

**State of Montana's Final
Response to Public Comments
on the**

**August 2010 Draft Final
Upper Clark Fork River Basin
Terrestrial Wildlife Resource
Prioritization**

Jointly prepared by the Montana Natural Resource Damage
Program and Department of Fish, Wildlife, and Parks

December, 2011

Table of Contents

Section 1: Introduction.....	1
Category 1: General Support of the Draft Terrestrial Plan	1
Category 2: Higher Priority for Restoration of Areas Impacted by Mining	2
Category 3: Additional Public Comment and Subsequent Process to Implement Priorities	6
Category 4: Consideration of 2005 Silver Bow Creek Watershed Restoration Plan.....	7
Category 5: Priority for Riparian Areas	9
Category 6: Wildlife Habitat Protection and Improvements on Private Lands	9
Category 7: Scope/Approach of Draft Terrestrial Plan.....	10
Category 8: Monitoring and Species of Concern.....	12
Category 9: Hearst Lake Area.....	13
Attachment A: Summary of Public Lands on or near the Four Terrestrial Resource Injured Areas	14
Appendix A: Public Comment on the Draft Final Upper Clark Fork River Basin Terrestrial Wildlife Resource Prioritization	
• List of Commenters	
• Compilation of Comments by Category	
• Public Comment Letters (T-1 to T-19)	

Section I. Introduction

In August 2010, Montana Fish, Wildlife & Parks (FWP) and the Natural Resource Damage Program (NRDP) jointly produced a draft terrestrial resource prioritization plan (hereafter indicated as the “Draft Terrestrial Plan”) that prioritizes the best areas for wildlife habitat protection and enhancement within the Upper Clark Fork River Basin (UCFRB).¹ After presenting the Draft Terrestrial Plan to the Advisory Council on August 18, 2010 and the Trustee Restoration Council on August 26, 2010, the State initiated a 60-day public comment period (September 30 to November 30, 2010) on the document, as well as the companion draft aquatic resource prioritization document.² The State jointly held three public meetings on both prioritization plans in September and October 2010, plus several small group meetings were held on the Draft Terrestrial Plan by request.

The State received a total of 17 comment letters on the Draft Terrestrial Plan. This document provides the State’s responses to these comments. Appendix A contains copies of the comment letters, each of which is identified with a reference number (e.g., T-1, T-2, etc). It provides a categorical breakdown of these comment letters by nine broad categories and identifies the entity or individual submitting the comment letter. The responses below are organized according to this categorical breakdown.

In April 2011, FWP and NRDP jointly prepared and issued draft responses to public comment on the Draft Terrestrial Plan for consideration of the Advisory Council, Trustee Restoration Council and Governor. This final response document is based on the Governor’s approval of a final version of this plan (hereafter indicated as “Final Terrestrial Prioritization Plan”) in December 2011.³

Category 1: General Support of the Draft Terrestrial Plan

Comments: Eight comment letters indicated general support of the plan (see letters from Friends of Two Rivers (letter T-1), Avian Science Center (T-3), Five Valleys Audubon Society (T-4), Clark Fork Coalition (T-7), Milltown Redevelopment Working Group (T-12), Rocky Mountain Elk Foundation (T-13), Missoula-County Health Department Water Quality District (T-14), and Gary Matson (T-16). Most of these support letters applauded the scientific basis of both prioritization plans and noted that they provide guidance for a more detailed restoration plan and future restoration activities. Some support letters indicated their concurrence with specific aspects of the Draft Terrestrial Plan, including: the designation of all riparian and wetland areas as Priority 1, the identified wildlife habitat and protection strategies, and the adaptive management approach of the Draft Terrestrial Plan.

¹ *Upper Clark Fork River Basin Terrestrial Wildlife Resource Prioritization*, jointly prepared by the FWP and NRDP, Draft Final dated August 6, 2010.

² *Prioritization of Tributaries in the Upper Clark Fork River Basin for Fishery Enhancement*, Draft Final dated May 2010, jointly prepared by FWP and NRDP.

³ *Upper Clark Fork River Basin Terrestrial Wildlife Resource Prioritization*, jointly prepared by the FWP and NRDP, Final dated December 2011.

In addition to these positive comments specific to the Draft Terrestrial Plan, most of the 130 comment letters in support of the Advisory Council's September 2010 Draft Long Range Guidance Plan indicated agreement with a scientific approach to funding aquatic and terrestrial projects and support of the State's prioritization plans as thorough and science-based.

Response: The State appreciates this indicated support for the Draft Terrestrial Plan. Prioritization of terrestrial and aquatic resources has been a long-term goal of the State and the Draft Terrestrial Plan lays the groundwork for future decisions on terrestrial priorities.

Category 2: Higher Priority for Restoration of Areas Impacted by Mining

Comments: Six comment letters recommend that higher priority be given to replacing and restoring natural resources in areas at the headwaters of the Basin that were most damaged by mining:

- Project Green expresses concerns that: 1) the Draft Terrestrial Plan does not prioritize restoration over replacement of injured resources, especially coordinated remedial and restoration efforts; 2) the priority areas for terrestrial replacement work are outside of the mining-impacted areas; and 3) the Draft Terrestrial Plan incorrectly assumes that injured terrestrial areas have been fully funded for restoration (letter T-6).
- The George Grant Chapter of Trout Unlimited (GGTU) notes that, while the terrestrial injured areas are mainly upstream of Deer Lodge, the terrestrial priorities are outside of these areas. They recommend a reevaluation of priorities (letter T-11).
- Kristin Douglass recommends that higher priority should be given to areas supporting functional wildlife habitat and populations that are closer to Butte Hill, and other major sources of injury, including areas in the Basin Creek, Brown's Gulch, Blacktail and Sand Creek drainages (letter T-18).
- Colleen Elliott observes that the Silver Bow Creek watershed was given low priority for replacement and recommends higher priority for areas that were most impacted by mining and serving the human populations most affected by mining (letter T-8).
- Jocelyn Dodge and the Butte Restoration Alliance commented that the Butte area has many watersheds that include riparian areas and wetlands that are severely injured and thus these areas should be given higher priority for restoration (see letters T-9 and T-15). They recommend that wildlife corridors and protection of habitat adjoining National Forest should also be considered for the Butte urban area, noting that these areas, although small, are critical to protect wildlife habitat due to the risk of subdivision in these lower elevation areas.

Response: The State responds to these comments in two parts. The first part addresses comments specific to restoration of the terrestrial resource injured areas. The second part addresses comments recommending higher priority to mining impacted areas in the Upper Basin, in or near Butte.

1) Restoration of Terrestrial Resource Injured Areas

- Our response to these comments requires further explanation of the distinction between areas that were subject of a terrestrial resource claim in the NRD lawsuit, in contrast to, areas generally impacted by mining and smelting activities in the upper Basin, including Butte. We added this explanation provided below to the section on “Terrestrial Injured Resources” on the Final Terrestrial Prioritization Plan (p. 2).
 - a. The State’s 1995 terrestrial claim addressed impacts to soils, vegetation, and wildlife habitat in the four areas shown in Figure 3 of the Draft Terrestrial Plan. These are the riparian corridors of Silver Bow Creek, the Upper Clark Fork River between Warm Springs Ponds and Garrison, Opportunity Ponds, and the Smelter Hill Area Uplands.⁴ Wildlife resources were the publicly owned and managed resource that was the basis for the claim. Although there were other areas in the UCFRB with severe and widespread impacts to soils and vegetation, the State pursued terrestrial injury claims in these four areas where it could best document the associated injury to wildlife resources.
 - b. The Butte area NRD restoration damage claims were for groundwater and surface water injury in Butte and terrestrial injury along Silver Bow Creek downstream of the interstate. Since Butte is an urban area, a terrestrial wildlife claim was not pursued during litigation and no wildlife injury was claimed for the Butte area outside of the Silver Bow Creek floodplain. The Draft Terrestrial Plan does recognize, however, that all riparian areas, including those in the Butte area, are designated as priority 1 for potential wildlife habitat protection and enhancement efforts (see part 2 below).
- The text on page 6 of the Draft Terrestrial Plan indicates that the four injured terrestrial resource areas covered under the NRD lawsuit are not analyzed in this document because they are addressed through other remediation and restoration plans and that these four areas are essentially designated as high priority. We further clarify the high priority of these injured areas in the final text regarding restoration and replacement goals (p. 2 and p.5/6), which also clarifies that the restoration goal is of substantially equal importance as the replacement goals.
- In response to the concerns expressed that the remediation and restoration of the four injured terrestrial areas have not been fully funded, the State believes that the most cost effective remediation and restoration measures will be adequately funded using the dedicated funding that exists for these activities in these injured areas. Actions taken to remediate and restore areas impacted by hazardous substance releases must be cost-effective pursuant to both the remedial and restoration provisions in federal Superfund law and associated regulations. Appendix B of the Draft Terrestrial Plan summarizes the

⁴ Although the Milltown injured area was not subject of a terrestrial claim in 1995, only a groundwater claim, the State’s subsequent claim against NorthWestern in 2005 for injuries at Milltown also included aquatic and terrestrial injuries. Restoration of the Milltown injured areas is being addressed with funding sources dedicated through the 2005 Consent Decree.

planned remediation and restoration at these four areas and the budget for this work at the three areas where the state is using dedicated settlement funds pursuant to the 1998 and 2008 Consent Decrees. The planned actions, which have or will occur over decades, include major removal, re-vegetation, stabilization, and/or treatment actions to jump start the recovery to baseline vegetation conditions, with further natural recovery to occur over time. The State acknowledges that recovery of the four injured areas will be lengthy due to the severity of the injury, and, in the case of Opportunity Ponds, the injury is so severe that the injured riparian and wetland resources cannot be cost-effectively returned to a baseline condition, as documented in the State's 1995 Restoration Determination Plan.⁵

The State believes that it is prudent to expend the terrestrial priority funds on priorities identified outside of these four injured areas because, at this time, significant funding is available for each of the four terrestrial injured areas. We have added this clarification regarding the cost-effective aspect of remediation and restoration to the Final Terrestrial Prioritization Plan (p. 6 and Appendix B, p. 24).

- In response to the comments about higher priority to areas near injured resource areas, the State agrees that the protection and enhancement of wildlife habitat near injured areas can substantially assist with the recovery of wildlife resources. By prioritizing work in riparian/wetland areas as well as in injured areas, wildlife will benefit in the Basin. In the Draft Terrestrial Plan all riparian and wetland habitats in the UCFRB are designated as Priority 1 areas; this includes two injured riparian terrestrial resource areas – Silver Bow Creek and the Clark Fork River. Significant portions of Silver Bow Creek, the Clark Fork River, and the Smelter Hill Uplands adjoin or are in close proximity to public lands, which provides some protection from development, as further detailed in Attachment A to this response document. We added this Attachment to Appendix B of the Final Terrestrial Prioritization Plan (pp. 27-28).

2) Priority of mining impacted areas

- The Draft Terrestrial Plan identified areas in the UCFRB, beyond the four terrestrial injured areas with dedicated funding, where investments will be best allocated to generate the greatest benefit to wildlife resources. This prioritization was essential because the restoration needs far exceed the available funds (both NRD and as well as other funding sources) to address them.
- The Draft Terrestrial Plan designates the highest priority, Priority 1, to all riparian and wetland areas in the Basin, including those in the Butte area. It is beyond the scope of this plan and feasibility, at this time, to further rank these riparian and wetland areas. Factors that will be considered during selection of actual sites and projects will include the current wildlife values, the restoration or enhancement potential of the riparian habitat on-site, the connectivity of the site to adjoining habitats, and the technical feasibility and cost effectiveness to restore or replace injured wildlife resources.

⁵ *Restoration Determination Plan for the UCFRB*, prepared by the NRDP, October 1995.

- The urban areas, including the Butte urban area, are not the most cost-effective place to improve wildlife resources because impacts related to urbanization will reduce the effectiveness of wildlife restoration or enhancement efforts. The bullets below provide an explanation of why this is the case, and we added a summary of these explanations in the prioritization steps section in the Final Terrestrial Prioritization Plan (p. 7-8).
 - a. Habitat within urban areas is highly fragmented, reducing its capacity to support wildlife. For example, songbird populations in small habitat patches are more vulnerable to impacts from predators and nest parasitism than bird populations in larger habitat patches. Larger bird species such as long-billed curlews and raptors require more extensive areas because of their larger territory sizes. Ungulates and carnivores that require diverse habitats across a landscape cannot meet their life requirements in an urban area.
 - b. The terrestrial prioritization focused on identifying the most intact and extensive habitat patches, because these areas can potentially support the largest diversity of wildlife species. Wildlife enhancement work in intact habitat patches will be more cost-effective than similar enhancement work in highly fragmented habitats.
 - c. Urban and suburban areas support large populations of non-native wildlife species (such as European starlings, house sparrows, domestic cats and dogs) and native predatory species (such as brown-headed cowbirds and black-billed magpies) that negatively impact populations of the native species we are trying to restore or replace. All urban areas in Montana sustain populations of domestic pets and other predatory species that prey on native wildlife. Wildlife projects will be far more successful and cost-effective in rural areas away from urban population sinks.
 - d. Not all wildlife species are tolerant of human disturbance in or near urban areas. The species most tolerant of human disturbance include many species that were not as likely to have been injured from contamination, such as large corvids (magpies, ravens, crows), brown-headed cowbirds, European starlings, house sparrows, and common seed-eating songbirds such as house finches.
 - e. Insectivorous and fish-eating species that were impacted by contamination are more abundant in rural areas with larger habitat patches. Examples of these species include raptors, shorebirds, fish-eating water-birds, woodpeckers, and insectivorous songbirds such as flycatchers, warblers, and black-headed grosbeaks. Although some of these species may inhabit urban areas in small numbers, all are far more abundant in larger habitat patches in rural areas.
- In response to the comments suggesting that Brown's Gulch, Basin, and Blacktail Creek watersheds should be given higher priority, we would like to clarify that wildlife projects could be completed in these areas subject to individual review. But for a variety of reasons, however, protection and enhancement of habitat in these areas may be less cost effective than in other areas. These watersheds are mostly public land with the private lands fragmented by development and subdivided. Extensive land tracts within these

areas have been platted into subdivisions and the proximity to Butte and Anaconda promote higher land values. While we recognize and appreciate the need to maintain wildlife habitat and corridors through these areas, other conservation tools, such as zoning would be more effective than trying to work with many small landowners to accomplish habitat protection and enhancement.

- It should be noted that, as a result of the 2008 settlement, \$28.1 million plus interest, was earmarked to restoration or replacement of the Butte Area One injured groundwater and surface water resources. The Butte Natural Resource Damage Restoration Council (BNRC), in consultation with NRDP, will be developing a restoration plan for approval by the Governor on how best to spend these dedicated funds. Some of this funding could be used to improve soil and vegetation on the Butte Hill and improve the surface water quality of Silver Bow Creek.
- The Draft Terrestrial Plan is based on an adaptive management approach in which priorities can be reevaluated based on evolving information. It is our determination that adequate information to make revisions may not be available until five years after implementation. Thus, the Final Terrestrial Prioritization Plan provides for reevaluating the terrestrial prioritization at least every five years (p. 15).

Category 3: Additional Public Comment and Subsequent Process to Implement Priorities

Comments:

- The Project Green and Butte Council of Commissioners request more time for discussion and comment on the Draft Terrestrial Plan or the next version of it before they are finalized (letters T-6 and T-19, respectively). Associated with their request for more time, the Commissioners seek delineation of where projects would be pursued and how the prioritization process would actually work in terms of implementation (letter T-19).
- The George Grant Chapter of Trout Unlimited (GGTU) recommends significant involvement of local stakeholders and local decision-making in the development and implementation of future restoration projects and they suggest that the State hire additional local staff to accomplish this (letter T-11).
- The Clark Fork Coalition suggests that the State work closely with groups and individuals that have on-the-ground experience in the Basin, such as landowners, hunting and wildlife groups, and land trusts, to continually refine prioritization and develop projects (letter T-7).
- The Milltown Superfund Site Redevelopment Working Group offers three recommendations with respect to the next stage of restoration plans for aquatic and terrestrial projects (letter T-12): 1) that the NRDP, with consultation from outside experts, should establish clearly identifiable goals for terrestrial and aquatic projects; 2) that the current prioritization documents should be considered as “works in progress”;

and 3) that the NRDP should invite grant proposals or bids to achieve particular objectives within defined timeframes.

Response:

- Regarding the request for additional time for public consideration of the draft prioritization plans, the State believes sufficient opportunity has been provided for public comment on the draft terrestrial and aquatic plans and will exist for public input on subsequent revisions of these plans. The State produced and posted on its website the aquatic prioritization draft plan in May 2010 and the Draft Terrestrial Plan in August 2010. NRDP and FWP staff presented the plans at three public meetings and several some group meetings throughout the basin. We then produced and posted the Proposed Final Terrestrial Prioritization Plan and associated draft response document in April 2011 and presented these two documents to the Advisory Council and Trustee Restoration Council at meetings in April and August, 2011, respectively. Both plans specifically recognize the need for periodic review and adaptive management, with associated public review of any proposed changes (see p. 13 of the Draft Terrestrial Plan).
- How the Final Terrestrial Prioritization Plan would be implemented will be addressed in the subsequent process plan and terrestrial restoration plan that will be developed pursuant to the *Final Upper Clark Fork River Basin Long Range Restoration Priorities and Fund Allocation Guidance Plan* (December 2011). These subsequent plans will be subject to additional public comment, similar to the public process that was completed for the Draft Terrestrial Plan. The terrestrial restoration plan would address the specifics sought by some of the stakeholders about how the process to implement priority projects would occur. The State will consider the above suggestions in developing this subsequent restoration plan. The State anticipates that there will be significant local stakeholder involvement in the development and implementation of priority projects.
- The FWP's local area fisheries and wildlife biologists who completed the majority of work on the draft prioritization plans will be involved in developing the subsequent resource restoration plans. Additional staffing or contractors for NRDP/FWP may be needed to complete the terrestrial restoration plan and if so, we will evaluate where best to locate any additional staff.

Category 4: Consideration of 2005 Silver Bow Creek Watershed Restoration Plan

Comments: Jocelyn Dodge, the Butte Restoration Alliance, and the Butte Silver Bow Council of Commissioners, advocate for greater consideration of the 2005 Silver Bow Creek Watershed Restoration Plan (Silver Bow Creek Plan) in the prioritization process, and for making it of equal importance to the prioritization plan (letters T-9, T-15, and T-19, respectively).

Response:

- We have revised the Terrestrial Wildlife Assessment Methods section of the document (p. 4) to indicate how this more recent prioritization effort considered the background information from the Silver Bow Creek Plan. However, as recognized in these

comments, the Silver Bow Creek Plan was not a primary driver in terrestrial prioritization. The following bullets explain why:

- a. The major difference between the two plans is that the Draft Terrestrial Plan was developed for the entire Basin, whereas the priorities developed in the Silver Bow Creek Plan are strictly for that watershed; thus, the two plans address priorities on different scales (Silver Bow Creek watershed vs. UCFRB). The Silver Bow Creek Plan makes it clear that the restoration needs identified in that plan would likely change in the context of all restoration needs within the UCFRB.
 - b. The Silver Bow Creek Plan identified priorities for improvements to natural resources and natural-resource based recreational opportunities, whereas the Draft Terrestrial Plan identified priority areas for wildlife habitat protection and enhancement efforts. The Silver Bow Creek Plan identified restoration needs without consideration of funding restrictions and indicated that some of these needs may not meet the requirements for NRD funding.
 - c. The Silver Bow Creek Plan involved compiling existing information on the natural resources of that watershed, with only limited available data on wildlife. The Draft Terrestrial Plan was based on a system-wide assessment of terrestrial resources in the Basin that involved collecting up-to-date information on wildlife, including nongame, and a refined mapping of wildlife habitat.⁶ As a result, the 2010 prioritization effort provides a more robust scientific analysis than the 2005 effort. From a habitat perspective, the Draft Terrestrial Plan was based on a revised land-cover map fitted to the UCFRB. This improved map is more accurate than the statewide GAP layer used for the Silver Bow Creek Plan; also, the Draft Terrestrial Plan is informed by more accurate wetland/riparian mapping completed after the Silver Bow Creek Plan was written.
 - d. The Silver Bow Creek Plan did not make as strong of a connection between injured wildlife resources identified in the damage assessment and their wildlife-related goals for the watershed as is made in the Draft Terrestrial Plan.
- Some of the wildlife priorities identified in the Silver Bow Creek Plan match the priorities in the Draft Terrestrial Plan. Both plans place a high priority on restoring, protecting, and enhancing riparian and wetland habitats. The high priority restoration needs for wildlife resources in the Silver Bow Creek watershed identified in the Silver Bow Creek Plan include protection of critical wildlife winter range, in the Mill and Willow Creek sub-basins, and the lower portions of German Gulch, plus restoration of injured wildlife habitat in the riparian corridor of Silver Bow Creek and in upland areas around Anaconda. The latter two injured areas are designated high priority in the Draft

⁶ In 2008, FWP and its contractors characterized the geographic extent and condition of wildlife species and their habitats in the UCFRB. The final report of this Basin-wide assessment summarizes and provides links to eight assessment reports that will be used to identify areas to focus wildlife habitat protection and enhancement efforts in the Basin. This report is available at:

<http://doj.mt.gov/wp-content/uploads/2011/06/2010ucfrbterrestrialresourceassessment.pdf>

Terrestrial Plan and will be addressed with dedicated funding sources. Mill and Willow Creek will benefit from planned restoration activities in the nearby uplands. Portions of Mill Creek and German Gulch winter range are already in FWP ownership (Mt. Haggin Wildlife Management Area). Other areas may be considered for conservation on a project specific basis.

Category 5: Priority for Riparian Areas

Comments:

- The Missoula City – County Health Department, Water Quality District expresses concern about the lack of evaluation of priorities and restoration opportunities for the Clark Fork mainstem and associated riparian and wetland habitats, in the two prioritization plans, particularly the reach between Garrison and Milltown that will not be addressed as part of the State’s integrated remediation and restoration project. The District notes its concurrence with the draft terrestrial prioritization plan’s designation of all riparian and wetland communities in the UCFRB as a high priority and seeks a similar high priority designation for these communities in the aquatic prioritization plan (letter T-14).
- The Clark Fork Coalition and Avian Science Center also strongly support the designation of all riparian and wetland areas in the Basin as Priority 1 (letters T-3 and T-7, respectively).

Response: As Missoula County Water Quality District observes, the Draft Terrestrial Plan designates all riparian and wetland areas in the UCFRB as Priority 1 and thus high priority for conservation and enhancement efforts. The Draft Terrestrial Plan noted the importance of conserving the mainstem riparian areas (p. 9), and we added clarification in the Final Terrestrial Prioritization Plan that this high priority classification applies to the entire mainstem of Silver Bow Creek and of the upper Clark Fork River mainstem between Warm Springs Ponds and Milltown, not just to the Reaches A (Garrison to Warm Springs Ponds), that will be focus of the State’s planned integrated remediation/ restoration project (p. 10).⁷ We also clarify the priority of the mainstems of the Clark Fork River and Silver Bow Creek in the revised aquatic prioritization document.

Category 6: Wildlife habitat protection and improvements on private lands

Comments:

- The Clark Fork Coalition believes that the wildlife habitat improvements should focus on private lands in Basin and that acquisition of private lands by the State is not necessary to accomplish wildlife habitat improvement goals. They suggest that lands can remain productive for agricultural use while improving wildlife habitat values, and providing hunting and other recreational opportunities (letter T-7).

⁷ This integrated remediation/restoration project will also cover areas on the mainstem of the Clark Fork River between Garrison and Drummond (Reach B).

- The Five Valleys Land Trust (FVLT) expresses concerns about the strategy section of the Draft Terrestrial Plan, which they assert focuses more on land acquisitions as the main strategy for wildlife habitat protection and enhancement, rather than less expensive land easements. They express concern about language indicating public access should be a required component of conservation easements. FVLT suggests removal or revision of the strategy section to remove such policy-level recommendations that they believe to be outside the scope of the Draft Terrestrial Plan (letter T-10).

Response:

- The Draft Terrestrial Plan is primarily focused on terrestrial restoration and replacement on private lands. In fact, the method used to identify priority lands was biased towards private lands. The first step of prioritization was to eliminate National Forest Lands from prioritization and thus focus to low-elevation private lands and interspersed public lands in the valley bottoms and foothills.
- We have revised the strategy section of the plan to eliminate the perceived preference for acquisition over easements, since the merits of one of the other tool will vary on a case by case basis (p. 12). The State recognizes that the cost of conservation easements is less than that of fee-title acquisition and that conservation easements have other benefits, like keeping land in private ownership and available for agricultural production. Fee-title acquisitions also have their own unique merits. Acquisition provides the owner with greater control over management activities in the long-term and assurance that management is consistent with long term restoration goals in the Basin. Public ownership also provides access to the land and ownership of its water rights without further uncertainty or additional costs that may be required to secure access or water rights with a conservation easement. Both conservation easements and acquisitions have pros and cons and are tools available for conservation in the Upper Clark Fork with funds allocated for terrestrial priorities.
- We agree with FVLT that specifying a public access requirement associated with conservation easements is a policy issue that belongs in a different document and have modified the text in the Final Terrestrial Prioritization Plan accordingly (p. 12). Since conservation easements that include public access for wildlife-related activities will contribute more towards the replacement of lost recreational services than easements that do not, we revised the strategy section of the plan to indicate the state encourages public access for recreational use. However, FVLT is correct that any specific guidance relative to access, or the merits of conservation easements vs. fee title purchase, is outside of the scope of the Draft Terrestrial Plan.

Category 7: Scope/Approach of Draft Terrestrial Plan

Comments: The Butte Restoration Alliance (BRA) and Jocelyn Dodge believe that the State's prioritization plans are too narrowly focused and recommend that a broader watershed-based approach should be considered for funding decisions (letters T-15 and T-9, respectively). They

note that the injuries identified included fish, wildlife, surface water, soils, vegetation and the associated recreational services provided by those resources. They express concern that non-game species are not included in the prioritization process and recommend that FWP consult the local wildlife biologist to evaluate the Silver Bow Creek watershed with respect to all species, habitat, migration, not exclusively large game.

Response:

- The terrestrial priority areas were established based on a broad, watershed-based assessment that included both game and non-game species, and considered the vegetation that supports terrestrial wildlife species. The local wildlife biologist was involved in the development of the Draft Terrestrial Plan. To simplify the report and make it easier to read, some information on how nongame data was gathered during the assessment and used for the prioritization was omitted from the prioritization report. The following bullets address in greater detail how the Draft Terrestrial Plan addresses non-game species. We have added a more detailed explanation in the methods section of the Final Terrestrial Prioritization Plan (pp. 4-5) to clarify how nongame resources were considered.
 - a. The terrestrial wildlife assessment focused specifically on nongame species and on vegetation, because existing wildlife information was good for game species, but not for nongame species. Since the size of the watershed (about 2.3 million acres) and diversity of habitats precluded sampling at the detailed level of the aquatic assessment, the approach was to sample in randomly-selected habitat patches, then extrapolate nongame species occurrence throughout the watershed from the results.
 - b. The terrestrial wildlife assessment included surveys for songbirds, bats, small mammals, amphibians, reptiles, furbearers, shorebirds, water-birds (herons, cormorants, grebes), waterfowl, and raptors.
 - c. A significant portion of the terrestrial wildlife assessment was dedicated to developing a more accurate land-cover map. This included ground surveys to verify the types of habitats present, and to more accurately delineate them using satellite imagery.
 - d. The prioritization focused on identifying areas that would support the wildlife species with the largest home ranges, to ensure that all species would be covered, not just those that can occupy small habitat patches. As an example, we considered that a larger expanse of native grassland that could support significant numbers of breeding long-billed curlews would be more valuable than a smaller area of grassland that might only support smaller songbirds. These areas largely coincided with areas most valuable for elk winter range. We also considered grassland areas that were interspersed with irrigated pasture or dry-land crops to be less valuable than grasslands without much agriculture because of the relatively lower value of agricultural lands to native grassland birds.

- e. Riparian and wetland areas were considered high priority regardless of patch size, because they support the highest diversity of wildlife species (especially nongame birds), and they were highly impacted by contamination. We were unable to gather enough information to adequately assess which riparian and wetland patches would provide the best opportunities for wildlife restoration or replacement during this assessment. We will be considering the riparian and wetland patch size, relationship to other habitats, human disturbance, and other factors to determine their relative value as we move forward identifying and evaluating potential restoration or replacement sites and projects.
- We will coordinate with the aquatic restoration efforts, when possible. However, the fisheries prioritization was based on habitat needs for trout, and was too narrow in scope to address terrestrial wildlife needs. For example, areas that provide the best spawning habitat for trout do not necessarily provide the best habitat for terrestrial wildlife.
- We recognize that restoration and enhancement efforts for fish are likely to offer significant benefits to terrestrial wildlife in the form of enhanced riparian vegetation and higher fish populations for fish-eating wildlife. Likewise, restoration and enhancement efforts for terrestrial wildlife are likely to provide significant benefits to fish, in the form of enhanced upland and riparian vegetation that will contribute to better water quality within a watershed.
- Recreational services for wildlife will be provided by a combination of wildlife population enhancement and public access to those enhanced wildlife populations. Most wildlife species (notably birds, bats, and carnivores) are mobile, so enhancing their populations in the watershed will generally contribute towards enhanced wildlife viewing opportunities and better ecological services offsite. Since the Upper Clark Fork Valley has few areas of public land in the lower elevations that are targeted for restoration or replacement, providing additional public access in the lower elevations will enhance recreational opportunities in these habitats. Additional access without providing higher wildlife populations might not provide better recreational services, and would not provide replacement of ecological services lost due to injury of wildlife from contamination.

Category 8: Monitoring and Species of Concern

Comments:

- The Avian Science Center suggests that a monitoring plan be a component of the terrestrial prioritization effort and that birds be included as one of the taxa that should be monitored to ensure that restoration habitats provide for a higher functioning ecosystem (see letter T-3).
- The Five Valleys Audubon Society suggests that Lewis's Woodpecker be mentioned as an important species of concern (see letter T-4).

Response:

- The Draft Terrestrial Plan focuses on identifying priority areas for wildlife habitat protection and enhancement in the Basin. Specifying certain types of monitoring is outside of the scope of the document. The State plans to address broad monitoring needs in the restoration plan that will focus on how to accomplish priorities. Project specific monitoring needs will be determined individually.
- The Lewis's woodpecker is a species of concern found in cottonwood riparian habitats along the Clark Fork River. They were included in the generic 'woodpecker' group targeted for restoration and replacement efforts for riparian and wetland habitat. The State recognizes the importance of conservation efforts for this species and for other species of concern, and will clarify that they are an important species found in cottonwood riparian habitats.

Category 9: Hearst Lake Area

Comment: Ernest Edwards submitted comments indicating his interest in the Hearst Lake area near Anaconda and noted his collection of pictures of this area (see T-2).

Response: Hearst Lake is located in an area designated as Priority 2 in the terrestrial wildlife prioritization. We recognize that the lake and associated lands provide valuable fish and wildlife habitat as well as recreational values adjoining Anaconda. These unique benefits will be considered if any projects are brought forward in this area.

Attachment A. Summary of Public Lands on or near the Four Terrestrial Resource Injured Areas. Note: The areas of public ownership outlined below are depicted on a new map (Appendix Figure B-1) in the Final Terrestrial Prioritization Plan (p. 28).

- Opportunity Ponds (3,400 acres of injured lands): The State is negotiating with ARCO to acquire the 3,750 acre Dutchman wetlands near the Opportunity Ponds.
- Silver Bow Creek (750 acres of injured lands): Through the 1998 settlement and grants funded by it, the majority of the 1,400 acre floodplain of Silver Bow Creek is owned by the State or Greenway Service District. FWP acquired ownership of another 1,746 acres of lands along four miles of Silver Bow Creek in Durant Canyon (Duhamel property) through a NRD grant. In addition, some of the lands south of Silver Bow Creek in Durant Canyon are USFS lands.
- Smelter Hill Area Uplands (11,366 acres of injured lands), have extensive public lands already in public ownership within or surrounding the upland injured areas. The Upland injured areas consist of Mount Haggin, Smelter Hill, and Stucky Ridge.
 - FWP owns Mount Haggin injured area (4,304 acres) and adjoining lands that, combined, are part of the 55,000 acre Mount Haggin Wildlife Management Area.
 - Anaconda Deer Lodge County owns about 600 acres of Smelter Hill (which in total is a 4,653 acre injured area) and some of the lands surrounding the area. Also, via NRD grants, the State acquired the nearby 6,800 acre Garrity Mountain Wildlife Management Area west of Anaconda and the US Forest Service owns most land between west of Garrity to Georgetown Lake.
 - Almost half of 2,409 acre Stucky Ridge injured area is owned by the DNRC (480 acres) or Anaconda Deer Lodge County. Surrounding areas to the west of Stucky Ridge are part of the Blue Eyed Nellie and Stucky Ridge Wildlife Management Areas—460 acres.
- A total of 7.7 miles (17%) of the 45 river miles in Reach A of the Clark Fork River between Warm Springs Ponds and Garrison is currently or will be in public ownership.⁸ Also, the States' 2007 Clark Fork River restoration plan⁹ provides for funding of easements along the river floodplain corridor in Reach A.

⁸ The State currently owns about 3.75 miles along the Clark Fork River in Reach A that includes sections of FWP's Warm Springs Ponds Wildlife Management Area and the Paracini Ponds site located near Racetrack, acquired in 2010. ARCO owns 1.6 river miles that may be transferred to the State under provisions of the 1998 State/ARCO Consent Decree. Plus there are about 2.35 river miles in Reach A under federal ownership.

⁹ State of Montana Revised Restoration Plan for the Clark Fork River Aquatic and Terrestrial Resources, NRDP, Nov. 2007.

Appendix A

Public Comment on the

*Draft Final Upper Clark Fork
River Basin Terrestrial Wildlife
Resource Prioritization*

Dated August 6, 2010

TERRESTRIAL PRIORITIZATION COMMENTS				
NRDP Comment #	First Name	Last Name	Organization	City
T-1	Warren	Hampton	Friends of Two Rivers	Milltown
T-2	Ernest	Edwards		Anaconda
T-3			Avian Science Center	Missoula
T-4	Jim	Brown		Missoula
T-6	Brian	Holland	Project Green	Butte
T-7	Chris	Brick	Clark Fork Coalition	Missoula
T-8	Colleen	Elliott		Butte
T-9	Jocelyn	Dodge		Butte
T-10	Grant	Kier	Five Valleys Land Trust	Missoula
T-11	Bob	Olson	George Grant Trout Unlimited	Butte
T-12	Chuck	Erickson	Milltown Redevelopment Group	Milltown
T-13	Mike	Mueller	RMEF	Missoula
T-14	Peter	Nielsen	Missoula County Health Department	Missoula
T-15	Suzzann	Nordwich	Butte Restoration Alliance	Butte
T-16	Gary	Matson		Milltown
T-18	Kriss	Douglass		Butte
T-19	Dave	Palmer, Chairman	Butte Silver Bow Council of Commissioner	Butte

*Letters T-5 and T-17 are not included because they are not specific to the Draft Terrestrial Prioritization Plan.

Guide to Comments and Commenters on the Draft Terrestrial Resources Prioritization Plan

The State received a total of 17 comments on the Draft Terrestrial Resources Prioritization Plan. See attached list of comment letters. Following is a general categorization of the comments. The full comments letters are also attached.

Category 1: Comments in general support of the *Draft Terrestrial Resource Prioritization Plan* (see letters T-1, T-3, T-4, T-7, T-12, T-13, T-14, T-16), plus 130 support letters on the Draft Long Range Guidance Plan proposed by the UCFRB Advisory Council that also indicated support of the state's draft prioritization plans.

Category 2: Comments recommending higher priority for restoration of areas impacted by mining (see letters T-6, T-7, T-8, T-12, T-15, T-18).

Category 3: Comments recommending additional public comment and input on the subsequent process to implement priorities (see letters T-6, T-11, T-19).

Category 4: Comments recommending consideration of 2005 Silver Bow Creek Watershed Restoration Plan (T-9, T-15, T-19).

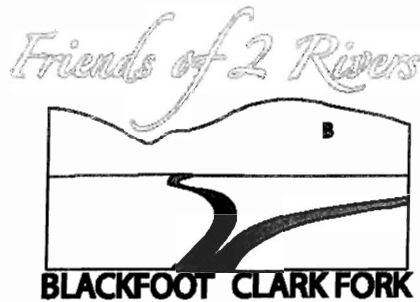
Category 5: Comments about priority to riparian areas (T-3, T-7, T-14).

Category 6: Comments about wildlife habitat protection and improvements on private lands (T-7, T-10).

Category 7: Comments about the scope/approach of the *Draft Terrestrial Resource Prioritization Plan* (T-9, T-15).

Category 8: Comment about monitoring and Species of Concern (T-3, T-4).

Category 9: Comments about Hearst Lake area (T-2).



22 November 2010

Ms. Vivian Hammill
Chair, Trustee Restoration Council
PO Box 200801
Helena MT 59620-0801

Dear Ms. Hammill,

Friends of 2 Rivers is a grass-roots organization of Milltown/Bonner area residents. We have been strong supporters of the Milltown Site remediation and restoration, and are happy to offer our comments regarding the "Long Range Restoration Priorities and Fund Allocation Guidance Plan," the UCFRB terrestrial prioritization, and the UCFRB tributaries prioritization.

We offer our strong support for the Advisory Council's proposed Long Range Guidance Plan. Its guidelines will enable the NRDP staff to develop the most appropriate policies and practices for restoring the basin within the substantial constraints that exist because of the complexities and size of the Basin's restoration area.

The terrestrial and tributaries prioritizations are excellent beginning of what will be living documents, revised in time because of the vagueness of biology and environmental conditions. The documents are thorough and science-based, and will provide the NRDP with sound references for guiding restoration effort.

Sincerely,

Warren Hampton, President
Friends of 2 Rivers

T-1

PUBLIC COMMENT FORM*

9-30-2010

Name ERNEST Edwards

Address (Street/ P.O. Box) 1102 E 4th ST.

Town, State ZIP Anceanda, MT 59711

Phone 1-406-563 8450 Email address —

Affiliation —

Please check which document you are commenting on:

☐ Draft Final Prioritization of Tributaries in the Upper Clark Fork River Basin for Fishery Enhancement, May 2010

☒ Draft Final Upper Clark Fork River Basin Terrestrial Prioritization, August 2010

Please submit your comments on either of these draft documents in the following space. Attach additional information to this form if you wish. Thank you for your interest.

UPPER FIEBURG? ENTRANCE TO HERST
LAKE'S HAUGON LAKE'S

LOCATED: (S) South end of Tamarway
and TAMARCK STREETS

WALK IN-ONLY

5 Times entered

3-Times pictures

30 TO 40 Pictures Taken

T-2

*NRDP must receive comments no later than 5:00 p.m. on November 30, 2010



RECEIVED

OCT 08 2010

NATURAL RESOURCE
DAMAGE PROGRAM

Avian Science Center
Division of Biological Sciences
The University of Montana
Missoula, MT 59812

Phone: (406) 243-2035

Natural Resources Damage Program
P.O. Box 201425
Helena, MT 59620-1425

October 4, 2010

Dear NRDP Review Committee:

The Avian Science Center at the University of Montana (ASC) would like to comment on the *Draft Final Upper Clark Fork River Basin Terrestrial Wildlife Resource Prioritization* jointly submitted by MTFWP and NRDP. The ASC strongly supports the wildlife habitat protection and enhancement strategies laid out in this document, and we are particularly pleased to see riparian and wetland areas as habitats of particular conservation interest. Riparian areas are critically important for healthy bird populations as 90% of birds use riparian areas.

While this document states that the authors "...consider monitoring to be critical for successful terrestrial resource restoration and replacement" and that "...[they recommend including] wildlife monitoring to ensure that wildlife benefits from restoration and enhancement efforts", the document falls short of recommending a specific monitoring plan. If monitoring is really critical for success, and we agree that it is, then a monitoring plan that outlines what should be monitored and how often that monitoring should occur is in order. Furthermore, the specific mention of effectiveness monitoring is encouraging and we propose that birds be included as one of the taxa that can be easily and inexpensively monitored to ensure that restored habitats provide for a higher functioning ecosystem.

Because the basin sustained considerable damage from past mining practices, continued monitoring of wildlife will be necessary on a long-term basis in order to provide managers and biologists with relevant information. This information will help promote informed decision-making and benefit future generations in the UCF river valley, as well as other Montana and out-of-state residents by providing resources that support high quality recreational opportunities.

The ASC has collaborated with NRDP and MFWP on collecting avian data, and we would like these groups to capitalize on the baseline data already in hand and create a monitoring program that will ensure the recovery of wildlife populations within the basin. Without a written plan and commitment to monitoring, we have concerns that monitoring will actually occur. We would be happy to contribute our knowledge and experience in designing monitoring plans to fit the needs of this project. You may contact us at 406-243-2035 with any question

Sincerely,

T-3

The staff at the Avian Science Center:

Megan Fylling
Research
Assistant

Anna Noson
Riparian Program
Coordinator

Kristina Smucker
Assistant Director

Richard Hutto
Professor &
Director

RECEIVED

OCT 06 2010

NATURAL RESOURCE
DAMAGE PROGRAM

PUBLIC COMMENT FORM*

Name Jim Brown

Address (Street/ P.O. Box) 1504 Woods Gulch Rd

Town, State ZIP Missoula, MT 59802

Phone 406-549-8052 Email address brownj's 2 @ bksdian.net

Affiliation Five Valleys Audubon Society

Please check which document you are commenting on:

☐ Draft Final Prioritization of Tributaries in the Upper Clark Fork River Basin for Fishery Enhancement, May 2010

☒ Draft Final Upper Clark Fork River Basin Terrestrial Prioritization, August 2010

Please submit your comments on either of these draft documents in the following space. Attach additional information to this form if you wish. Thank you for your interest.

We believe the Analysis process and criteria used to
establish priorities are sound and appropriate. We
strongly agree that priority One should be assigned to
riparian areas, wetlands and aspen.

On p. 12 it would appropriate and desirable to mention
Lewis's Woodpecker, an important species of conservation
concern that can be found in cottonwood bottomlands.
Also note that Blue Grouse is now named Dusky Grouse.

*NRDP must receive comments no later than 5:00 p.m. on November 30, 2010

**PROJECT GREEN OF MONTANA, INC.
65 EAST BROADWAY
BUTTE, MT 59701**

November 30, 2010

Vivian Hammill, Chair, Trustee Council
Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425

**Re: Project Green Comments on the
*Long Range Restoration Priorities and Fund Allocation Draft Guidance
Plan for the Upper Clark Fork River Basin.***

Dear Ms. Hammill:

The purpose of this letter is to provide, as part of the public comment process, the comments of Project Green of Montana, Inc. ("Project Green") on the NRD Advisory Council's *Long Range Restoration Priorities and Fund Allocation Draft Guidance Plan* (Plan), released in September 2010.

By way of background, Project Green began in the mid-1990's as a Butte citizens' grassroots community organization and evolved to a Montana non-profit 501(c)(3) corporation that promotes innovative remedial and restoration projects. Project Green's Articles of Incorporation state its primary purposes as:

To encourage innovation in Superfund remediation so that future land use of Superfund cleanup sites becomes a vital component of community development while demanding safe long-term remediation protective of human health and the environment. To create tangible community assets for the area while encouraging sound and cost-effective reclamation. To encourage technology development and deployment in Superfund remediation projects. To encourage long-term, cost-effective remedies that meet the economic development and recreational needs of the affected communities while continuing to meet the human health and environmental protection objectives of Superfund. To promote community education to encourage affected citizens to participate in the decision-making process relating to these sites in order to create economic, social, cultural, and recreational opportunities and support open space and other beneficial uses. And to operate to the ultimate benefit of the citizens of the affected areas, the State of Montana, and the United States...

Given these purposes, Project Green has had an active interest in the NRDP program since the program's inception, and in Superfund activities before then. For example, Project

Green has been involved with the Silver Bow Creek clean-up and the associated Greenway project (Greenway Project), since it was proposed as the end land use for Silver Bow Creek post-remediation, through the designation of such end land use in the SSTOU Record of Decision, continuing to the present time and the ongoing remediation and restoration work.

More recently, Project Green initiated efforts that ultimately led to the Butte Restoration Alliance, and a Project Green representative has been on the Restoration Alliance since its inception.

With that background, Project Green appreciates the opportunity to offer comments on the Plan, as follows:

1. General Comments. Project Green appreciates the hard work and dedication of the Advisory Council members in reaching consensus on the Plan. Project Green supports the concept of a long-term plan to guide restoration priorities. Project Green is very supportive of the recitals at the start of Plan (Recitals). For example, the following Recital is excellent:

Whereas, the injuries to the resources and services of the Upper Clark Fork River Basin from over 100 years of mining and smelting are pervasive and extensive, the Advisory Council recognizes that no amount of money, with our present knowledge and technologies, can restore fully all the injuries to resources and services and, therefore, the funds that are available need to be expended in a thoughtful and directed manner over a period of years to get us as close as humanly possible to our goal of restoring the Upper Clark Fork River Basin,

The Recitals emphasize that restoration of the areas impacted by the “over 100 years of mining and smelting” should be the highest priority, and they also reflect the restoration funds are limited, reiterating the need to spend these limited funds wisely.

While the Advisory Council did a fine job with the Recitals, details in the body of the Plan do not match up with the Recitals, and given the large amount of funding that will be guided by the Plan, Project Green believes it is critical that the details be refined to match up with the Recitals.

One area is the need to provide high priority to projects which coordinate restoration and remedy activities. As an example, the Greenway Project has coordinated restoration and remedy activities (through the efforts of the Greenway Service District, in partnership with the NRDP and DEQ), with substantial cost savings realized by coordinating such activities, and the Greenway Project has received national awards and recognition as a result. Milltown is another strong example of coordinated remedy and restoration work.

As the 1995 *NRDP Restoration Determination Plan Upper Clark Fork River Basin* stated on page 1-7, “As a matter of policy, coordinating clean-up actions in the Upper Clark Fork River Basin – be they response or restoration actions – makes good sense.” While such

coordination is reflected in the principles stated in the Recitals, the Plan's details do not address such coordination. To that end, the Plan should be refined to recognize the high priority that should be given to coordinated remedy and restoration activities.

In this regard, another detail not reflected in the Plan is the fact that NRDP has not allowed any restoration funds to be spent in the Butte Priority Soils Operable Unit (BPSOU), because NRDP has taken the position that restoration funds cannot be spent in that area until the Consent Decree for BPSOU is finalized¹. Anaconda Regional Water and Waste is another Consent Decree that has not been finalized. The Plan should be refined to give the highest priority to coordinated remedy and restoration activities, and adequate funds should be held in some type of contingency arrangement until all Consent Decrees are final and appropriate coordination of remedy and restoration activities can take place.

Project Green also noted that much of the Plan follows the 2008 NRDP's Draft Conceptual Framework for an Upper Clark Fork River Basin Restoration Priorities Road Map ("Roadmap"). For example, the Plan's proposed percentages to allocate funds are identical to the Roadmap. Attached is a copy of Project Green's comments to the Roadmap, and to the extent the Plan has similar recommendations as the Roadmap, Project Green has the same comments, and believes the Plan should be refined as recommended in those comments.

In addition to these comments, the following comments address those areas where we believe the Plan needs refinements to match up with the Recitals.

2. The Silver Bow Creek Greenway Project needs dedicated, full funding. While Advisory Council members have indicated that they intended the Greenway Project to have full funding under the Plan, a careful reading of the Plan shows it does not have any provisions for dedicated, full funding. The reasons for such funding are set out in the attached comments to the Roadmap, especially because dedicated full funding is consistent with the SSTOU Record of Decision (ROD), which was incorporated into the SSTOU Consent Decree. The ROD addresses - in several places - the end-land use as a recreational corridor that would also serve as institutional controls, which contemplated the Greenway Project. For example, page 105 of the ROD states:

"Prevent human exposure to the tailings/impacted soils from residential or occupational activity within the SSTOU. This will be accomplished, in part, through institutional controls that will require the entire OU to be developed into a recreational corridor."

(emphasis added)

Also, page 113 of the ROD states:

"Provided that the final design of the SSTOU remedy can attain the cleanup criteria and performance standards, it should to the degree possible incorporate

¹ Recognizing groundwater replacement projects have been done in Butte, but for different reasons.

components consistent with the following environmental and community improvement actions in the project area:

- *A Silver Bow Creek recreational corridor land use as designated and adopted by the Butte-Silver Bow and Anaconda-Deer Lodge County governments;*
- *Preservation and enhancement of significant historical and pre-historical resources in accordance with the Regional Historic Preservation Plan; and;*
- *Coordination with pertinent restoration actions implemented as part of the Upper Clark Fork River Basin natural resource damage restoration plan."*

The ROD was prepared by DEQ, NRDP's sister agency, and changing the Plan to fully fund the Greenway Project will provide consistency between the Plan and the ROD, and provide a common framework between DEQ and NRDP for the end land use of Silver Bow Creek. Dedicated full funding should also improve administrative efficiencies – and result in related cost efficiencies - in the execution of all aspects of the Greenway Project.

Project Green has heard suggestions that funding for the Greenway Project should come out of the "SSTOU Remediation Fund Remainders." While conceptually the project does not care where its funding comes from, as long as it is assured, the problem with this approach is that it creates uncertainty for funding coordinated remedy and restoration activity over the next few years. In other words, if the Greenway Project received its dedicated funding from the SSTOU Remediation Fund Remainder, it presumably could not access those funds until the clean-up work was completed (or at least there would be questions if such funds could be used before the clean-up was completed), and therefore there would be no funds to coordinate the Greenway restoration activity with the ongoing clean-up activity over the next few years. Given this complication, it seems the better approach for dedicated full funding for the Greenway project is to have it inserted in the "Encumbered UCFRB RF's" box in Attachment D to the Plan, or some other restructuring of Attachment D that provides for such dedicated funding. That will ensure the time-critical coordination of remedy and restoration on Silver Bow Creek will continue to be done.

3. ~~Dedicate any surplus SSTOU remediation funds to the Silver Bow Creek Watershed.~~ The part of the Plan dealing with the "SSTOU Remediation Fund Remainders" is not as clear as what has been verbally explained by Advisory Council members as to its intent. It indicates these funds may be allocated for projects throughout the Basin, but the language addressing the "exhaustion" of earmarked funds is subject to interpretation and thus raises questions and uncertainties. Advisory Council members have explained the intent of this section, and while Project Green appreciates this part of the Plan was a compromise in order to reach consensus, we believe the better policy decision for these funds is to have them allocated for projects wholly within the Silver Bow Creek watershed, above the confluence of the Warm Springs Ponds and Warm Springs Creek.

While Project Green realizes the SSTOU Consent Decree did not dedicate surplus remediation funds to the Silver Bow Creek watershed area, they can be dedicated as a matter of policy. Surplus Clark Fork River remediation funds are dedicated to that river's watershed area, so why - as a matter of state policy - should there be a difference between the two? Dedicating these surplus funds would be consistent with the framework of the 2008 settlement for three restoration claims – for the Clark Fork River, the Anaconda Uplands and the Butte Area One – to earmark restoration dollars directly to where damages occurred and take advantage of the benefits when integrating remedial and restoration work. The Silver Bow Creek watershed area contains the vast majority of the injured natural resources, and dedicating surplus remediation funds is consistent with the Plan's (and the State of Montana's) stated policy to restore injured natural resources.

Project Green has heard Advisory Council members explain that the intent of allowing funds to be used throughout the Basin is to address the possibility of funding a worthy project downstream of the Warm Springs Ponds; i.e., they did not want to foreclose the possibility of using these surplus remediation funds for a worthy project just because it was downstream. While Project Green appreciates that concern, the reality is that there is no mutuality; i.e., worthy projects upstream cannot tap into surplus CFR remediation funds – those funds are earmarked for the CFR by its Consent Decree. Also, if one reviews the 2005 Silver Bow Creek Watershed Restoration Plan, one can see the projects outlined in it would utilize whatever surplus SSTOU remediation funds become available, and there are likely not enough funds to accomplish all those projects. Given that, and the reasons explained above, Project Green believes the better policy decision is to treat the SSTOU remediation funds the same as the other earmarked funds, and dedicate them to the Silver Bow Creek watershed where they can be used to fund priority projects, as outlined in the Silver Bow Creek Watershed Restoration Plan, or other restoration projects in the watershed that emerge as the remedy in the watershed area continues to be implemented and completed in the next few years.

4. Aquatic and Terrestrial Plans. The Plan states that:

Within these two categories, funding decisions should be determined and guided by the comprehensive agency planning documents that are being developed and any subsequent updates and revisions: a) the Tributary Prioritization Plan developed by the Department of Fish, Wildlife & Parks and NRDP (2010), after public comment and recommendation by the Advisory Council and the Trustee Restoration Council and final approval by the Governor, and b) the Terrestrial Wildlife Resource Prioritization Plan developed by the Department of Fish, Wildlife & Parks and NRDP (2010), after public comment and recommendation by the Advisory Council and the Trustee Restoration Council and final approval by the Governor.

(for convenience these will be referred to as the "Tributary Plan" and the "Terrestrial Plan.")

This creates a “chicken and egg” problem that the Plan does not address – how can the Plan state that funding decisions should be determined and guided by draft plans that themselves are in the process of public comment and subject to change? Advisory Council members have explained the intent of this section, and while the goal of having long-range aquatic and terrestrial plans is laudable, the details of the draft plans do not match up with the Recitals, especially the Terrestrial Plan.

The Terrestrial Plan provides that “[P]rioritization efforts focused on replacement goals” and the first two goals listed in it are replacement, not restoration, activity. Moreover, the priority areas for such replacement goals, as illustrated by Figure 5 to the Terrestrial Plan, are well outside the areas impacted “from over 100 years of mining and smelting” and this is at odds with the Recitals, which emphasize restoration in such areas.

Also, in the part of the Terrestrial Plan that addresses restoration as a goal, it limits its focus to only the four terrestrial resource injured areas shown in its Figure 3, and assumes that all restoration projects for such areas have been fully funded - this is not the case. Moreover, this ignores the numerous areas impacted by “over 100 years of mining and smelting” that are not in the Figure 3 areas.

The Terrestrial Plan and the Tributary Plan need much more discussion and comment before these plans are endorsed in any official way by the Plan. The entire premise and approach behind these plans need to be carefully considered, in relation to the principles stated in the Recitals. Project Green would respectfully ask the Advisory Council, the Trustee Council and the Governor to take the time to do a “process check” and critically look at approach behind these plans, and ask themselves if these plans match up with the Recitals and the goal of giving higher priority to restoration, especially coordinated remedial and restoration activities.

5. Recreational Projects. The Plan states that:

With respect to aquatic and terrestrial recreational services, the Advisory Council recommends that recreational projects aimed at providing the recreational services that were the subject of *State of Montana vs. ARCO* be considered for funding from the aquatic or terrestrial resource allocation funds only if such projects are located in injured aquatic and terrestrial resource areas covered in the lawsuit or in the priority areas identified in the State’s aquatic and terrestrial priority plans referenced above, and only if such projects offer natural resource restoration benefits, not just recreational benefits. Funding for such projects would come from the either aquatic or terrestrial funds based on the proportion of the project costs attributable to aquatic or terrestrial restoration. Recreation projects that cannot meet these goals would not be eligible for funding.

Advisory Council members have explained the intent of this section, and while Project Green appreciates their intentions, we are concerned the limitations set out in this section will eliminate or restrict eligibility of appropriate projects in the UCFRB headwaters area. Project Green has heard there have been comments that the current NRD projects in Butte to build a

fish pond and improve pedestrian trails in natural areas along the East Ridge would not be eligible for funding if this section of the Plan was adopted as is. These are Projects supported by Project Green. Project Green is aware that the Butte-Silver Bow Council of Commissioners has expressed its concerns with this, and Project Green shares those concerns. While the priority should be on restoration as reflected in the Recitals, to the extent there are appropriate projects that recognize lost recreational opportunities in the communities impacted by "over 100 years of mining and smelting," there should not be a blanket prohibition on such projects as suggested by the Plan.

6. Additional Time or Opportunity for Comments. Consistent with the comments above on the aquatic and terrestrial section, Project Green respectfully requests that additional time be allowed for public comment on the Plan, and the Terrestrial Plan and the Tributary Plan, or that some provision be made for an additional opportunity to comment on the next version of them. Given the interrelationship of these plans, the complexity of the subject matter, the magnitude of the dollars involved, and the long-term impact they will have, allowing the public another month or two to provide comments, or at least making it clear the public will have an additional opportunity to comment on the next version of the plans, would be good public policy. Presentations by FWP staff on the Terrestrial Plan and the Tributary Plan were scheduled for the Butte Restoration Alliance's November 23, 2010 meeting, but were cancelled due to the weather and related travel concerns. Project Green's representative and the other members of the Restoration Alliance were very interested in hearing these presentations, and allowing additional time or opportunity for comments would allow these presentations to be rescheduled, and provide the opportunity for additional comments with the benefit of the information presented.

In conclusion, Project Green again commends the Advisory Council for their efforts to develop and craft a consensus-based Plan, and hopefully the comments provided will better refine it. Thank you for the opportunity to comment and we hope our input is helpful.

Sincerely,

Ben Holland, President

Project Green of Montana, Inc.

cc: Project Green Board

**PROJECT GREEN OF MONTANA, INC.
65 EAST BROADWAY
BUTTE, MT 59701**

August 15, 2008

Carol Fox, Program Manager
Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425

Re: Project Green Comments
*Draft Conceptual Framework for an Upper Clark Fork River Basin
Restoration Priorities Road Map*

Dear Carol:

The purpose of this letter is to provide, as part of the public comment process, the comments of Project Green of Montana, Inc. ("Project Green") on the NRDP's Draft Conceptual Framework for an Upper Clark Fork River Basin Restoration Priorities Road Map ("Roadmap"), as released and distributed in March 2008.

By way of background, Project Green began in the mid-1990's as a Butte citizens' grassroots community organization and evolved to a Montana non-profit 501(c)(3) corporation that promotes innovative remedial and restoration projects. Project Green's Articles of Incorporation state its primary purposes as:

To encourage innovation in Superfund remediation so that future land use of Superfund cleanup sites becomes a vital component of community development while demanding safe long-term remediations protective of human health and the environment. To create tangible community assets for the area while encouraging sound and cost-effective reclamation. To encourage technology development and deployment in Superfund remediation projects. To encourage long-term, cost-effective remedies that meet the economic development and recreational needs of the affected communities while continuing to meet the human health and environmental protection objectives of Superfund. To promote community education to encourage affected citizens to participate in the decision-making process relating to these sites in order to create economic, social, cultural, and recreational opportunities and support open space and other beneficial uses. And to operate to the ultimate benefit of the citizens of the affected areas, the State of Montana, and the United States...

Given these purposes, Project Green has had an active interest in the NRDP program since the program's inception, and in Superfund activities before then. For example, Project

ATTACHMENT TO NOVEMBER 30, 2010 LETTER

Green has been involved with the Silver Bow Creek clean-up and the associated Greenway project, since it was proposed as the end land use for Silver Bow Creek post-remediation, through the designation of such end land use in the SSTOU Record of Decision, continuing to present and the ongoing remediation and restoration work. Attached are some early Project Green materials reflecting this activity and the organization's history.

More recently, Project Green initiated efforts that ultimately led to the Butte Restoration Alliance, and a Project Green representative has been on the Restoration Alliance since its inception.

With that background, Project Green appreciates the opportunity to offer comments on the Roadmap, as follows:

- **1. The Silver Bow Creek Greenway Project needs dedicated, full funding.** While Project Green appreciates that the Roadmap allocates \$3.5 million for the Greenway Project, that amount falls far short of the funding required to fully and comprehensively implement the project, including the recreational components designed to ensure public access and enjoyment. Not dedicating full funding to complete the access features of this restoration project (along with the ecological enhancements) threatens the project by:
 - Creating challenges to the coordination of the project – e.g., funds may not be available during the logical sequence of construction, or funds may not be available when opportunities arise for coordinating restoration work with DEQ's remedial work.
 - Increasing costs when work is not coordinated – e.g., extra costs incurred to protect streamside vegetation by going back into those areas to install a pedestrian bridge after the remedial work has already been done.
 - Creating risk that the entire project will not be fully funded, since under the proposed Roadmap the access features are funded out of the grants program, which by its nature creates uncertainty (e.g., no one knows how many project applications will be submitted in any given year).

Dedicated full funding is also consistent with the SSTOU Record of Decision (ROD), which was incorporated into the SSTOU Consent Decree. The ROD addresses - in several places - the end-land use as a recreational corridor. For example, page 105 of the ROD states:

"Prevent human exposure to the tailings/impacted soils from residential or occupational activity within the SSTOU. This will be accomplished, in part, through institutional controls that will require the entire OU to be developed into a recreational corridor."

(emphasis added)

Also, page 113 of the ROD states:

"Provided that the final design of the SSTOU remedy can attain the cleanup criteria and performance standards, it should to the degree possible incorporate components consistent with the following environmental and community improvement actions in the project area:

- *A Silver Bow Creek recreational corridor land use as designated and adopted by the Butte-Silver Bow and Anaconda-Deer Lodge County governments;*
- *Preservation and enhancement of significant historical and pre-historical resources in accordance with the Regional Historic Preservation Plan; and;*
- *Coordination with pertinent restoration actions implemented as part of the Upper Clark Fork River Basin natural resource damage restoration plan."*

The ROD was prepared by DEQ, NRDP's sister agency, and changing the Roadmap to fully fund the Greenway Project will provide consistency between the Roadmap and the ROD, and provide a common framework between DEQ and NRDP for the end land use of Silver Bow Creek.

Dedicated full funding should also improve administrative efficiencies – and result in related cost efficiencies - in the execution of all aspects of this project.

Finally, the Greenway Project's access features are essential to providing the public access to the corridor. Public access was a central part of the vision for the Greenway, and Project Green's work on it, as reflected in the attached materials.

2. Dedicate any surplus SSTOU remediation funds. While Project Green realizes the SSTOU Consent Decree did not dedicate surplus remediation funds to the Silver Bow Creek watershed area, they can be dedicated through the Roadmap as a matter of policy established by the Governor as Trustee. Surplus Clark Fork River remediation funds are dedicated to that river's watershed area, so why - as a matter of state policy - should there be a difference between the two? The Silver Bow Creek watershed area contains the vast majority of the injured natural resources, and dedicating surplus remediation funds is consistent with the State of Montana's stated policy to restore injured natural resources.

Surplus SSTOU remediation funds should be used to a) complete the remedial action on Silver Bow Creek, including any repairs or improvements needed on certain sections that do not meet performance standards, and the creation of a sufficient trust for long-term operation, maintenance and monitoring of the remedy; and b) fund priority projects, as outlined in the 2004 Silver Bow Creek Watershed Restoration Plan, or other restoration projects in the watershed that emerge as the remedy continues to be implemented and completed in the next few years. Project Green has great interest in seeing the projects in

the Watershed Restoration Plan implemented, including a fishing pond for kids, and improved wetlands.

Dedicating these surplus funds would be consistent with the framework of the 2008 settlement for the three restoration claims – for the Clark Fork River, the Anaconda Uplands and the Butte Area One – to earmark restoration dollars directly to where damages occurred and take advantage of the benefits when integrating remedial and restoration work.

3. Increase the “Contingency” from 5% to at least 15-20%. Project Green is concerned that the 5% contingency amount is too low. Experience shows that “things happen” and setting aside more for contingency at this point in time is prudent. The contingency amount can be reevaluated down the road as more experience is gained. A higher contingency would also better reflect the reality that at least two consent decrees are not finalized, i.e., Butte Priority Soils and Anaconda Regional Water and Waste, which translates into considerable uncertainty in these two headwater communities.

4. Revise the percentages used. The percentages on the “60%” side of the draft Roadmap should be revised as proposed by Butte-Silver Bow. Using percentages based on the original claims – versus percentages based on the actual settlements – ignores the fact that the lawsuit settled the claims for much less than the amounts sought. The State of Montana spent millions of dollars putting its claims together and documenting the actions and associated costs to restore the injured natural resources. Those damage costs are far greater than the settlements. Therefore, if the stated priority of the State of Montana is restoration of the injured natural resources, then common sense dictates that priority will be given to spending the limited dollars received in the settlement on those injured natural resources. The Roadmap’s percentages are inconsistent with giving priority to injured natural resources, and give undue weight to the compensable claims, factoring them in at 100 cents on the dollar. Moreover, doesn’t the “40%” side of the Roadmap reflect some component of compensable damages, in effect double-counting compensable damages to some degree. In any case, if the priority is the injured natural resources, then the percentages used to prioritize funding should reflect that policy, based on the actual amounts recovered in the settlement.

5. Provide for greater decision-making at the local level. The Roadmap describes increased centralization of project administration and decision-making in Helena. While Project Green appreciates various aspects of the NRDP program – such as the Advisory Council – reflect local input, the reality is that staff drives how the program functions. Having no staff – none - located in the Upper Clark Fork River Basin (Basin) just doesn’t seem to make sense. Anyone who has worked on a project knows the value of being in the middle of where the work is being done. Now that the NRD litigation is mostly done, the Governor as Trustee should take a fresh look at the program and critically consider why no staff are working on a daily basis where the restoration and remedial work is being done. Restructuring the program to put staff in the Basin is also consistent with the Governor’s efforts to grow the restoration economy in the Basin.

As a final comment, Project Green notes its disappointment in the process used to develop the Roadmap. NRD staff developed the Roadmap essentially on its own without involving the stakeholders in the Basin first. The local governments and many citizens have been involved with the NRD program for the past two decades. Stakeholders would have appreciated a collaborative process built on consensus and the exchange of differing points of view. Instead, the process has resulted in division and discord. Compounding this was the rush to get the NRDP staff's version of the Roadmap distributed as the tacitly "approved" version for comment. Instead of a collaborative process where consensus would result in stakeholders supporting the outcome, the process used here resulted in a large group of stakeholders finding themselves in a situation of having to challenge the "approved" version and feeling as if their comments are treated as attacks to be defended against. This situation brings to mind a saying – "good people plus a good process equal a good result" - it's unfortunate the second part of the equation wasn't met in this case.

Project Green would respectfully ask the NRDP staff, the Advisory Council, the Trustee Council and the Governor to take the time to do a "process check" and critically look at the process used to develop the Roadmap, and then take whatever amount of time is needed for a collaborative process to explore and evaluate alternatives, and gain bona fide public acceptance on a final Roadmap.

Thank you for the opportunity to comment.

Sincerely,

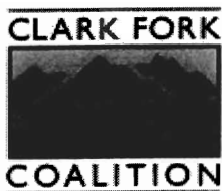
Project Green of Montana, Inc.

Coleman, Kathleen

From: Brian Holland [bholland@crowleyfleck.com]
Sent: Tuesday, November 30, 2010 3:23 PM
To: Natural Resource Damage Program
Subject: Comments on Advisory Council Guidance Plan
Attachments: Project Green Letter to V. Hammill.pdf

Attached please find comments on the Advisory Council's Guidance Plan from Project Green. Thank you for your attention. Please contact me if you have any questions.

Brian Holland
for Project Green
65 E. Broadway
Butte, MT 59701
(406) 533-6893



P.O. Box 7539, Missoula, MT 59807 ph. 406.542.0539

November 29, 2010

To: Natural Resource Damage Program, Montana Department of Justice

RE: Comments on the Upper Clark Fork River Basin Prioritization Reports for Fishery Enhancement and Terrestrial Wildlife Resources

The Clark Fork Coalition, a conservation organization of 1,500 members throughout the Clark Fork watershed, appreciates this opportunity to comment on the two natural resource prioritization reports produced by Montana Fish Wildlife and Parks and the Natural Resource Damage Program, "*Prioritization of Tributaries in the Upper Clark Fork River Basin for Fishery Enhancement*" and "*Upper Clark Fork River Basin Terrestrial Wildlife Resource Prioritization*."

We recognize and value the considerable thought and effort that have gone into development of these two reports. In a general sense, we feel that these reports lay the necessary foundation for effective restoration of the basin's injured natural resources, as claimed in *State of Montana V. ARCO*. More specifically, we agree with the overall goals for both fisheries and terrestrial prioritization, although in the case of the fishery prioritization, we disagree with the policy preference that de-emphasizes the importance of native fish.

At public presentations and in separate discussions with FWP staff, we've heard that both of these documents are intended to evolve over time as new data are collected, as restoration projects begin to reap benefits, or as new information is brought to the attention of FWP biologists. This is a wise tactic and we fully encourage updating and refining these prioritizations consistent with the original goals of the restoration effort. Our specific comments on each of these reports follow.

I. Prioritization of Tributaries in the Upper Clark Fork River Basin for Fishery Enhancement

1) While we agree with the three overall goals of the tributary prioritization as listed on the first page of the document, we are disappointed that goal 3, improvement of native fisheries, is de-emphasized in the subsequent prioritization methodology. That's not to say that the policy emphasis on restoring the sport fishery and the emphasis on Reach A is necessarily wrong, but we believe that by that improving the diversity and resiliency of the ENTIRE trout fishery, including the natives, we'll achieve the first two goals of this restoration effort as well. Conversely, by focusing more narrowly on goals 1 and 2, as this document does, we'll not achieve goal 3. There is no explanation in this document as to why restoration of the native fishery is de-emphasized to such a large extent.

2) It's worth noting that while the emphasis of this prioritization is on Reach A, the mainstem of the Clark Fork River between Drummond and Rock Creek, Reach B, has lower trout density than upstream areas. The potential causes of this are unknown, but should be investigated before the next prioritization report is written.

3) There are a number of streams that were assessed but not prioritized, generally because they lack important fisheries in the sampled reaches. While the report points out that the prioritization did not attempt to quantify other possible ecosystem values of these streams, such as supplying cold clean water to the mainstem, these other values should be taken into account in the assessment of particular restoration projects.

In other cases, either data from 2009 and 2010 was not brought to bear on the prioritization, or no data has been collected at all on certain streams. We hope that new information is incorporated into the prioritization effort as promptly as possible. In general, we recognize that this prioritization report, while it is a solid starting place, may not necessarily be the final word on where funds can be most effective for restoration.

4) We recognize that this prioritization effort is specific to NRDP funding and does not encompass all of the priorities of FWP. Yet a restoration effort of this magnitude should recognize and coordinate with ongoing programs by other agencies, most notably the U.S. Fish and Wildlife Service and the U.S. Forest Service. These agencies are strongly emphasizing the recovery of native fish. Coordination of NRDP-FWP activities with these native fish conservation efforts is critically important to the overall success of fishery restoration in the upper Clark Fork. It would be helpful if the final draft of the prioritization report would include a section on how NRDP and FWP are coordinating with the efforts of these agencies.

5) Some of the most important information used to develop the prioritizations, the actual scores assigned to each goal in each tributary, are not included. These scores should reflect the biologist's best knowledge of limiting factors in each stream. In future prioritizations, it would also be helpful to list the known limiting factors for sport and native fisheries in each tributary. This would be extremely helpful in identifying and prioritizing specific projects moving forward.

6) In order to improve the identification, prioritization, and development of appropriate projects in each tributary, it would be helpful to have concrete, species-specific goals on each tributary. For example, "restore habitat to facilitate increased brown trout spawning in the lower two miles," or "provide seasonal fish passage for adult fluvial cutthroat, and downstream migrating juveniles on the lower seven miles of the stream." This is one of the next steps in planning fisheries restoration for the upper Clark Fork. Gradual inclusion of this type of information for key, high-priority tributaries in the next version of this document would be desirable.

7) Finally, we fully agree with the strategy for habitat protection and enhancement on page 7, and with the recommendation that this prioritization be updated every two years within the first five years. We hope that FWP staff will continue to discuss their work, trade ideas, and collaborate with groups and individuals that are working in the basin such as the Clark Fork Coalition, Trout Unlimited, and the Watershed Restoration Coalition.

II. Upper Clark Fork River Basin Terrestrial Wildlife Resource Prioritization

We generally agree with the goals and methodology of the terrestrial prioritization. In particular, we agree that simply increasing public access or creating parks will not result in enhanced recreational opportunities if the wildlife and habitat resources themselves are not improved.

1) Habitat improvement and public access should go hand in hand, although we believe that habitat protection and improvement should be the highest priority. In particular, we fully agree with the high priority designation for all riparian, wetland, and aspen communities. These are some of the richest and most valuable habitats in the basin. In some cases, riparian areas of streams prioritized for fisheries are also key to wildlife, and restoration projects for both fish and wildlife can be combined. In other cases, riparian protection and restoration for wildlife will be worthwhile in its own right, distinct from any associated fisheries values.

2) We strongly believe that the focus of wildlife habitat improvement should be on private lands in the upper Clark Fork. We believe that these lands can remain in sustainable and productive agricultural use, while simultaneously improving wildlife habitat values, and providing hunting and other recreational opportunities. Acquisition of private lands by the state is not necessary to accomplish the wildlife habitat improvement goals, but partnering of NRD funds with other private, state and federal programs for terrestrial wildlife habitat improvement is often the best use of these funds.

3) As with the aquatic prioritization, we hope that this will be an evolving document as new data are collected and as local information becomes available. NRDP and FWP should work closely with groups and individuals that have on-the-ground experience in the basin – such as landowners, hunting groups, wildlife groups and land trusts – to continually refine the terrestrial prioritization and to develop projects.

Thank you for the opportunity to comment.

Sincerely,

Chris Brick
Science Director
Clark Fork Coalition

P.O. Box 7539
Missoula, MT 59807

406.542.0539 ext 202
chris@clarkfork.org

Will McDowell
Stream Restoration Director
Clark Fork Coalition

P.O. Box 7539
Missoula, MT 59807

406.542.0539 ext 204
will@clarkfork.org

Comments on FWP-NRD Upper Clark Fork River Basin Terrestrial Wildlife Resource
Prioritization document

November 30, 2010

It is not clear to me why the Silver Bow Creek watershed was given lowest priority of all areas considered for terrestrial wildlife replacement in the UCFRB. I think that priority should be given to replacing and restoring natural resources in the areas that were most damaged by mining. I also think that priority should be given to serving the human populations most affected by mining damages.

Thank you for considering my comments.

Colleen Elliott
1231 West Quartz Street
Butte MT 59701

PUBLIC COMMENT FORM

Name: Jocelyn Dodge

Address (Street/ P.O. Box) 114 Waldron

Town, State ZIP Butte, MT 59701

Phone Email address 533-0727 jodedodge@gmail.com

Affiliation individual

Please check which document you are commenting on:

☒ Draft Final Prioritization of Tributaries in the Upper Clark Fork River Basin for Fishery Enhancement, May 2010

☒ Draft Final Upper Clark Fork River Basin Terrestrial Prioritization, August 2010

I feel strongly that the two FWP prioritization plans are too narrowly focused and that instead, a much broader, watershed-based approach needs to be considered. The injuries identified by the State of Montana for restoration are very broad and more closely represent watershed damage than the limited injuries addressed in the proposed FWP plans. The natural resources which the State considers injured include fish, wildlife, surface water, groundwater, soil, and vegetation. Injuries also include the amenities provided by soils, vegetation, wildlife habitat, and wildlife hunting, bird watching, wildlife photography, hiking, fishing, floating, and general recreation.

The Terrestrial Prioritization Plan develops a broad background of "restoration or replacement of terrestrial wildlife resources," including both riparian and wetlands, but focuses on replacing injured elk and other big game resources. Riparian and wetland habits were well identified as "extremely important" but the connections between floodplain corridors, wetland habitats, riparian habitats and main stem aquatic habitats, was not developed. The figures appear to indicate that the Butte area has no injured terrestrial wildlife resources, but in fact the Butte area has many watersheds that include riparian areas and wetlands that are severely injured, and these areas should be given higher priority for restoration. Wildlife corridors and protection of habitat adjacent to National Forest lands should also be considered for the Butte urban area. While some of these areas may be small (less than 10,000 acres); they are critical to protect and be used as replacement of lost wildlife habitat as these lower elevation areas, most of which are privately owned, are being subdivided. This could cause management issues between potential subdivision landowners and wildlife similar to what other communities such as Missoula and Helena area experiencing.

Although non-game animals are included in the document's background sections, non-game animals are not included in the prioritization process, and should be considered as a major part of any terrestrial resources restoration effort. I would like to see FWP consult the local wildlife biologist in the Silver Bow Creek watershed (SBC), in the terrestrial prioritization process to evaluate the SBC watershed with respect to all species, habitat, migration, and not exclusively large game.

The Aquatic Prioritization Plan is an excellent document for trout fishery enhancement throughout the Upper Clark Fork River Basin. However, the prioritization methodology is focused only on the "current fishery," and any proposed future fishery that is produced by the intense restoration of highly injured areas received low tributary prioritization ratings. Also, the document does not include the basic aquatic aspects of habitat restoration and non-game species enhancement were not an element of the process. These must be considered as a major part of any aquatic resources restoration effort. The plan should address all aquatic species, sediment concentrations, sediment budgets and dissolved oxygen levels in gravels and their impacts on the general health of aquatic systems.

The two new FWP plans, along with the Silver Bow Creek Watershed Plan, need to be considered together to create a more comprehensive prioritization of the SBC and CFR watersheds. I request that the Council recognize the Silver Bow Creek Watershed Restoration Plan (2005) as an equally important planning document for prioritizing spending, and that it be specifically mentioned as a third document that will be used as a basis for funding decisions. One of the most valuable elements of this document is its careful identification of data gaps that need to be filled as part of a comprehensive restoration effort as well as the extensive public participation process that took place to educate and gather feedback on watershed priorities. Additional work is needed to prioritize the best plans for aquatic and terrestrial restoration in the watershed.

Thank you for considering of my comments and I look forward to discussing them with you.

Coleman, Kathleen

From: Jocelyn Dodge [jocedodge@gmail.com]
Sent: Tuesday, November 30, 2010 3:32 PM
To: Natural Resource Damage Program
Subject: Public comments to Draft Final Terrestrial and Tributary Plans
Attachments: PUBLIC COMMENT FORM.docx

Please accept my comments to the Draft Final Terrestrial and Tributary Plans. Thank you



P.O. Box 8953 • Missoula, Montana 59807 • (406) 549-0755 • Fax (406) 728-2841
Email: office@fvlt.org • www.fvlt.org

November 30, 2010

Natural Resource Damage Program
Montana Department of Justice
1301 East Lockey
P.O. Box 201425
Helena, MT 59620-1425

RE: Public Comment on the Upper Clark Fork River Basin Terrestrial Wildlife Resource Prioritization

To Whom it May Concern,

Thank you for providing Five Valleys Land Trust (Five Valleys) with this opportunity to provide comments on the Upper Clark Fork River Basin Terrestrial Wildlife Resource Prioritization (hereinafter referred to as the Terrestrial Prioritization Document). The finalization of this document, along with the Tributary Prioritization Document, marks an important moment in the development of the Natural Resource Damage Program (NRDP). These documents will form the foundation for the NRDP to confidently build a more specific restoration plan for developing, evaluating, and making recommendations for future restoration and replacement projects. These documents will also provide welcome direction for NRDP's partners throughout the basin, allowing us to better assist the community in efficiently and cost-effectively implementing the important natural resource restoration ahead.

Five Valleys commends NRDP and Montana Fish, Wildlife and Parks (FWP) for the hard work put into the development of the Terrestrial Prioritization Document. Five Valleys would like to provide the following substantive feedback on the treatment of strategies and recreation within the Terrestrial Prioritization Document:

Strategies Assessment:

The Terrestrial Prioritization Document is, at its core, an assessment of the terrestrial habitats and areas where protection and enhancement efforts will most likely fulfill the goals of the NRDP. It rightfully lacks a thorough analysis of the specific projects that should be pursued by the NRDP and its partners. Such an analysis is better suited for a final restoration plan.

Surprisingly, while the Terrestrial Prioritization Document rightfully omits specific project analysis, it introduces a qualitative and subjective comparative analysis of what the document refers to as "strategies for Wildlife Habitat Protection and Enhancement". For

Board of Directors: Lucy Beighle • Sean Benton • Laura Brehm • Jim Brown • John Corwin • Jim Cusker • Mary Lynn Eiseman
Anne Fogel-Burchenal • Julie Gardner • Kathy McAllister • Jeffrey Roth • Jim Royan • Amber Sherrill • Don Sokoloski
John Talbot • Chuck Tribe • Jim Valco • Pam Volkmann



example, the Terrestrial Prioritization Document implies that fee acquisitions are the most effective way to accomplish a replacement project. See page 11, Terrestrial Prioritization Document.

For four decades Five Valleys has been completing both complex acquisition and conservation easement projects (some on behalf of FWP). This experience provides us with ample understanding of the true costs and benefits of both types of projects. It is our direct, first-hand experience that fee acquisitions are more expensive both on the front end, and the back end. On the front end, the purchase price for an acquisition is, generally, magnitudes larger than that for a conservation easement. Holding, managing, and operating fee-title land in perpetuity is also magnitudes more expensive than monitoring a conservation easement. Indeed, Five Valleys' conservation work in western Montana started out in the realm of public acquisitions and, over the years, evolved to focus more heavily on conservation easements as they undoubtedly provide the best balance of costs and benefits in order to protect the immensely valuable resources found on private lands.

It is our opinion that the qualitative and subjective analysis of strategies skirts the edge of making policy-level presuppositions as to best manner in which to effectuate the restoration and replacement projects. Five Valleys believes that such policy-level recommendations are inappropriately placed in the Terrestrial Prioritization Document, unless the document incorporates a much more data rich and thorough analysis of these strategies. Such an analysis should include, at a minimum, actuarially substantiated risks of liabilities and damages, cost comparisons based on appraised values and historical market trends, and true land management costs with potential lease rates versus monitoring costs, and finally, the impact of removing private lands from the tax base.

Additionally the qualitative analysis ignores an important practical consideration—the fact that the majority of private landowners with key wildlife parcels have not expressed any interest in selling their lands for any reason, let alone for public ownership. There may be a higher likelihood that landowners will be cooperative if they can sell conservation easements that allow them to continue owning and operating their family farm or ranch in ways that are commensurate with NRDP goals. It should also be noted that converting productive private lands to public ownership divests local communities of important working lands that are the backbone of the ranching community in areas such as the Upper Clark Fork. This does not seem like an appropriate logical conclusion for an NRDP implementation strategy.

In summary, Five Valleys is concerned that the Terrestrial Prioritization Document review of protection strategies may not be appropriate for the scope of the document. This section should either be removed wholly or, alternately, the review needs to be much more comprehensive in order to be accurate.

Recreation Values:

Again, the Terrestrial Prioritization Document is, at its core, an assessment of the terrestrial habitats and areas where protection and enhancement efforts will most likely fulfill the goals of the NRDP. However, the document does not engage in any analysis of

where, when, and how NRDP may best fulfill recreational replacement projects. Such an analysis would be more appropriately contained in a separate document or would need a much more thorough review than what currently exists in this document. In spite of a lack of detailed analysis, the Terrestrial Prioritization Document includes recommendations as to recreational replacement projects. See pages 5 & 11, Terrestrial Prioritization Document.

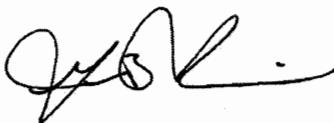
For example, the Terrestrial Prioritization Document states a clear directive that public access for hunting should be a requirement of any conservation easement project. The document provides no reasoning for this directive and does not apply that same directive to any other analyzed protection strategy such as acquisitions, land trades, leases, or habitat enhancement projects. This appears to be an introduced limitation on the program that we assume flows from an existing FWP restriction that is appropriately placed on the use of funds acquired through hunting/fishing license fees. However, the funds from NRDP are intended to make whole a much broader set of constituents and community concerns. Those concerns might include other goals, including other types of access.

Five Valleys' four decades of experience assisting public agencies and private landowners in land protection suggests that unnecessary restrictions on funds that aim at protecting habitat would greatly limit the NRDP's discretion, project potential, and leveraging of other funding partners. Alternatively, reducing arbitrary restrictions for all mechanisms for habitat protection will invite a greater pool of potential projects and allow all stakeholders to determine the appropriate recreation purposes, if applicable.

In summary, Five Valleys believes such policy-level directives related to recreation and access should be excluded from the Terrestrial Prioritization Document, or, a much more thorough analysis of recreational needs throughout the basin should be included.

Thank you for the thoughtful review of our suggestions for the Terrestrial Prioritization Document. We are eager and optimistic to see an increasing level of restoration activity very soon throughout the Upper Clark Fork Basin. This will indeed be a great legacy for all Montanans. We believe that by incorporating the suggestions above, the terrestrial and aquatic documents will bring us closer to seeing that future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Grant Kier', with a stylized flourish at the end.

Grant Kier
Executive Director

Coleman, Kathleen

From: Juniper Davis [juniper@fvlt.org]
Sent: Tuesday, November 30, 2010 4:27 PM
To: Natural Resource Damage Program
Subject: Comments on Terrestrial Plan
Attachments: 2010-11-30 FVLT NRDP Terrestrial Plan Comments.pdf

Comments are attached. Thank you-



November 30, 2010

Carol Fox
Natural Resource Damage Program
1301 East Lockett
Helena, MT 59601

Re: Comments on the Long Range Guidance Plan and Tributary Prioritization Plan for the Upper Clark Fork River Basin (UCFRB)

Dear Carol:

This letter details comments by the George Grant Chapter of Trout Unlimited (GGTU) regarding the *Conceptual Framework for an Upper Clark Fork River Basin Restoration Priorities Road Map* that is currently out for public comment. GGTU has been an active conservation organization representing the protection and restoration of fisheries and public access on behalf of a membership of over 300 residents in Southwest Montana for over 30 years. The Upper Clark Fork River has been a priority of GGTU for restoration work for many years; as a result, we consider our organization to be a major stakeholder in the restoration process and we plan to be very active throughout this process.

First off, I would like to commend the NRDP staff for their management of the UCFRB Restoration Fund to date, and we realize that a tremendous amount of work has been spent drafting the latest version of the Long Range Guidance Plan. We also would like to recognize the effort by Montana Fish Wildlife and Parks in developing the Aquatic and Terrestrial Tributary Prioritization Plans. GGTU has listed comments specific to each plan. It is important that a guidance document be in place to ensure that restoration priorities are met.

Long Range Guidance Plan

GGTU believes that this revised version of the restoration "Roadmap" is an improvement over the original version released in 2008, and we support the majority of the document as written. Specific areas where GGTU does not agree with the roadmap are as follows:

- The unexpended funds remaining from the SSTOU Remediation fund should be reserved for habitat and restoration projects within the Silver Bow Creek (SBC) watershed, including the mainstem and major tributaries (German Gulch, Warm Springs Creek, Mill Creek, Willow Creek, Blacktail Creek, Browns Gulch Creek, Basin Creek). These funds were allocated for Silver Bow Creek cleanup, and should remain in the watershed for that purpose, with an emphasis on aquatic restoration projects.

GGTU feels that the upper reaches of the basin are not receiving an appropriate amount of restoration funding proportional to the magnitude of damage incurred. The remedy work completed has improved the condition of Silver Bow Creek a great deal, but there are still tremendous strides needed to restore a viable fishery in the watershed. Contamination is still impacting the creek through contaminated storm water discharges, wastewater effluent, and ground water; and tributaries are impacted from mining, agriculture, and other sources, and their fisheries are marginal, at best.

The NRDP spent significant resources on the Silver Bow Creek Watershed Restoration Plan, which identified over 60 restoration needs within the watershed. Some of these priorities have been or are in the process of being addressed through previous grants, but there are dozens of needs left unaddressed that are identified as priority projects. Project should be selected based on priorities outlined in this plan, as well as other issues identified since the plan was completed. GGTU also adamantly opposes that any unexpended funds be spent on infrastructure for affected communities, since there are other portions of the settlement that address those issues. Although GGTU feels that there are restoration priorities far in excess of what available funding may be left from the SBC remedy, if there reaches a point where all major restoration needs in the Silver Bow Creek Watershed have been met with these funds, then it would be appropriate to consider these funds for projects throughout the UCFR basin. GGTU also recommends that a similar approach be taken with any unexpended Clark Fork River remedy funds.

- The funding priorities for recreational projects are too restrictive and should be re-evaluated. Although GGTU recognizes that there should be some limitations on recreational projects that constitute large land acquisitions that may not be the best use of funds; however, recreational projects, especially in the upper basin, should be eligible for funding. As GGTU understands this statement, the recent Fish Pond Proposal approved by NRD would not have been eligible for funding under these proposed rules. GGTU was a strong proponent of this project and strongly believes that similar-type projects should be eligible for funding. NRD needs to clarify this statement.

Tributary Prioritization Plans

The tributary prioritization plans were prepared over the past 2 years with a significant amount of effort expended by FWP and NRDP staff. These plans in their current state may represent a good starting point for directing funding priorities; however, GGTU feels strongly that as written these plans are not complete and much more work and discussion should be conducted before adopting them as final plans. As an example, the aquatic plan has dozens of streams that have not yet been prioritized. Also, GGTU would like to see more discussion on how the prioritization process was conducted, as it appears that some tributaries in the upper end of the UCFRB (Silver Bow Creek

and Reach A) are lower priority than expected. An example would be Blacktail Creek, which is a Priority 3 classification under the current plan. Blacktail Creek makes up the headwaters of the Silver Bow Creek, has an existing fishery, and this fishery includes native species, which should warrant a higher ranking. Also, Browns Gulch Creek, an important upper tributary with native fish population, has not yet been prioritized. GGTU asks for more discussion on these topics and for the aquatic tributary plan to be updated and more complete. Finally, there needs to be some recognition and consideration that additional funds may need to be spent on the Silver Bow Creek mainstem in order to restore a viable fishery.

Regarding the terrestrial prioritization plan, GGTU's only comment is that it appears that the upper basin has been given adequate priority. As depicted in Figure 3, the terrestrial injured areas are all located upstream of Deer Lodge; however, it appears that the majority of terrestrial priorities are well outside of these areas. GGTU thinks these priorities should be re-evaluated.

A final comment regarding both tributary plans is they a.) do not include specific project recommendations, and b) do not include any detail on how implementation of projects will be conducted. It is critical that a significant amount of decision-making be made at the local and regional level, as opposed to managing the projects from outside the UCFRB. GGTU strongly supports the hiring of additional staff within the basin to work with local stakeholders in the development of restoration projects. Non-governmental organizations such as GGTU are keenly interested in being involved in this process; however, our ability to develop and manage large restoration projects is limited due to lack of paid staff. NRD and/or FWP needs to provide local staff within the basin to assist with the project development and implementation efforts.

GGTU appreciates the opportunity to comment on these documents. Please keep us informed on any activities related to these issues and others in the UCFR basin. As a local representative of fisheries improvement in the basin, we would like to be involved in the restoration planning to the extent possible.

Please pass this letter on to the Citizen's Advisory Board and Trustee Restoration Council on our behalf. Thank you for the opportunity to provide comments on these critical plans.

Sincerely,

George Grant Chapter of Trout Unlimited
Bob Olson - President

Milltown Superfund Site Redevelopment Working Group

November 30, 2010

Ms. Vivian Hammill
Chairman of Restoration Trustee Council
P.O. Box 200801
Helena, MT 59620-0801

Members of the Restoration Trustee Council

RE: Adoption of a Long Range Restoration Priorities and Fund Allocation Guidance Plan

Chairman Hammill and members of the Restoration Trustee Council:

The Milltown Redevelopment Working Group generally supports the Resolution by the Upper Clark Fork River Basin 2010 Advisory Council for Adoption of a Long Range Restoration Priorities and Fund Allocation Guidance Plan. But we request that the plan be clarified to ensure that restoration work may be completed along the main stem Clark Fork River and areas impacted by the former Milltown Reservoir.

We agree that the restoration funds that are available need to be expended in a thoughtful and directed manner over a period of years to get us as close as humanly possible to our goal of restoring the Upper Clark Fork River Basin.

We support the proposed allocation of the restoration fund to priority groundwater, aquatic and terrestrial resources: 36% groundwater (Butte and Anaconda, according to their own respective master plans); 39% aquatic, 25% terrestrial. These percentages are anchored in historic record and altering them would bring no benefit to restoration overall. We also support the allocation based on the settlement corpus plus interest and taking into account all expenditures to date through the restoration grants program. Aquatic Resources have not been adequately funded through the restoration program, while terrestrial and groundwater resources have received a greater share. The long term goal should be to provide adequate funding for aquatic restoration.

We request that the plan be clarified to ensure that aquatic and terrestrial restoration funds may be expended on along the Clark Fork River main stem and in areas impacted by the former Milltown Reservoir. Restoration of the Upper Clark Fork River Main stem and its riparian areas should receive restoration priority for both aquatic and terrestrial resources. The success of restoring any peripheral component (e.g. tributary) depends upon the integrity of the River itself. Viable restoration opportunities exist along the main stem, including lower reaches where fishery populations are the lowest and habitats have been degraded by mine wastes, highway and railroad construction, channelization, grazing, rip rapping and riparian vegetation removal. Main stem restoration work also may include necessary work to complete restoration near the confluence of the Clark Fork and the Blackfoot rivers. The Blackfoot River arm of the former Milltown Reservoir is in bad shape, and will need further work to stabilize banks, restore

vegetation, control weeds and clean up debris. The State has only just begun this important work. Restoration work should also be completed in Clark Fork channel impacted by the former Milltown Reservoir, and funds made available for any significant repairs that may be needed in response to floods or ice jams after the re-vegetation and channel work is complete.

We can support the proposed allocation of Silver Bow Creek remediation leftover funds to a reserve account, as long as it is ensured that necessary restoration work at Milltown may be completed from the main Upper Clark Fork Restoration Fund.

The “aquatic” and “terrestrial” prioritization documents prepared by FWP are appropriate science-based guidance references for NRDP in establishing a more detailed plan of restoration, and in evaluating projects. However, the aquatic plan only addresses the Clark Fork tributaries, and the restoration fund should be available for work on the main stem river and to complete the work at the former Milltown Reservoir.

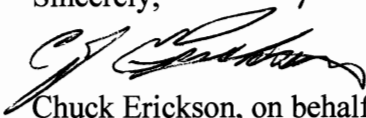
We support the proposed guidance for use of funds for recreational access at injured sites, if such projects offer resource restoration benefits. We have kept this goal in mind when designing recreational access improvements at the Milltown site. We are concerned that the fund has been used in the past for recreational projects that are not located at restoration sites and which did not help restore natural resources. These projects reduce funding available for good projects that are located at restoration sites, and which benefit the resources damaged by mining in the watershed.

We recommend the following additional clarifications be considered by the Advisory and Trustee Councils for the Clark Fork Restoration Program:

- NRD staff should, with consultation from outside experts, establish clearly identifiable goals for terrestrial and aquatic projects within the various reaches of the Clark Fork River. Specific land areas and tributaries should be identified as highest priority because they will contribute the greatest value to the restoration overall.
- Current terrestrial and aquatic prioritizations should be viewed as “works in progress” subject to dynamics of broader understanding through additional study as well as environmental conditions changing over time
- Using established goals, NRD should have the authority to *invite grant proposals or bids* to achieve particular objectives within defined time frames.
- The Program must be less concerned with spending the money within any time frame than with spending the money well, to achieve defined goals
- NRDP staff should be charged with establishing performance standards for both staff and projects, and measure success through achievement of defined objectives.
- The NRDP staff should be charged with evaluating the need for a “permanent” program of monitoring and maintenance, given the fragility of the restoration for an undefined period determined largely upon weather.
- Protocols and costs for long-term monitoring and maintenance basin-wide (“in perpetuity”) should be made, as best they can within constraints imposed by unpredictability of conditions, to ensure that benefits of the restoration are not lost in the future.

Thank you for your consideration of these comments. We support the plan with clarification to allow funding of restoration along the Clark Fork main stem and areas impacted by the former Milltown Reservoir.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chuck Erickson', with a stylized flourish at the end.

Chuck Erickson, on behalf of the Working Group.



RECEIVED
NOV 30 2010
NATURAL RESOURCE
DAMAGE PROGRAM

Rocky Mountain Elk Foundation
Mike Mueller
Lands Program Manager
8550 Saint Vrain Way
Missoula, MT 99808
Phone (406) 493-6650
mmueller@rmef.org
www.rmef.org

November 30, 2010

Bill Rossbach, Chair
Upper Clark Fork Citizen's Advisory Council
PO Box 201425
Helena, MT 39620-1425

Vivian Hammill, Chair
Upper Clark Fork Trustee Restoration
Council
PO Box 201425
Helena, MT 39620-1425

Dear Chairperson Rossbach and Hammill,

The Rocky Mountain Elk Foundation has reviewed the Long Range Restoration Priorities and Fund Allocation Guidance Plan and would like to offer our support and encouragement to go forward with approving the proposed Long Range Restoration Priorities and Fund Allocation Guidance Plan. The plan will guide decisions in the future and help prioritize where limited funding should be used to restore the damage to our land, water, fish and wildlife caused by the historic mining and smelting in the Upper Clark Fork.

I have reviewed the UCFRB Terrestrial Wildlife Resource Prioritization Plan and UCFRB Tributary Prioritization Plan and feel they will adequately guide future decisions on funding wildlife and fisheries restoration projects. The plans are based on sound science and provide good scientific information, maps and criteria to base future funding decisions on.

The RMEF looks forward to working with private landowners and other partners in the Upper Clark Fork River Basin and developing important projects to restore and replace wildlife and fisheries resources and provide public recreation. The proportion of funding allocated to each of these areas seems to be appropriate. This acceptance of this plan is crucial toward improving and maintaining hunting and fishing opportunities in the Upper Clark Fork region.

Thank you for your consideration and opportunity to provide these comments and we look forward to working with you in the future.

Sincerely,
Mike Mueller
Mike Mueller
Lands Program Manager

CC: Blake Henning, VP RMEF Lands and Conservation Department



November 26, 2010

Tom Mostad
Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425

RECEIVED

NOV 30 2010

**NATURAL RESOURCE
DAMAGE PROGRAM**

Comments on Draft Terrestrial and Tributary Prioritization Plans

Dear Tom,

Thanks for the opportunity to comment on the Draft Tributary and Terrestrial Prioritization Plans for the Upper Clark Fork Basin.

We appreciate the effort and expense that the State has put into these plans. Now that the State's Natural Resource Damage litigation against Arco has been settled, it is appropriate to evaluate priorities for the Restoration Fund. The tributary and terrestrial prioritization documents prepared by FWP are appropriate science-based guidance references for use in establishing a more detailed restoration plan for the watershed, and for evaluating projects. As more detailed restoration planning moves forward, we suggest that the state continue to consider and evaluate new information to shape and refine prioritization efforts.

The Tributary plan includes a provision for ongoing monitoring. This is wise to ensure that restoration dollars are well spent, and to allow modifications to the plan as new information becomes available.

Our most significant concern regarding these two plans is the lack of evaluation of priorities for the Clark Fork main stem and associated riparian and wetland habitats. The tributary prioritization focuses on Clark Fork tributaries. The terrestrial prioritization plan rates riparian and wetland areas as priority 1 for terrestrial habitat, but not for aquatic resources. Restoration of the Upper Clark Fork River main stem and its riparian areas should receive restoration priority for both aquatic and terrestrial resources. The success of restoring the main stem river and its fishery, naturally, is highly dependant on the successful restoration and protection of its tributaries. And the success of restoring any peripheral component (e.g. tributary) depends highly upon the integrity of the River itself.

We believe that restoration of riparian and wetland habitats along the river's main stem should be a top priority for the program. A portion of the river, in the Deer Lodge Valley, will benefit from coordinated remediation and restoration, but the river downstream of Garrison will not. Valuable restoration opportunities exist along the main stem Clark Fork. The river between Garrison and the confluence of Rock Creek contains very degraded riparian habitat and very low fish populations. The section between Rock Creek and the Milltown restoration area also is

degraded, although fish populations here are better than those upstream. The condition of the river upstream of the confluence with Rock Creek is indicated, in part, by the very low fish populations found in this reach – the lowest along the river from Warm Springs Ponds to Rock Creek. The causes of the degradation are many, including mining, highway and railroad construction, channelization, grazing, rip rapping and riparian vegetation removal.

Since the Milltown Dam has been removed, native fish movement into the Upper Clark Fork River is likely to increase significantly in the future. Riparian and wetland habitat protection and restoration along the main stem Clark Fork will help ensure successful recovery of bull trout and cutthroat trout in the Upper River.

Very significant restoration opportunities exist along the Clark Fork main stem between Garrison and the Milltown project area. Some restoration projects could be achieved with relatively low cost and high benefits, including projects aimed at improving grazing and vegetation management practices, fencing and off stream watering. Other more expensive options could include restoration of rip rapped stream banks, removal of hard armoring and restoration of riparian vegetation. More ambitious projects could include efforts to reconnect the meanders that have been cut off by highway and railroad construction, and to restore floodplain connection where it has been lost. Such projects should receive consideration as part of a basin wide restoration plan for the river.

Main stem restoration may include necessary work to complete restoration near the confluence of the Clark Fork and the Blackfoot rivers. The Clark Fork and lower Blackfoot Rivers were injured by mining, and restoration of riparian resources along these streams should continue to be a priority for the Restoration program. Additional funds may be required to complete the ongoing restoration work along the Clark Fork in the restoration project area of the former reservoir. The restoration work completed so far will be vulnerable to damage for several years, and work may be needed to repair damage caused by flooding or ice scouring in the project area. In addition, the Blackfoot River arm of the former Milltown Reservoir will need work to stabilize and re-shape steep and eroding banks, restore vegetation, control weeds and clean up debris. The State has begun this important work on the lower Blackfoot, and its completion should be a priority.

We support the recommendation in the terrestrial prioritization plan proposes that all riparian, wetland and aspen communities in the basin be considered a Priority one, and a high priority for restoration, land acquisition, conservation easement or lease-agreements. The Clark Fork River corridor includes riparian lands in a variety of land ownerships, all of which offer important habitat to regional fish and wildlife populations and opportunities for restoration or protection. All riparian and wetland communities in the watershed should be viewed as a high priority for aquatic resource as well as terrestrial resource protection and restoration.

Because of the many resource benefits provided by riparian and wetland areas, these areas should be among the very highest priorities for protection and restoration in the Upper Clark Fork Basin. Riparian areas and wetlands perform a variety of important environmental services, including fish and wildlife habitat, protection of water quality, and stream bank stability. One of the most valuable functions of wetlands and naturally vegetated riparian areas is their ability to maintain and improve water quality. This provides substantial benefits for aquatic resources. The role of naturally vegetated riparian areas in benefiting water quality is well documented. These

vegetated areas adjacent to streams trap and attenuate sediment and surface water pollutants such as pesticides, hydrocarbons, and bacteria. In addition, they provide shade to maintain cool water temperatures for aquatic life. Naturally vegetated riparian areas also reduce the excess nitrogen and phosphorus in groundwater from sewage and agriculture. Riparian and wetland habitats mitigate damage from metals and acidity caused by mine wastes. Healthy wild trout fisheries are dependant upon quality habitat and connectivity of habitat. Healthy streams and riparian areas are also essential for terrestrial wildlife and birds. Over half of Montana's wildlife species are known to depend upon these areas for some aspect of their survival, including feeding and hiding areas as well as links between wildlife habitats. Biologists have found that at least 196 of Montana's terrestrial wildlife species are "wetland obligates" which means they depend upon these areas for some part of their life cycles. Since wetland and riparian areas represent such a small proportion of our land area, approximately 4% of Montana's total land area, it is critical to maintain these habitats for the amphibians, reptiles, birds, and mammals that need them. For these reasons, riparian and wetland habitats should be the highest possible priorities for protection and restoration of aquatic and terrestrial resources in the Upper Clark Fork Basin.

The National Research Council of the National Academies of Science published a report in 2002, entitled *Riparian Areas: Functions and Strategies for Management*. The following quotes from the report are a very good description of the importance of riparian area protection and restoration:

"Restoration of riparian functions along America's waterbodies should be a national goal. Over the last several decades, federal and state programs have increasingly focused on the need for maintaining or improving water quality, ensuring the sustainability of fish and wildlife species, protecting wetlands, and reducing the impacts of flood events. Because riparian areas perform a disproportionate number of biological and physical functions on a unit area basis, their restoration can have a major influence on achieving the goals of the Clean Water Act, the Endangered Species Act, and flood damage control programs."

"Protection should be the goal for riparian areas in the best ecological condition, while restoration is needed for degraded riparian areas. Management of riparian areas should give first priority to protecting those areas in natural or nearly natural condition from future alterations. The restoration of altered or degraded areas could then be prioritized in terms of their relative potential value for providing environmental services and/or the cost effectiveness and likelihood that restoration efforts would succeed. Where degradation has occurred—as it has in many riparian areas throughout the United States—there are vast opportunities for restoring functioning to these areas."

"Patience and persistence in riparian management is needed. The current degraded status of many riparian areas throughout the country represents the cumulative, long-term effects of numerous, persistent, and often incremental impacts from a wide variety of land uses and human alterations. Substantial time (years to decades) will be required for improving and restoring the functions of many degraded riparian areas. Commensurate with restoration must be efforts to improve society's understanding of what riparian functions have been lost and what can be recovered. "

The other major factor that the State should consider in prioritizing areas for aquatic restoration is stream flow. Some of the best opportunities for restoration of aquatic habitat can be achieved simply by providing adequate flows to support aquatic life. Many tributaries in the Upper Clark

Fork watershed are chronically dewatered, and restoring streamflow in these tributaries will provide direct benefits to aquatic life.

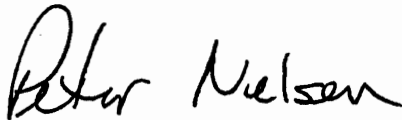
Further analysis of tributaries and main stem reaches should be conducted in preparation of a basin wide restoration plan for aquatic resources. This analysis should consider the opportunities for both stream flow restoration and riparian resource protection or restoration, and the likelihood of success and cost effectiveness of those efforts in each area. Priorities for future work should then be based on this assessment.

With regards to the restoration of fisheries described in the Aquatic Prioritization Plan, we recognize the value of improving fish habitat throughout the basin but we would prefer to see preference given to projects that enhance native fisheries, over those that enhance non-native sport fisheries. Native fisheries have been affected throughout the entire Clark Fork River Basin by industrial development. Abundant native fisheries are key indicators of healthy streams and rivers. We hope that long-range planning will focus on improving long term viability of native fisheries in order to attain maximum benefits to the Upper Clark Fork Basin. Native fish populations in the Upper Clark Fork will likely increase following removal of the Milltown and Bonner Dams. Fish movement into the Upper Basin may change over time as populations increase. Projects that restore connectivity of the main stem to tributary spawning habitat may become increasingly important as bull trout and cutthroat trout populations increase in the Upper River. Spawning habitat use by these species should be monitored over time as part of this plan's monitoring program, and adjustments made to priorities based on new information as it becomes available.

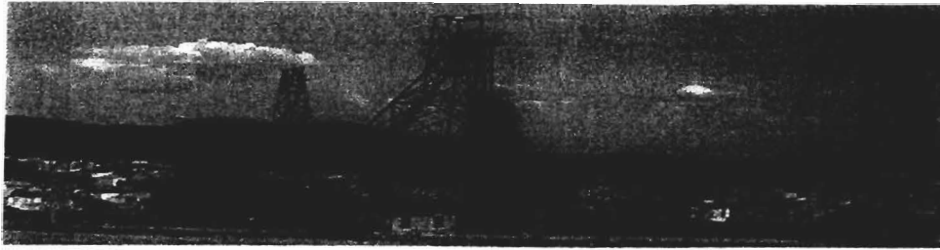
We recognize that the greatest injury to resources has occurred in the upper part of the Clark Fork River Basin. But we encourage the restoration program to also consider the value of enhancing high quality fish habitat in the lower part of the basin and the contribution to the larger restoration goals of the Upper Clark Fork fishery that this could provide. Tributaries such as Deer Creek and Crystal Creek may receive increased movement of native fish following removal of the Milltown Dam. Further upstream, Cramer Creek may provide suitable habitat and could provide habitat for native fish. These streams are worthy of consideration for projects that would remove fish passage barriers or improve habitat.

Thank you again for taking on this important prioritization effort, and for the opportunity to provide comments.

Sincerely,

A handwritten signature in black ink that reads "Peter Nielsen". The signature is written in a cursive, flowing style.

Peter Nielsen
Environmental Health Supervisor



Butte Restoration Alliance

Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425

RECEIVED

NOV 30 2010

NATURAL RESOURCE
DAMAGE PROGRAM

To: Advisory Council Members
Trustee Council Members
Staff Members

Please accept the following comments from the **Butte Restoration Alliance (BRA)** on the Natural Resource Damage Program's Draft Final Prioritization of Tributaries in the Upper Clark Fork River Basin for Fishery Enhancement and Draft Final Upper Clark Fork River Basin Terrestrial Prioritization.

The Butte Restoration Alliance (BRA) is a citizens' advisory group that was formed to provide input and prioritization for the restoration and redevelopment of Butte. We have listed our comments and concerns below and request they be considered before finalizing each of the plans.

Although we concur with the broad concept of following priorities set by FWP to guide future spending decisions, we cannot agree that the two documents presented thus far are by themselves adequate to guide such decisions. We feel strongly that the two FWP prioritization plans are too narrowly focused and that instead, a much broader, watershed-based approach needs to be considered for funding decisions. The injuries identified by the State of Montana for restoration are very broad and more closely represent watershed damage than the limited injuries addressed in the proposed FWP plans. The natural resources which the State considers injured include fish, wildlife, surface water, groundwater, soil, and vegetation. Injuries also include the amenities provided by soils, vegetation, wildlife habitat, and wildlife hunting, bird watching, wildlife photography, hiking, fishing, floating, and general recreation.

The Terrestrial Prioritization Plan develops a broad background of "restoration or replacement of terrestrial wildlife resources," including both riparian and wetlands, but focuses on replacing injured elk and other big game resources. Riparian and wetland habits were well identified as "extremely important" but the connections between floodplain corridors, wetland habitats, riparian habitats and main stem aquatic habitats, was not developed. The figures appear to indicate that the Butte area has no injured terrestrial wildlife resources, but in fact the Butte area has many watersheds that include riparian areas and wetlands that are severely injured, and these areas should be given higher priority for restoration. Wildlife corridors and protection of habitat adjacent to National Forest lands should also be considered for the Butte urban area. While some of these areas may be small (less than 10,000 acres); they are critical to protect and be used as replacement of lost wildlife habitat as these lower elevation areas, most of which are privately owned, are being subdivided. This could cause management issues between

potential subdivision landowners and wildlife similar to what other communities such as Missoula and Helena area experiencing.

Although non-game animals are included in the document's background sections, non-game animals are not included in the prioritization process, and should be considered as a major part of any terrestrial resources restoration effort. We recommend that FWP consult the local wildlife biologist in the Silver Bow Creek watershed (SBC), Vanna Boccadori, in the terrestrial prioritization process and that she be asked to evaluate the SBC watershed with respect to all species, habitat, migration, and not exclusively large game.

The Aquatic Prioritization Plan is an excellent document for trout fishery enhancement throughout the Upper Clark Fork River Basin. However, the prioritization methodology is focused only on the "current fishery," and any proposed future fishery that is produced by the intense restoration of highly injured areas received low tributary prioritization ratings. Also, the document does not include the basic aquatic aspects of habitat restoration and non-game species enhancement were not an element of the process. These must be considered as a major part of any aquatic resources restoration effort. The plan should address all aquatic species, sediment concentrations, sediment budgets and dissolved oxygen levels in gravels and their impacts on the general health of aquatic systems.

The two new FWP plans, along with the Silver Bow Creek Watershed Plan, need to be considered together to create a more comprehensive prioritization of the SBC and CFR watersheds. We request that the NRDP recognize the Silver Bow Creek Watershed Restoration Plan (2005) as an equally important planning document for prioritizing spending. One of the most valuable elements of this document is its careful identification of data gaps that need to be filled as part of a comprehensive restoration effort as well as the extensive public participation process that took place to educate and gather feedback on watershed priorities. Additional work is needed to prioritize the best plans for aquatic and terrestrial restoration in the watershed.

The BRA planned to address many of these concerns to FWD staff at our last meeting which was scheduled to include presentations by FWP staff on the Terrestrial Plan and the Tributary Plan. Unfortunately, the speakers cancelled due to poor weather conditions. Because these issues we have mentioned have far-reaching effects on the ultimate effectiveness of restoration efforts, we recommend that no funding of aquatic and terrestrial projects is allowed until a more thorough, total watershed approach is completed and included in the priority lists.

Thank you for considering of our comments and we look forward to discussing them with you.

Regards,

Suzzann Nordwick

Butte Restoration Alliance, co-chair

Gary Matson
Box 308
Milltown MT 59851

22 November 2010

Ms. Vivian Hammill
Chair, Trustee Restoration Council
PO Box 200801
Helena MT 59620-0801

Dear Ms. Hammill,

I appreciate this opportunity to offer comment regarding three documents, the "Long Range Restoration Priorities and Fund Allocation Guidance Plan," and the related UCFRB terrestrial and tributaries prioritizations.

I have been interested in the Clark Fork River remediation and restoration from the 1990's, when these activities were first proposed. Most recently, I have served as a member of the Milltown Superfund Site Redevelopment Working Group.

I strongly support the Guidance Plan proposed by the Advisory Council. The Plan will enable the focusing of restoration resources upon practices and projects that will best guide restoration as intended in the Natural Resource Damage Litigation. Without the guidance that the Plan will provide, there is a real risk that funds will be expended in a less well-directed way on projects of less benefit to restoration. The NRDP staff must have the authority to guide projects towards their best use, as stated in the Plan.

The terrestrial and tributaries prioritizations are sound, science-based reference documents. Although biological and environmental variations will necessitate their review from time to time, they provide the NRDP with sound references for moving ahead with restoration.

Sincerely,

A handwritten signature in cursive script that reads "Gary Matson".

Gary Matson

Comments by Kristin Snyder Douglass
on
Terrestrial Restoration Doc, and Trib Restoration Doc

- 1) I am concerned **the Terrestrial Plan nor the Tributary Plan address the area near and around Butte Area One.** In looking at the Silver Bow Creek Restoration Plan (2005) map on page 4, the brown "Planning Area Boundary" includes Basin Creek, Blacktail Creek and Brown's Gulch watersheds and includes most of Timber Butte. I think that these areas should be considered as High Priority Areas for Terrestrial Restoration and Tributary Restoration. **There are many acres of functioning habitat that are very close to the major source of the injury, the mining activity on the Butte Hill.**

I realize that the Rock Creek Area that has been designated High Priority is lovely, pristine and highly valuable in terms of wildlife and as a large 'patch' of continuous functioning ecosystem. And the upper reaches of Blackfoot Creek are also lovely. **But I think areas of functioning habitat closer to the injury should be given a much higher priority.** These tributaries (Brown's Gulch, Blacktail, Basin and Sand Creeks), grass, shrub-steppe and forest patches have functional and highly desirable wildlife populations. Restoration efforts in the Butte Area will significantly stabilize this area at the Headwaters of Silver Bow Creek/Clark's Fork River.

- 2) I strongly support the concept of replacement as part of the settlement, but I also feel strongly that the replacement areas should be closer to the injured sites and that replacement projects should not be the only solution.

Coleman, Kathleen

From: Kristin Snyder Douglass [samjd@montana.com]
Sent: Monday, November 22, 2010 3:22 PM
To: Natural Resource Damage Program
Cc: Cunneen, Padraig
Subject: Guidance comments
Attachments: Guideline Comments 10 nov 10.doc

Dear NRDP Staff,

Attached are my comments to the Guidance doc and briefly, the Terrestrial and Aquatic docs. I apologize for some obvious confusion. The relation between Superfund and the Law-suit, Remedy and Restoration, is still unclear to me. However, I hope that Restoration will be able to address weaknesses in the final Remedy.

Remedy so far in Butte has been awesome, is awesome. The Butte Hill is not the same place it was 25 years ago. We who live here are very, very lucky for the clean-up as it has proceeded. But now that it has come so far, we are a bit desperate for the final word on Remedy.

Respectfully,

Kriss Douglass



BUTTE-SILVER BOW

Office of Council of Commissioners

Courthouse

Butte, Montana 59701

November 30, 2010

Vivian Hammill, Chair, Trustee Council
Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425

**Re: Butte-Silver Bow Comments on the
NRD Advisory Council's Restoration Priorities Draft Guidance Plan
for the Upper Clark Fork River Basin**

Dear Ms. Hammill:

At our meeting of November 23, the Butte-Silver Bow Council of Commissioners voted unanimously to submit the following comments on the NRD Advisory Council's Draft Guidance Plan (Plan), as released in September 2010.

In general, Butte-Silver Bow continues to believe that a long-term plan is needed to guide restoration priorities. Toward that end, we think this latest effort by the Advisory Council provides a good framework. We support several of the Plan recommendations as presented and likely a few other provisions, after some clarifications. However, we believe the draft Plan needs certain refinements to warrant our full support and to ensure the priorities are equitable to our community.

As we have expressed many times in the past 12 years, we believe the headwaters of the Upper Clark Fork River Basin, including the Silver Bow Creek watershed, is where the majority of the natural resource damages occurred, and given the location and severity of those damages, the natural resources in the headwaters area should be the focal point of restoration investments. Although the draft Plan emphasizes this fundamental priority in the "Whereas" recitals, it appears to us that certain recommendations in the Plan may not direct the investments accordingly.

We present and ask for consideration of the following comments and revisions:

- 1) The draft Plan recommends that any "SSTOU Remediation Fund Remainders" should be allocated for projects throughout the Basin. Instead, we believe these funds should be allocated for projects wholly within the Silver Bow Creek

watershed, above the confluence of the Warm Springs Ponds and Warm Springs Creek. These funds should be prioritized for the following purposes:

- a) Completing the remedial action, including any repairs or improvements needed on certain sections that do not meet performance standards, and the creation of a sufficient trust for long-term operation, maintenance and monitoring of the remedy;
- b) Implementing other aquatic and terrestrial restoration projects, as outlined in the 2005 Silver Bow Creek Watershed Restoration Plan (which was developed with widespread and substantial public involvement), and other restoration priorities within the watershed that emerge as the remedy is completed in the next few years; already there are a number of fisheries/habitat projects on the drawing board, e.g., in the Blacktail Creek floodplain, in the German Gulch and Browns Gulch drainages, a kids fishing pond in the Watershed, etc., that are or would be prime candidates for these "unexpended" funds that were originally (and should remain) earmarked for improvements in the headwaters of the Basin as part of the Silver Bow Creek remedy;
- c) Complete the restoration of Silver Bow Creek by providing sufficient resources (up to an additional \$8 million with the appropriate expenditure schedule and contingency) to fully and comprehensively implement the long-planned Silver Bow Creek Greenway project, including both the ecological components in the stream/floodplain designed to complement the remedial actions and the recreational components designed as institutional controls to ensure public access/enjoyment and successful long-term O&M of the remedy, all as provided in the Record of Decision (RD) and Consent Decree (CD) for the Streamside Tailings Operable Unit (SSTOU). We would note however that the Greenway project cannot wait until 2013 for the additional allocation; in that regard we request a direct set-aside for the funds so that integration is maximized. But, ultimately, these dollars could come from the "SSTOU Remediation Fund Remainders."

We believe that this investment strategy for Silver Bow Creek would essentially be consistent with the terms and intent of the 2008 settlement for the three restoration claims – the Clark Fork River, the Anaconda Uplands and the Butte Area One – as well as the 2005 Milltown Dam settlement, that is to earmark restoration dollars directly to where damages occurred and take advantage of the benefits when integrating remedial and restoration work.

- 2) Regarding the recommendation to suspend funding of the Clark Fork Watershed Education Program in five years: This Basin-wide education program is critical

to establishing stewardship of the restored landscape by future generations. With millions of dollars committed to restoration, our only hope to enhance and maintain these investments lies in the thoughtful education of future generations of Montanans. We would encourage that the Plan fund this program for twenty years, with appropriate evaluations to assure that the program meets a long-range plan for educational activities.

- 3) Regarding the recommendation on limiting the use of restoration funds for recreational projects: It is unclear whether this limitation will eliminate or restrict eligibility of projects in the headwaters area; for example, it has been stated that the current "recreational projects" in Butte to build a fish pond and improve pedestrian trails in natural areas along the East Ridge would not be eligible for funding if the draft Plan were adopted, as is. To that extent, Butte-Silver Bow cannot support this recommendation. While we understand the need to preserve funds for resource restoration, and that there is more work to do than there are funds to accomplish what should be done, it is still important to recognize that the replacement of lost recreational opportunities due to the impacts of mining is a major part of this lawsuit. Butte has suffered greatly from these mining impacts, and our community should be able to propose and implement projects that replace what has been lost.
- 4) Regarding the proposed percentages to allocate funds to "Priority Resources" and the relationship between these percentages to the yet-to-be-determined priority projects (i.e., the FWP prioritization plans):
 - a) Although we recognize the Advisory Council's reasoning (i.e., that the entire Basin has suffered damages and lost opportunities) in proposing the percentages presented in the Plan, we still believe that the percentages should be based on the values of the **original restoration claims** (i.e., 57% Groundwater, 26% aquatic, and 17% terrestrial), which would better reflect the location and severity of the damaged areas;
 - b) The proposed percentages in the Plan are more acceptable to Butte-Silver Bow, in light of the associated recommendation (which we strongly support) to direct the groundwater allocation directly to Butte and Anaconda, and streamline the process for the communities to use those funds to restore and re-build their drinking water systems;
 - c) We also support the recommendation of the Plan to reserve 15% of the trust fund for contingencies, and that the contingency fund is created from the aquatic and terrestrial priority allocations, and not the groundwater priority; we concur that there are a number of unknowns that could significantly alter current priorities and expectations; the contingency account reflects the reality that at least two consent decrees are not

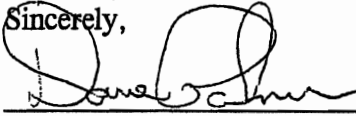
finalized, i.e., Butte Priority Soils and Anaconda Regional Water and Waste, which translates into considerable uncertainty in these two headwater communities;

- d) Our conditional support for the proposed percentages in the Plan is also linked to our request to ensure the allocation of the SSTOU remainders is directed to project priorities within the Silver Bow Creek watershed;
- 5) Regarding the two prioritization plans: We would ask for much more discussion and comment before these documents are "adopted" in any official way; there needs to be **better delineation of where projects would be pursued, how the prioritization process will actually work in terms of implementation; and who will make the decisions about implementation; we would also advocate for greater consideration of the content of the 2005 SBC Watershed Restoration Plan in the prioritization process. Please consider the comments from the Butte Restoration Alliance, the Citizen's Technical Environmental Committee and other groups in the headwaters who we expect to submit more extensive comments on the FWP plans.**
- 6) The Plan does not appear to adequately address and preserve the need for decision-making at the local level; with the exception of the groundwater projects in Butte and Anaconda (with proposed streamlined process), it is unclear whether there will be a grant program (as we've come to know it) in the future, and whether local groups and communities in the Basin will still be eligible to design, develop and implement projects; we are concerned about increased centralization of project administration and decision-making by NRDP and FWP staff in Helena; our expectation for a long-term NRD plan, especially in the post-litigation phase of the program, has been more community control coupled with greater on-the-ground staffing in the Basin, e.g. a fish biologist living and working in the Basin to implement priorities, thus contributing to broader objectives to minimize administrative costs, maximize investments in projects and grow the restoration economy in the Upper Clark Fork River Basin.


In terms of process, we commend the NRD Advisory Council for their efforts to develop and craft a consensus-based Plan. Several of us as Commissioners and many of our citizens in Butte have been involved with the NRD program for the past two decades. We appreciate the collaborative process. We offer our comments and suggest refinements as part of the exchange of ideas and differing points of view.

Thank you for the opportunity to comment and we trust our input warrants your serious consideration. We look forward to collaborating with all stakeholders, Councils and Governor Schweitzer to refine a Plan that best serves the interests of all Basin stakeholders.

Sincerely,



Dave Palmer, Chairman (District 12)
Butte-Silver Bow Council of Commissioners
Glen Granger, District 1
Joseph E. Lee, District 2
John Morgan, District 3
Terry Schultz, District 4
Dennis Henderson, District 5
Wally Frasz, District 6
Mark Moodry, District 7
Ristine Hall, District 8
Dan Foley, District 9
Mike Sheehy, District 10
Cindi Shaw, District 11



Paul D. Babb
Chief Executive

Cc: Dan Powers, Environmental Health Officer
Dan Dennehy, Public Works Director
Jon C. Sesso Planning Director
Eileen Joyce, Butte-Silver Bow County Attorney
Members, Butte Restoration Alliance
Members, Greenway Authority Board
Members, Citizens Technical Environmental Committee
Governor Brian Schweitzer
Butte Legislative Delegation
Julie Delsoglio, Director EPA-Region 8, Montana Office
Richard Oppen, Director, Montana DEQ