have to trails and open space. I spent 25 years living in an area that had little to no access to public land without a 15+ mile drive in a car. I believe that my move to Helena greatly improved my life with the easy access to land providing positive benefits to my physical and mental health - I look forward to seeing the residents of East Helena experience the same.

The proposed trail would provide the ease for East Helena workers to go on an evening walk to unwind from their day, provide new families a trail to roam on the weekends, provide access to the creek for people young and old to learn to fly fish, and provide an accessible trail for those with limited mobility to experience the great outdoors. Montana has numerous thriving communities that hold on to these assets, Helena being one of the best examples. Can we extend this to the communities of East Helena and Montana City?

I recently bought a home that has an increased property value because of its close proximity to the trails. I have worked for a number of businesses in Helena that tout our community because of trail access. I have also met dozens of tourists that remark on Montana's incredible open landscape and growing recreation.

I hope that today, you make a decision based on the positive benefits the open land and access to Prickly Pear Creek could offer to the residents of East Helena, Helena, and Montana City, now and forever. Thank you for what you are doing for the future of the Prickly Pear Valley!

Sincerely,
Breena Buettner

From: [Jim Utterback](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 3:33:26 PM

COMMENT #49

Dear Alicia Stickney,

As a former business owner on the East Side of Helena, I cannot imagine a project that will have more positive economic impact for East Helena than this Greenway project. In addition to the economic benefits, healthy lifestyles and access to recreational opportunities are just good for employees and business. I totally endorse the East Helena Restoration Plan Alternative 3: Recreation Action Weighted.

Jim Utterback
Director/Board Member
ClearBalance
jutterback@clearbalance.org
406.431.1012
1923 Lime Kiln Rd
Helena, MT 59601



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From: [Mary Hollow](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 3:34:07 PM

COMMENT #50

Good afternoon,

On behalf of Prickly Pear Land Trust (PPLT), I am honored to submit this comment in **support of the preferred alternative 3**, as outlined in the NRDP draft restoration plan. Prickly Pear Land Trust has a wonderful history of success in Montana's west-central region for 24 years, providing benefits of open space, trails, and the outdoors to the communities we serve.

C

The reasons for PPLT's support of this alternative are numerous and varied, but in particular we would like to highlight that the funding level in this alternative 3 is one that aims to see through a successful implementation of the Greenway Project.

At the outset of the East Helena asarco bankruptcy and subsequent community meetings, where public access to the lands and waters of former asarco lands became a resounding and redundant chief community desire and interest, PPLT was invited to participate - to help provide options for achieving such outcomes. Weighing the history of the land trust's success on similar projects in the region, PPLT began participating in those East Helena/asarco cleanup discussions nearly 10 years ago and as a result of that longstanding work and partnership with the community of East Helena, PPLT applied for and in 2015 was awarded an "NRD East Helena early restoration grant" for the Greenway Study. That study produced an outline for the Greenway Project implementation. It included costs, options, and those provided the basis for the details of the Greenway portion which today, reside in the draft NRD restoration plan. PPLT has witnessed first-hand the positive benefit to a geographic area when an asset of public land and/or water and trails are present. Also rooted in our experience on other projects in the area, we are confident that if implemented, the Greenway Project will provide perpetual benefits of health, quality of life, investment, and education to the surrounding area.

Another key piece of PPLT's support for the preferred alternative 3, lies in the unanimous support among key community stakeholders for The East Helena Greenway Project and it's implementation. PPLT is a local non-profit who (in addition to private land protection and other community land and water protection and restoration projects) provides trails and open space access to serve our communities and we are thrilled to see such unity in a community and an opportunity to connect the communities of East Helena and Montana City to nature. As evidenced by their support, major community stakeholders also agree.

Lastly, over the past two years, Prickly Pear Land Trust has received a handful of inquiries from business interests looking to invest in the East Helena area. Those calls were investors looking for assurances, of the Greenway Project actually being implemented. We of course were not in a position to discuss or control assurances. However, the important thing that those calls indicate, is a clear understanding within the business community of the favorable relationship between the close proximity of outdoor amenities and successful business investment opportunity and outcome in Montana.

Prickly Pear Land Trust staff and board of directors look forward to a bright future for the

community of East Helena. Thank you for your consideration of our support.

Respectfully submitted,
Mary Hollow

--

Mary Hollow -- Prickly Pear Land Trust -- 406.240.4907



From: [Andrea Silverman](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 4:12:49 PM

COMMENT #51

Dear NRDP and State of Montana Personnel,

I am writing in support of the preferred alternative as outlined in the East Helena Asarco Smelter Draft Restoration Plan. I have seen firsthand how important trails and trail systems are to the communities in which they are located. The physical and mental health of residents and visitors is increased, and the economic impacts of trails are undeniable as well. Connections to the outdoors are more important now than ever before as young and old spend more hours each day in front of screens (television, computer, smartphone, etc.), and having an easy way to access the creek and open spaces makes this far more likely to happen on a regular basis. The creation of a trail linking the city of East Helena with Montana City would bring so many benefits to these communities and would help spur much-needed growth in East Helena, especially. And creating a way for children and other residents to travel to school and beyond without having to get in a car is also tremendously important. Please fund the proposed Prickly Pear Creek Greenway project at the level presented in the preferred alternative.

Thank you so much for this opportunity to comment.

Sincerely,
Andrea Silverman

Andrea Silverman
3830 Kitt Dr.
Helena, MT 59602

C

From: [Barbara Chillcott](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 4:18:47 PM

COMMENT #52

To whom it may concern:

I am writing in support of the preferred alternative for the East Helena Restoration Plan. Alternative 3 meets the goals of the plan and has the support of the community. I'm especially happy to see the emphasis on creating recreational opportunities, including the great trail network.

I also applaud the inclusion of the Prickly Pear Creek flow restoration funding. That flow restoration project has had significant benefits to Prickly Pear Creek, which is a community asset.

Thank you for considering my comments.

Barbara Chillcott
707 12th Ave.
Helena, MT 59601

C

L

From: [Dick Anderson](#)
To: [Natural Resource Damage Program](#)
Subject: Greenway Project for East Helena
Date: Monday, February 11, 2019 4:42:07 PM
Attachments: [imageab81f4.PNG](#)

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To whom it may concern:

The reason for this email is show my support for the preferred alternative #3 for the East Helena Restoration plan. The reason I so strongly believe in this alternative is I feel it will be a tremendous asset for all the residents of East Helena and will help East Helena grow and be a vibrant community. I have been fortunate enough to build projects in at least 25 of the communities in Montana and I have seen that the ones that have well planned out and accessible outdoor recreation for their community are the ones that thrive the best. The 20-40 year age group places outdoor recreation at the top of their list when choosing where they want to live. This will be a legacy project for the City of East Helena.

I spent many years recreating in East Helena because most of my friends were from there. We were always looking for something to do outside. This project will help make East Helena the special place that it is and highlight beautiful Prickly Pear Creek that runs through the center of the town.

Thanks for allowing me to comment.

Dick Anderson

Dick Anderson Construction



DICK ANDERSON

Chairman

DICK ANDERSON CONSTRUCTION

DAC - [Always](#) part of the solution

O: 406-443-3225

www.daconstruction.com



Montana Environmental Trust Group, LLC
Trustee of the Montana Environmental Custodial Trust
PO Box 1189, Helena, Montana 59624
Telephone (1): (617) 448-9762
Telephone (2): (406) 227-4098

RECEIVED
Feb. 7, 2019
Natural Resource
Damage Program

Memorandum To: Harley Harris
Natural Resource Damage Program

COMMENT #54

From: Cindy Brooks
Montana Environmental Custodial Trust

Subject: Custodial Trust Comments on Draft East Helena Restoration Plan

Date: February 7, 2019

The Montana Environmental Trust Group, LLC (METG), Trustee of the Montana Environmental Custodial Trust (the Custodial Trust) hereby provides its comments on the Draft East Helena Restoration Plan (EHRP) prepared by the Montana Natural Resource Damage Program (NRD). The Custodial Trust's comments are subdivided into two categories. First, we have comments that pertain to the Custodial Trust's operations, activities, plans and responsibilities under the 2009 Consent Decree and Environmental Settlement Agreement (the Settlement Agreement) and represent critical points of clarification that should be reflected in the Final EHRP (the Critical Comments). Second, we have comments that are editorial in nature and are set forth in Attachment I.

1. East Helena Funding From Asarco Bankruptcy Settlement

The Custodial Trust recommends that the EHRP clarify that funds paid from the bankruptcy settlement for the East Helena Site are summarized in Table 1 below (excluding the \$5.9 million held by NRD for East Helena restoration activities).

Table 1		
Asarco Bankruptcy Fund Accounts	Fund Amounts	Holder of Funds
East Helena Cleanup Fund	± \$96.3 million	Custodial Trust – EPA Lead Agency
East Helena NRD Fund	± \$0.8 million	Custodial Trust—USFWS Lead Agency
East Helena Special Account	± 15.0 million	EPA—Special Account
Subtotal	\$112.1 million	

In particular, the Custodial Trust requests that NRD clarify that cleanup funds for East Helena are \$96.3 million versus the \$115 million suggested in the EHRP.

Reference: EHRP Page ES1 and Page 1

2. Slag Pile Re-Grading and Capping

The first paragraph on Page 9 should be corrected to state that the Slag Pile cover system will be designed to allow for re-processing of Slag in the future. The Custodial Trust also notes that the Slag Pile consists of approximately 16 million tons of material.

Reference: EHRP Page 9 (First Paragraph carried over from Page 7)

3. East Helena Smelter Facility Institutional Controls

Section 5) on Page 9 must be corrected to state that the two primary Institutional Controls (ICs) for the Site are the East Valley Controlled Groundwater Area (EVCGWA) and the Lewis and Clark County Soils Ordinance. The City of East Helena (COEH) Ordinance that bans drilling of new wells with the COEH limits is an IC that is layered on top of the two primary ICs—the EVCGWA and the Soils Ordinance. The Custodial Trust would not recommend relying on a City Ordinance to prevent a pathway for exposure to contaminated groundwater and soils since the City code could be revised at some point in the future. The well abandonment program and groundwater monitoring activities are not ICs.

Reference: EHRP Page 9 (Section 5)

The last sentence of first full paragraph on Page 11 states that, *“Property within the limits of the City of East Helena are not affected by the East Valley Controlled Ground Water Area because of the City’s ban on drilling water wells in areas served by the City’s water system.”* This statement is not correct because: 1) all Custodial Trust property is located within the limits of the COEH; 2) property east of Valley Drive up to the boundary aligned with Plant Road is located within Subarea 1 and/or Subarea 2 (see attached map from EVCGWA petition); and 3) as previously stated, the COEH ordinance banning the drilling of new wells within City limits would not, on its own, be deemed an effective, durable IC.

Reference: EHRP Page 11 (First Full Paragraph)

4. Custodial Trust Land Holdings in East Helena

The first paragraph on Page 7 (carried over from the last paragraph on Page 6) should be corrected to reflect that the Custodial Trust took title to a total of approximately 2,000 acres of land (not 1,500 referenced in the EHRP).

Reference: EHRP Page 7 (First Paragraph)

5. Future Use of State-Option Property

Section 1.2.5 on Page 16 should be modified (or in some other section of the EHPR) to clarify that the State-Option Property is to be used for recreation, habitat and open space. Specifically, Section 16 of the Bankruptcy Settlement Agreement states that, “The State avers that these undeveloped lands will be dedicated to public recreation, wildlife habitat, open space and/or wetlands.”

Reference: EHRP Page 16 (Section 1.2.5)

6. Use of Custodial Trust Cleanup Funds for the East Helena Facility

The Custodial Trust requests that NRD include language in the description of the Greenway Trail Project (see Section 2.3.1.1 on Page 33), that clarifies that, “The Custodial Trust cannot use East Helena Cleanup (EHCU) Account for the construction and/or maintenance of trails and other improvements associated with the Greenway Project because such activities are not Environmental Actions pursuant to the Settlement Agreement.”

Reference EHRP Page 33 (Section 2.3.1.1) and Page 40 (Last Full Paragraph)

NRD should clarify that the Custodial Trust reviewed the cost estimates for trail construction as an accommodation to NRD and the PPLT, utilizing unit costs from the Greenway Project Study Report. Therefore, any such estimates should be reviewed and/or prepared by an entity that specializes in trail construction activities.

Reference EHRP Page 33 and Page 40

As previously stated, the Custodial Trust’s detailed editorial comments and recommendations are provided in Attachment I.

Please do not hesitate to contact me with any questions about our requested and recommended changes to the EHRP.

Attachment

cc: Betsy Burns—USEPA
Jenny Chambers—MDEQ
Katherine Hausrath—NRDP
Lauri Gorton—Custodial Trust
Max Greenblum—USEPA
Patrick Holmes—Office of Governor
Greg Mullen—NRDP
Jen Roberts—Custodial Trust
Molly Roby—Custodial Trust
Alicia Stickney—NRDP
Joe Vranka—USEPA
Marc Weinreich—Custodial Trust

Attachment I
Custodial Trust Detailed Comments on the Draft East Helena Restoration Plan (EHRP)

Page 1—Third sentence in second paragraph

- The entire third sentence in the second paragraph (beginning with, *“The Consent Decree provides that...”*) is repeated (twice) in its entirety.

Page 5—Last Sentence in third paragraph

- We recommend explaining the purpose, responsibilities and members of the Natural Resource Council Trustees (in either the main body of report or in Attachment A) .

Page 6—Section 1.2 – Site Background

- In the second sentence of the first paragraph under Section 1.2, we recommend deleting *“several residential subdivisions,”* which could confuse the general public because it suggests the Custodial Trust property includes residential properties. While the property conveyed to the Custodial Trust did include the former Asarco housing area, the Custodial Trust arranged for the voluntary departure of all tenants before or shortly after the Custodial Trust was established on December 9, 2009.
- In the third sentence in the first paragraph under Section 1.2, we recommend changing the sentence, *“Prickly Pear Creek flows along the east and north boundary of the site,”* to *“Prickly Pear Creek flows along the east and northern boundary of the former smelter property.”*
- In the last sentence in the third paragraph under Section 1.2, we recommend specifically clarifying that remediation of the East Helena facility was transferred from CERCLA to the RCRA Correction program after 1997.
- The third sentence in the last paragraph under Section 1.2 states that, *“The State of Montana is a beneficiary of the Custodial Trust and together with other beneficiaries has final approval authority over funding, expenditures and contractors, consultants, and other professionals retained by the METG.”* We recommend clarifying that the State has such approval authority for the three sites where the State is the Lead Agency (i.e., the UBMC/Mike Horse, Black Pine and Iron Mountain sites) and for certain third parties retained to perform administrative activities. For the East Helena site, EPA has such approval authority.

Page 7

- As stated in comment 4 of the Custodial Trust’s memo, the reference to *“1,500 acres of former Asarco land,”* in the first sentence in the first paragraph (carried over from Page 6) should be corrected to state that the Custodial Trust took title to, *“approximately 2,000 acres of former Asarco land.”*
- The last sentence in the first paragraph (carried over from Page 6) states that, *“These lands also include ranches and farmland that encircle three-quarters of the smelter property that were purchased because of concerns that contamination might be impacting the growing and grazing uses of the property (METG, 2018).”* We recommend deleting this sentence because it implies that site contaminants adversely impact grazing and growing on the agricultural lands. The Custodial Trust has and continues to work with the ranchers and farmers who safely graze cattle and grow crops on former Asarco lands. Also, although we may suspect it is the case, we do not know definitively that Asarco acquired the agricultural land due to contaminant concerns.

- Paragraph 1) (i.e., the second full paragraph on Page 7) states, “*Evapotranspiration cover (ET): elements consisted of building demolition at the plant site, subgrade fill, and final ET cover system to mitigate infiltration of precipitation at the facility and control erosion and surface water runoff.*” This sentence should be revised to state, “*Evapotranspirative Cover (ET Cover): entailed demolition of all remaining smelter structures, placement of subgrade fill, and construction of the final ET Cover system to prevent infiltration of precipitation into contaminated subsurface soils, control erosion, shed clean surface water and prevent contact with contaminated soils on the smelter property.*”
- Paragraph 2) (i.e., the third full paragraph on Page 7) states that, “*Wetlands were developed to reduce surface water loading to groundwater by removing Upper Lake and Lower Lake.*” This statement should be corrected to state that new wetlands were created as part of the mitigation required by the US Army Corps of Engineers under Section 404 of the Clean Water Act

Page 10

- The first full paragraph under the Section entitled “Groundwater,” states that, “*These chemicals of concern [attributed to the Asarco smelter] are responsible for three contaminant plumes associated with the former smelter. An arsenic plume originates at the former smelter and extends north-northwest. Another lower concentration arsenic plume is located north of the slag pile. A selenium plume also originates at the former smelter and extends north almost to Canyon Ferry Road. All three plumes are migrating along the general direction of groundwater flow.*” The Custodial Trust’s technical and regulatory documents identify only two (not three) groundwater plumes. Specifically, the plume maps show one contiguous arsenic plume that is shaped like a mitt. There is a third arsenic plume that extends northwest to the Seaver Park subdivision that is believed to originate from naturally occurring arsenic. (The plume is identified as the “West Arsenic Plume” on [Figure 2](#) of the draft EHRP.) To avoid confusion about the groundwater plumes, the Custodial Trust recommends that NRD refer to only one arsenic plume attributed to smelter operations. Additionally, the Custodial Trust recommends that NRD clarify that the selenium plume originates from the former smelter process area and the Slag Pile.
- The first sentence in the first full paragraph states that, “*The Corrective Measures Study report released by METG and EPA in April 2018 identifies the highest potential future use of groundwater at and downgradient of the site ~~is~~ as a drinking water source (METG, 2018).*” NRD should delete “is” (highlighted in red).
- The fifth sentence in the first full paragraph states that, “*East Helena is located north of the smelter with much of the main business and residential areas overlying the groundwater plumes (DNRC, 2014).*” This statement should be corrected to say that, “East Helena is located north of the smelter with a portion of the main business and residential areas overlying the groundwater plumes (DNRC, 2014),” as indicated on [Figure 2](#) of the draft EHRP.

Page 11

- The fourth sentence in the third full paragraph (under the Section entitled “*Surface Water*”) states that, “*EPA completed streambed reconstruction of 1.25 miles of Prickly Pear Creek in November 2016, adjacent to the smelter.*” This sentence should be corrected to state that “METG” (not “EPA”) completed streambed reconstruction.
- The first sentence in the fourth full paragraph (first sentence under Section entitled “*Prickly Pear Creek condition within site*”) states that, “The METG’s remedial goal has been to reduce site groundwater elevation levels to keep contaminated soils from contacting groundwater.” The Custodial Trust recommends revising this sentence to state that, “METG’s remedial goal is to reduce contaminant loading to groundwater by reducing groundwater elevation under the former smelter property to limit the volume of groundwater in contact with contaminated soil.”

Page 14 and Page 16

- The last full paragraph on Page 14 states that, “*The METG prepared updated cost estimates for the Greenway trail, discussed in Section 3.2.1.1.*” However, there is no Section 3.2.1.1 in the draft EHRP.

Page 16

- The sixth sentence in the first paragraph under Section 1.2.5 entitled “*General Proposed Plan for State-Option Land Conveyance,*” refers to the possibility of long-term private ownership of the Greenway Project. The Custodial Trust is not aware of any options for long-term ownership of the Greenway Project lands by a private party. As a fiduciary, the Custodial Trust is unlikely to recommend a scenario under which a private entity could acquire the Greenway Project property (and associated long-term stewardship funds) from the Prickly Pear Land Trust for any non-public and/or private-sector use. As stated in comment 5 of the Custodial Trust’s memo, we also recommend referencing Section 16 of the Bankruptcy Settlement Agreement (i.e., that “*The State avers that these undeveloped lands will be dedicated to public recreation, wildlife habitat, open space and/or wetlands.*”) so that the public understands that the State-Option land will be used for beneficial public purposes.

Page 19—Third bullet under the third paragraph

- The EHRP states that, “*During the public scoping process, the following restoration action were proposed:. . . Removal of slag from Prickly Pear Creek in town, especially in town but railroad bridge to Burnham’s diversion.*” The statement, “especially in town but railroad bridge to Burnham’s diversion” does not make sense.

Page 33, Page 40 and Page 46

- NRD makes a number of references to the estimated costs for construction of the Greenway Project trail system that were prepared by the Custodial Trust, including:

- ✓ *“METG prepared construction estimates for the entire 11.4 miles of Greenway trail as \$4,309,933” (see first sentence of first paragraph under Section 2.3.1.1 on Page 33);*
- ✓ *“METG-estimated cost for construction of 8 miles of segments 2, 3 and 4 is \$3,225,414, including construction and trailhead/parking, signs, fencing, and other components” (see second paragraph under Section 2.3.1.1 on Page 33);*
- ✓ *“METG provided cost estimates for Greenway trail construction. According to METG construction cost estimates, the amount of funding allocated under any of the alternatives would not be enough to construct all of the Greenway trail sections proposed. For example, the METG cost estimate provided for the construction 8 miles of the Greenway trail and other trail components such as fencing, ADA devices, signs, and trailhead parking, is \$3,225,414.” (see last paragraph on Page 40); and*
- ✓ *“METG calculated that Greenway trail operations and maintenance of segments 2, 3, and 4 for a total of 8 miles would require a set aside of \$1,361,791, assuming a 25-year project life. NRD considers the METG-calculated trail operation and maintenance costs reasonable when considered over the 25-year life of the project. The State considers funding operation and maintenance for 10 years a more reasonable and manageable period of time. Based on the cost estimates provided for a 25-year project plan, estimated costs for 10 years of operations and maintenance for 8 miles of trail would be approximately \$544,716.” (see first full paragraph on Page 46).*
- The Custodial Trust offers the following comments and recommendations:
 - ✓ The Custodial Trust asked Hydrometrics to review the Prickly Pear Land Trust (PPLT) cost estimates as an accommodation to NRD and PPLT; however, Hydrometrics and the Custodial Trust do not have specific expertise or experience in trail construction and/or maintenance costs. We therefore recommend that NRD include a disclaimer that the Custodial Trust’s cost information likely needs to be reviewed and confirmed by an individual or organization that has such expertise.
 - ✓ The Custodial Trust recommends that NRD include a statement in one or more of the above-cited sections that clarifies that the Custodial Trust cannot use East Helena cleanup funds for design, construction and/or maintenance of trails, trail access or other infrastructure associated with the Greenway Project.
 - ✓ We are unable to confirm the source of the *“estimated costs for 10 years of operations and maintenance for 8 miles of trail would be approximately \$544,716.”*



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8, MONTANA OFFICE

FEDERAL BUILDING, 10 West 15TH Street, Suite 3200

Helena, MT 59626-0096

Phone 866-457-2690

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RECEIVED

Feb. 7, 2019

Natural Resource
Damage Program

COMMENT #55

Ref: 8EPR-D

VIA E-Mail

February 7, 2019

Alicia Stickney
Greg Mullen
Montana Department of Justice
Natural Resource Damage Program
1720 9th Ave.
P. O. Box 201425
Helena, MT 59620-1425
Attn: East Helena Restoration Plan Comments

Dear Greg and Alicia:

The U.S. Environmental Protection Agency (EPA) is writing to support the proposed Restoration Alternative 3 – Recreation Action Weighted, identified in the *East Helena Asarco Smelter Draft Restoration Plan and Environmental Assessment Checklist*, January 2019 (2019 Restoration Plan). This proposed restoration alternative supports the implemented RCRA Corrective Actions, provides for public recreational access to the restored Prickly Pear Creek corridor, and allows for disposition and long-term stewardship using East Helena Cleanup Funds for 232 acres of Custodial Trust property.

EPA is providing the following factual and editorial comments for incorporation into the 2019 Restoration Plan:

1. General comment – The cleanup that the Montana Environmental Trust Group (METG) is implementing is jurisdictionally under the 1998 RCRA/CWA Consent Decree and is deemed corrective action. Using the term remediation could imply implementation under CERCLA. Substituting “cleanup” to replace remediation, could avoid confusion.
2. Executive Summary (ES1 – first paragraph) - The 2019 Restoration Plan should reference the 2009 *Consent Decree and Settlement Agreement Regarding the Montana Sites* (Consent Decree).
3. Executive Summary (ES1 – first paragraph) - The Consent Decree states “the State of Montana shall have an allowed general unsecured claim in the total amount of \$5 million”. If correct, EPA suggests clarifying that the State received more than the \$5 million because of interest and other earnings on the NRD funds (pursuant to paragraph 17 on page 44 of the Consent Decree). If additional funds have been generated because of the State’s investment of the funds, those amounts should also be identified (see page 44 of the Consent Decree). Additionally, the total funds (excluding the NRD funds) distributed for East Helena is approximately \$110.2 million - \$96.3 million to the East Helena Cleanup Fund managed by METG; \$706,000 to the Department of Interior Natural Resource Damage fund; and, \$13.2 million to the East Helena CERCLA Special Account.
4. Figure 1 is repeated twice in the document.

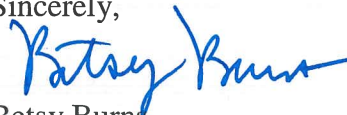
5. Introduction and Background (Figure 2 is the Geographic Boundary of the CMS) - EPA can provide a more accurate figure to define the CERCLA response area, and/or provide an explanation of the RCRA CMS at this point.
6. Introduction and Background (Page 1) - See comments above regarding monetary distribution.
7. Site Background (Page 6) – After the third paragraph, add a paragraph describing the 1998 EPA RCRA/CWA Consent Decree requiring Corrective Action at the smelter site, and the transfer of those responsibilities to METG in 2009, which was reflected in the 2012 First Modification of the 1998 RCRA/CWA Consent Decree.
8. Site Background (Page 6) – Last sentence of fourth paragraph should be rewritten, as follows:
“The State of Montana, both MDEQ and MDOJ, are beneficiaries of the Custodial Trust and are the lead agencies for the UBMC water treatment plant, Black Pine mine, and Iron Mountain. EPA is the lead agency for the East Helena site and consults with the State and Federal beneficiaries on annual budgets and implementation of RCRA corrective actions.”
9. Site Background (Page 7 First sentence in the first paragraph) - For consistency, see comments above regarding monetary distribution.
10. Site Background (Page 7 First paragraph) - Recommend deleting the last sentence.
11. Site Background (Page 7 Second paragraph) – Recommend deleting CERCLA in the first sentence. METG is performing the RCRA Corrective Action under the 1998 RCRA/CWA Consent Decree. EPA is performing additional CERCLA work using funds from a separately funded special account.
12. Site Background (Page 7 Second paragraph – Figure 4) – EPA can provide a figure showing all the implemented interim actions.
13. Site Background (Page 7 – Second paragraph – last sentence) – Substitute “corrective” or “cleanup” for “remedial”.
14. Site Background (Page 9 – First full sentence) – Delete the sentence, “The cover could eliminate the potential future reuse of slag.” Section 6.3 of the CMS Report states, “The regraded and covered unfumed slag can also be accessed for recovery in the future, if warranted by market conditions, by developing grading plans to specify removal (and stockpiling) of the ET cover, removal of the desired quantity of slag material, regrading of the remaining material, and replacement of the ET cover.”
15. Site Background (Page 9) – See Section 6.4 of the CMS. Zoning, well abandonment and East Helena city ordinances are not the primary institutional controls (ICs) in East Helena. The Controlled Groundwater Area and the Lewis & Clark Soils Ordinance are the primary ICs to protect the groundwater and surface soil corrective actions.
16. Site Background (Page 10 – Groundwater) – Use Section 3.4.3 in the CMS Report to discuss the current CSM for groundwater. There are not three plumes.
17. Site Background (Page 10 – Groundwater) – Re-write the section, “As part of remediation of the site, the METG has proposed to drill a new well for the community of East Helena to replace the Wylie Well #3 that is downgradient of the plumes. The project is described in Attachment C as “New Production Well to Replace Wylie Well #3.” The METG has also proposed protecting the caisson at the McClelland water source and improving access to the McClelland radial wells as part of remediation. These projects are also described in Attachment C. The projects are estimated to cost just over \$2.5 million and are pending EPA approval”. Suggested edits are, “As part of the environmental actions performed in East Helena, METG has proposed to drill a new well for the community of East Helena to replace the #3 water supply well to ensure a long-term drinking water source for East Helena. METG has proposed other water source improvements as detailed in Attachment C. Both projects require EPA approval, which depends, in part, on the

final restoration plan as well as METG's submittal of a detailed scope and cost estimate for these activities. METG and EPA will work with the City of East Helena to define the community priorities and financial feasibility."

18. Site Background (Page 11 - Groundwater – First partial sentence) – Revise ... "groundwater use to protect humans and livestock from exposure to contaminated groundwater and control groundwater pumping that could cause further migration of contaminated groundwater" to "groundwater use to protect humans and livestock from exposure to contaminated groundwater and control groundwater pumping that could potentially spread the plumes."
19. Site Background (Page 11 - Groundwater – First full paragraph, last sentence) – Revise the last sentence, "Property within the limits of the City of East Helena are not affected by the East Valley Controlled Ground Water Area because of the City's ban on drilling water wells in areas served by the City's water system" to "Properties west of Montana Avenue, within the limits of the City of East Helena, are included in the East Valley Controlled Ground Water Area. Properties east of Montana Avenue, within the limits of the City of East Helena, are prohibited by ordinance from drilling new water wells in areas served by the City's water system."
20. Site Background (Page 12 – Groundwater – The first partial sentence) – Suggest revising, "In 2014, METG removed saturated **contaminated** sediments next to and within the Upper and Lower Lake complex". Suggest removing the sentence, "As of fall 2016, both Upper and Lower Lakes were dewatered".
21. Overview of Settlement (Page 12) - See comments above regarding monetary distribution, re: \$5.9 million.
22. General Proposed Plan for State-Option Land Conveyance (Page 17 – First paragraph, second sentence) – The sentence should be revised to read, "The METG land stewardship cost estimate is \$2,345,278 for 25 years of stewardship for the 327 acres trail segments 1 through 4". The land stewardship cost estimate for segment 2 (the 327 acres), mostly on Trust property is \$1,907,111.
23. Groundwater Replacement (Page 28 – Second full paragraph) – Suggest revising these sentences, "As part of the remedial action, the METG is funding some of the actions identified in the Water Master Plan, such as a replacement well, north radial well improvements, and McClellan tanks caisson repairs. See Attachment C for a description of these projects." to "As part of the environmental actions performed in East Helena, METG has proposed to drill a new well for the community of East Helena to replace the #3 water supply well to ensure a long-term drinking water source for East Helena. METG has proposed other water source improvements as detailed in Attachment C. [As explained in comment 17, EPA has not yet approved these projects.] METG and EPA will work with the City of East Helena to define the community priorities and financial feasibility".
24. Proposed Groundwater Restoration Actions (Page 28 – Second sentence) – Revise sentence, "As part of the remedial action, METG has proposed to fund, contingent on EPA approval, \$1,812,238 for a new drinking water well and \$779,488 for the north radial well improvements, leaving \$4,806,200 in priority actions to be potentially funded with ASARCO East Helena Smelter restoration funds". EPA recommends taking out the cost estimates and use of the language in comment 23.
25. Attachment A – EPA suggests addition of a definition of RCRA Corrective Action.
26. Attachment C (Page C11) – Recommend changing the title, "Groundwater Replacement Projects that are proposed to be paid for by METG, pending EPA Approval" to "Groundwater Projects proposed by METG that will be evaluated by EPA based on community priorities, financial feasibility, and final restoration plans."

Thank you for the opportunity to review and to provide comments on the *East Helena Asarco Smelter Draft Restoration Plan and Environmental Assessment Checklist*, January 2019. Please feel free to contact me if you have any questions regarding my comments.

Sincerely,



Betsy Burns
EPA Project Manager

Cc: Max Greenblum, EPA
Joe Vranka, EPA
Cindy Brooks, METG
Lauri Gorton, METG
Molly Roby, METG
Patrick Holmes, Office of the Governor

From: [Nelson, Karen](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 2:28:52 PM

COMMENT #56

The U.S. Fish and Wildlife Service (Service) reviewed the East Helena ASARCO Draft Restoration Plan and Environmental Assessment Checklist and would like to provide the following editorial and substantive comments.

The Service supports the selection of Restoration Alternative 3: Recreation Action Weighted.

In Section 1.2.1 Injury Overview, water fowl should be one word.

In Section 1.2.5 General Proposed Plan for State-Option Land Conveyance, the Service supports any State-option land transfer to other public organizations that would provide public access, and protect the restored lands in perpetuity. Developing the land would not be supported.

In Section 2.2.1.2 Improve riparian vegetation/ riparian health the Service suggests adding additional options besides planting large cottonwood trees. The proposed option is an expensive option for a small number of trees. Did METG's revegetation specialist have any other recommendations?

In Section 2.3.1.1 Greenway Trail Project, the Service would encourage any paving of trails be completed outside the floodplain. Asphalt surfaces can leach contaminants into surface water when inundated.

Also in the last sentence in the second paragraph in this section, did you mean fencing instead of fending?

Thank you for the opportunity to comment on this plan. If you have questions regarding these comments please contact me at the phone number in my signature block.

Karen Nelson

Karen J. Nelson
U.S. Fish and Wildlife Service - Montana Field Office
Environmental Contaminants Specialist
585 Shephard Way, Suite 1
Helena, MT 59601

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Telework Schedule:
Monday 7:00 to 4:30
Wednesday 7:00 to 4:30
Every other Friday 7:00 to 3:30

From: [Mark Runkle](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Monday, February 11, 2019 7:01:17 PM

Hello and my apologies for the last minute timing of these comments.

I have been supporting the greenway project since it's conception as I believe it will be a great asset to all the people of the Helena Valley as well as visitors and vacationers.

This project represents a unique oppotrunity to enhance the outdoor experience of the greater Helena area and to improve the desirability of living here. Therefore it's economic benefits will be quite substantial.

I am writing specifically to support the "Preferred Alternative".

Thank you.

Mark Runkle

Sent from my Verizon, Samsung Galaxy smartphone

From: [Max Pigman](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration
Date: Monday, February 11, 2019 7:02:59 PM

Late Comment #L58

I would like to go on record as a supporter of the "the preferred alternative", which would provide PPLT with \$3.2 million from the \$5.9 million East Helena NRD Settlement Restoration Fund.

As a former resident of East Helena and a former member of the Board of Directors of the Eastgate II Homeowners Association, I have many great memories of living in the East Helena area. I am very impressed with the work that has been done with the Prickly Pear creek and a strong supporter of the planned trail systems and public access to this area.

Best Regards,

Max Pigman
Owner/President
Lewis & Clark Brewing Company
1517 Dodge Ave.
Helena, MT 59601
406-459-7078

From: [Jeff Herbert](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Wednesday, February 13, 2019 5:22:48 PM

Late Comment #L59

NRDP,

The Helena Valley Gun Dog Club would like to submit a brief public comment on the potential use of the remediated area, in particular the created wetlands. We recognize that we have missed the official comment deadline but would like to interject these comments if at all possible. Finding suitable water for retriever training purposes is difficult at best in the arid Helena Valley. Obviously wetland and riparian habitat is being created and enhanced on this East Helena site. We recognize that these created wetlands will serve important habitat functions for a variety of wetland related species. We would be very interested in a conversation with NRDP staff to assess whether the option exists to provide some responsible gun dog training opportunities in this area. The club is a strong advocate for well trained dogs, for effective conservation and for community-based approaches that can provide additional recreational opportunities.

Thank you for your consideration of this request. Please let me know if I can answer any questions.

Jeff Herbert, President
Helena Valley Gun Dog Club

From: [Judy Merickel](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Thursday, February 14, 2019 11:09:00 AM

Late Comment #L60

Hello Those Working on Restoration:

Yes, yes, yes! My comments are late, but I am in full support of #3. I have tried to run and bike, with my husband and now with my kids to East Helena from Mt City and it is so dangerous on those two lane roads with little shoulders. Expanding our trail systems in this beautiful part of our state would be such a treasure for years to come. I also love that it would go through a wetland environment. So many of our trails are in the mountainous and hilly environment that young children don't use them because of the terrain and difficulty. A flatter, wetland environment would be great. I fully support and would help organization or fundraising efforts for a greenway trail connection between Montana City and East Helena and to restored creek and wetlands areas of old Smelter site.

Thank you for all you are doing,

Judy Merickel Rawlings
406-465-8091 cell

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