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# 2015 BRIDGER YELLOWSTONE RIVER OIL SPILL

NATURAL RESOURCE DAMAGE  
RESTORATION PLAN SCOPING MEETING

Glendive Public Library  
200 S Kendrick Ave  
Thursday, January 19, 2023



Confidential Settlement Communications - FRE 408

# MEETING PURPOSE & AGENDA

- Natural Resource Trustees Introduction
  - Montana Natural Resource Damage Program
  - U.S. Department of the Interior / U.S. Fish and Wildlife Service
- Natural Resource Damage Laws
- 2015 Bridger Yellowstone River Oil Spill Background
- Restoration Plan Project Scoping
  - Funds Available
  - Project Types
- How You Can Participate
- Criteria for Project Selection
- Questions/Answers

# INTRODUCTION

## Who We Are

- Representatives for “the Trustees”
  - Montana Natural Resource Damage Program (NRDP)
    - Doug Martin
    - Nathan Cook
  - U.S. Department of the Interior / U.S. Fish and Wildlife Service (USFWS)
    - Jacob Martin
    - Brian Balmer

## Why We Are Here

- Developing Restoration Plan to govern the expenditure of ~\$1.7 million on projects to restore the natural resources injured by the 2015 Bridger oil spill in the Yellowstone River
- Scoping for project ideas from the public and concerns about potential impacts to the environment

# MONTANA NATURAL RESOURCE DAMAGE PROGRAM

- **Mission:** Montana Natural Resource Damage Program's objective is to restore, rehabilitate, replace, or acquire the equivalent of injured resources in each of the injured areas in accordance with restoration plans adopted by the Governor.
- **Goals:** To fulfill our mission, NRDP's goal is to quantify natural resource injuries, both spatially and temporally, and then recover damages for natural resources injured by the release of hazardous substances and oil; and to use those funds to restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources in each of the injured areas.
- **Strategy:** NRDP focuses its resources on recovering damages in locations with high likelihood of success and implements restoration plans adopted by the Governor using the criteria specified by applicable laws and policies.



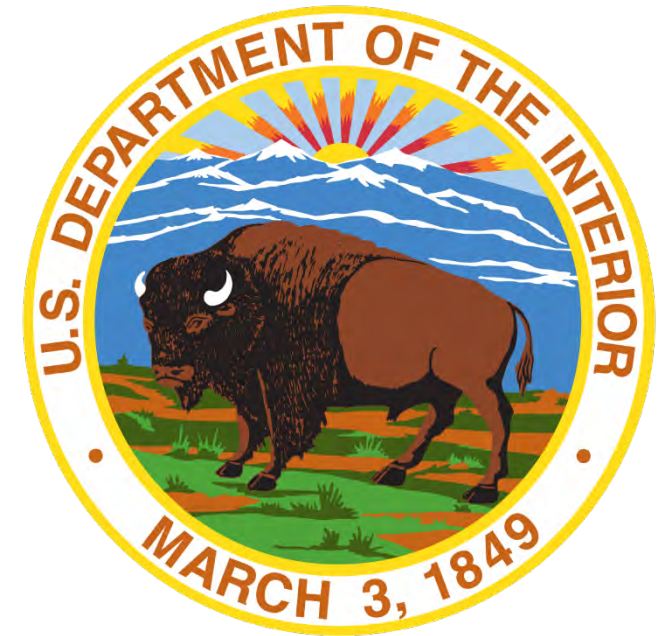
# MONTANA NATURAL RESOURCE DAMAGE PROGRAM

- Established 1990 to pursue natural resource damage claim in MT v ARCO
- Works on behalf of the State: Governor is natural resource trustee
- Administratively attached to Montana Department of Justice
- NRDP Organization:
  - **Recovery component** - assessment/evaluation of injury and recovery of damages
  - **Restoration component** - spend recovered damages on natural resource restoration
- Work with FWP, DEQ, DNRC, landowners, local officials, and other stakeholders and project partners
- 13 employees
- Funded by recovered settlement money, not tax funds



# U.S. DEPARTMENT OF THE INTERIOR NATURAL RESOURCE DAMAGE PROGRAM

- **Restore** natural resources injured as a result of oil spills or other hazardous substances released into the environment
- **Develop** strong collaborations with federal, state, and tribal Trustees to conduct damage assessments
- **Negotiate** legal settlements and initiate legal actions against responsible parties jointly with our state and tribal co-Trustees
- **Apply** settlement funds to restoring injured resources and recovering costs associated with damage assessment



# U.S. FISH AND WILDLIFE SERVICE MONTANA ECOLOGICAL SERVICES FIELD OFFICE: ENVIRONMENTAL CONTAMINANTS PROGRAM

- **Evaluate** and **mitigate** impacts of contaminants on Trust resources
  - Fisheries
  - Migratory birds
  - Threatened/endangered species
  - National Wildlife refuges
- **Develop** strong collaborations with federal, state, and tribal Trustees to implement restoration strategies that promote recovery of ecosystems impacted by contaminant sources



# DEFINITIONS

## Natural Resources

- Land, **fish**, **wildlife**, biota, air, **water**, groundwater, **drinking water supplies**, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States, any state or local government or Indian tribe, or any foreign government

## Injury

- An observable or measurable adverse change in a natural resource or impairment of a natural resource service

## Damages

- A sum of money claimed or awarded in compensation for a loss or an injury
- Damages for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing these damages



# NATURAL RESOURCES AND TRUSTEES

## State Resources

- **Resources:** surface water, fish, wildlife, etc.
- **Trustee:** Governor of the State of Montana, represented by Montana Natural Resource Damage Program (NRDP)

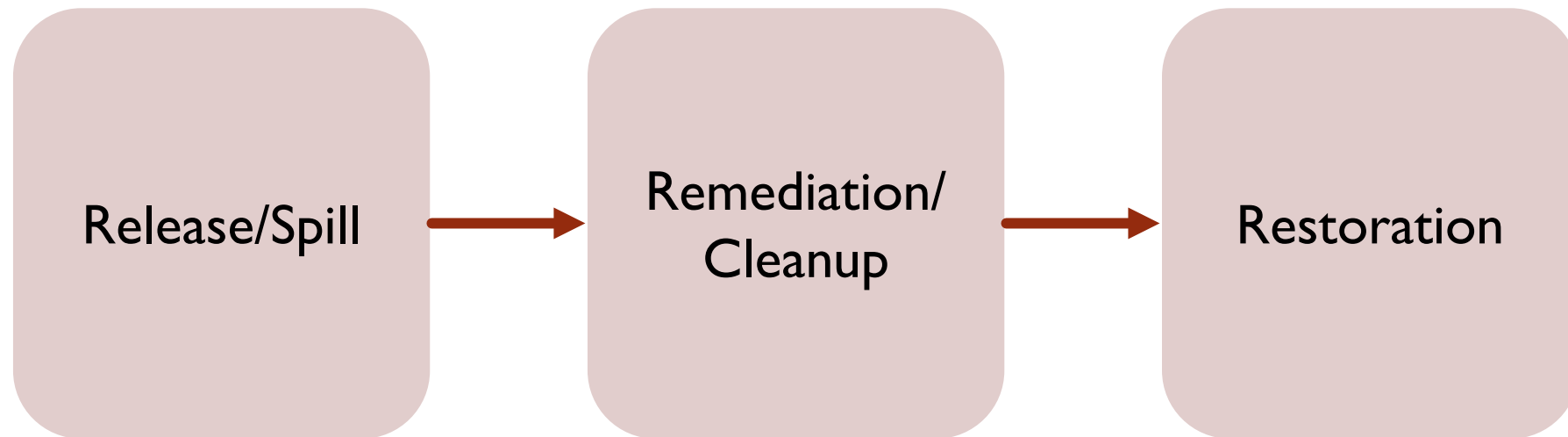


## Federal Resources

- **Resources:** migratory birds, endangered species, etc.
- **Trustee:** U.S. Department of the Interior, represented by U.S. Fish and Wildlife Service (USFWS)



# WHEN THERE IS A RELEASE OF A HAZARDOUS SUBSTANCE...



# NATURAL RESOURCE DAMAGE LAWS

## Laws

- **OPA (Oil Pollution Act)**
- CERCLA (Superfund)
- CECRA (State Superfund)

## Remediation/Cleanup

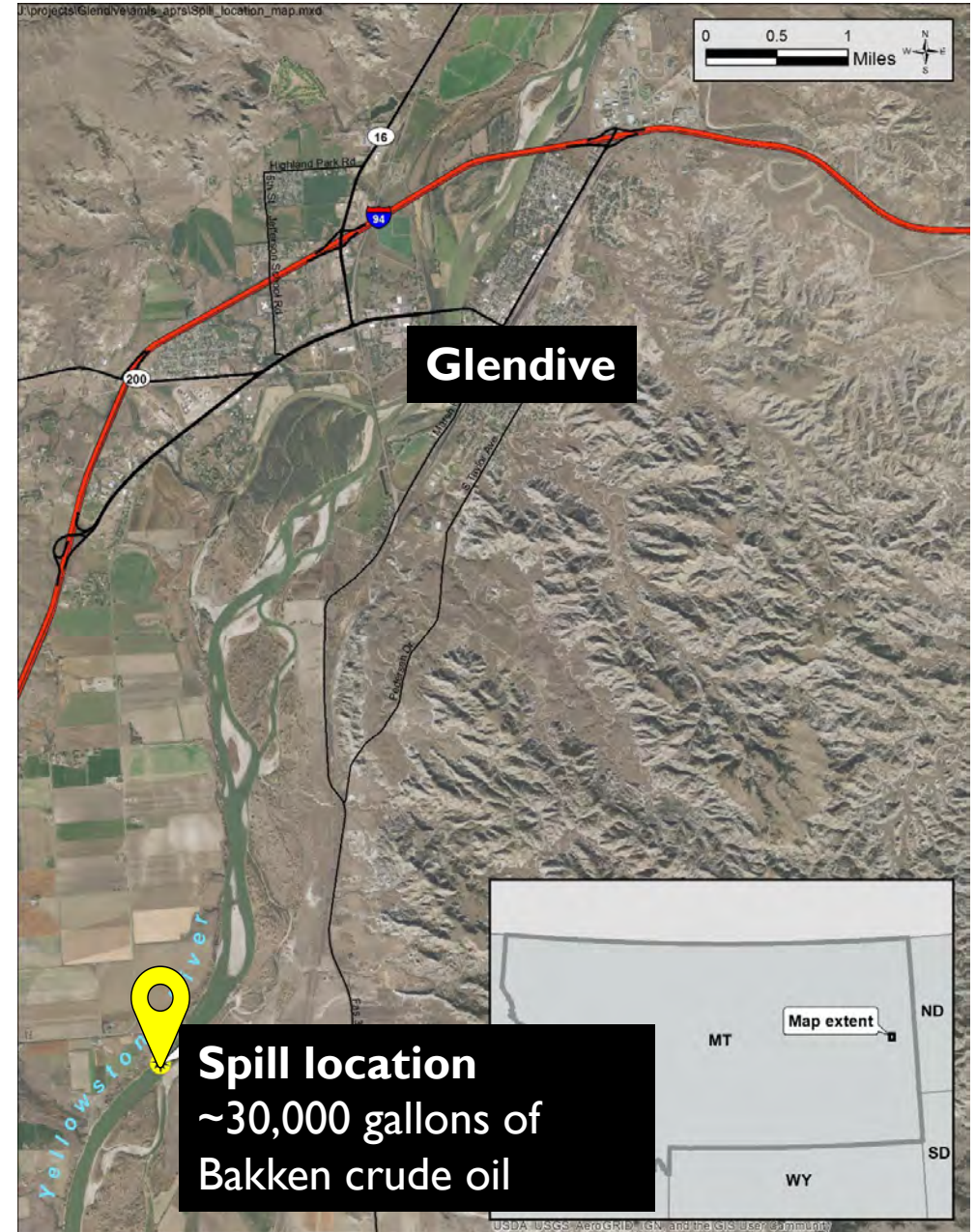
- EPA and DEQ
- Hazardous substances are cleaned up to protective levels
- Human Health
- Environment
- **Goal is not to restore environment**, though that may be a by-product of remedy

## Restoration

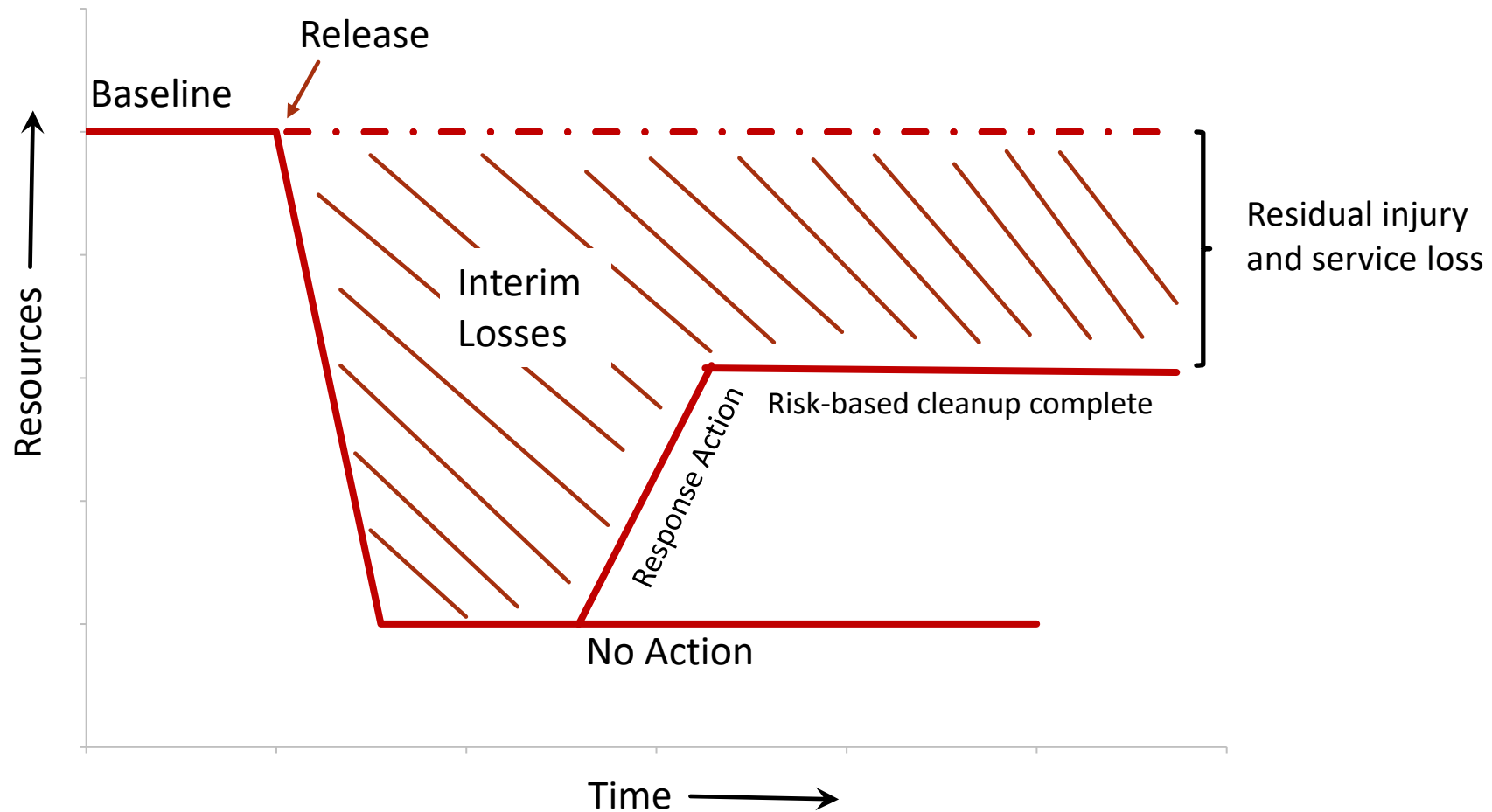
- NRDP and USFWS
- Picks up where remediation leaves off
- **Goal to restore injured natural resources to baseline conditions and compensate the public for associated interim losses**
- Recovered damages must be used to restore, replace, rehabilitate, or acquire the equivalent of the injured resources

# 2015 BRIDGER YELLOWSTONE RIVER OIL SPILL BACKGROUND

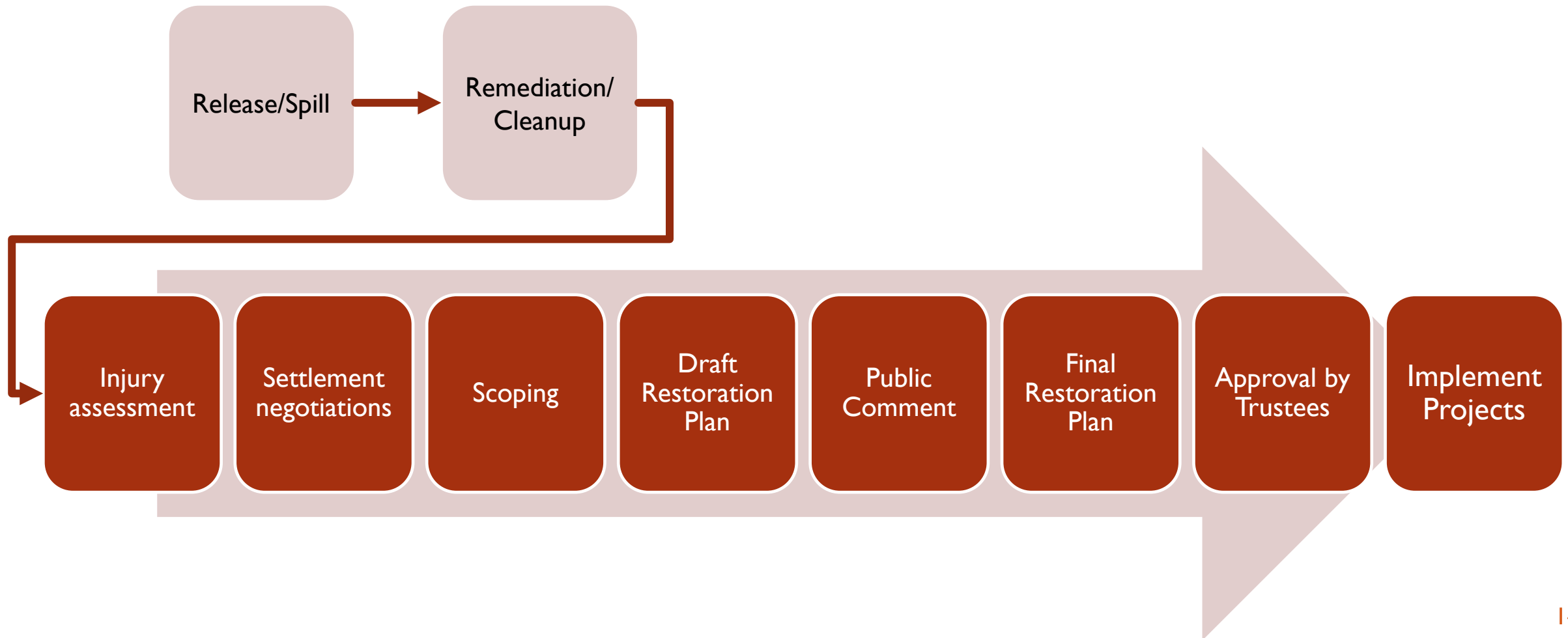
- January 17 Break in Poplar pipeline owned by Bridger Pipeline, LLC (Bridger).
- January 18 Contamination reached the City of Glendive's Water Treatment Plant.
- January 21 Cleanup began, but winter weather conditions hindered progress.
- March 14 Warm temperature cause second release of oil that had been trapped within the ice.
- March 22 EPA ended response efforts.
- April 10 DEQ ended cleanup operations.



# REMEDIATION / RESTORATION

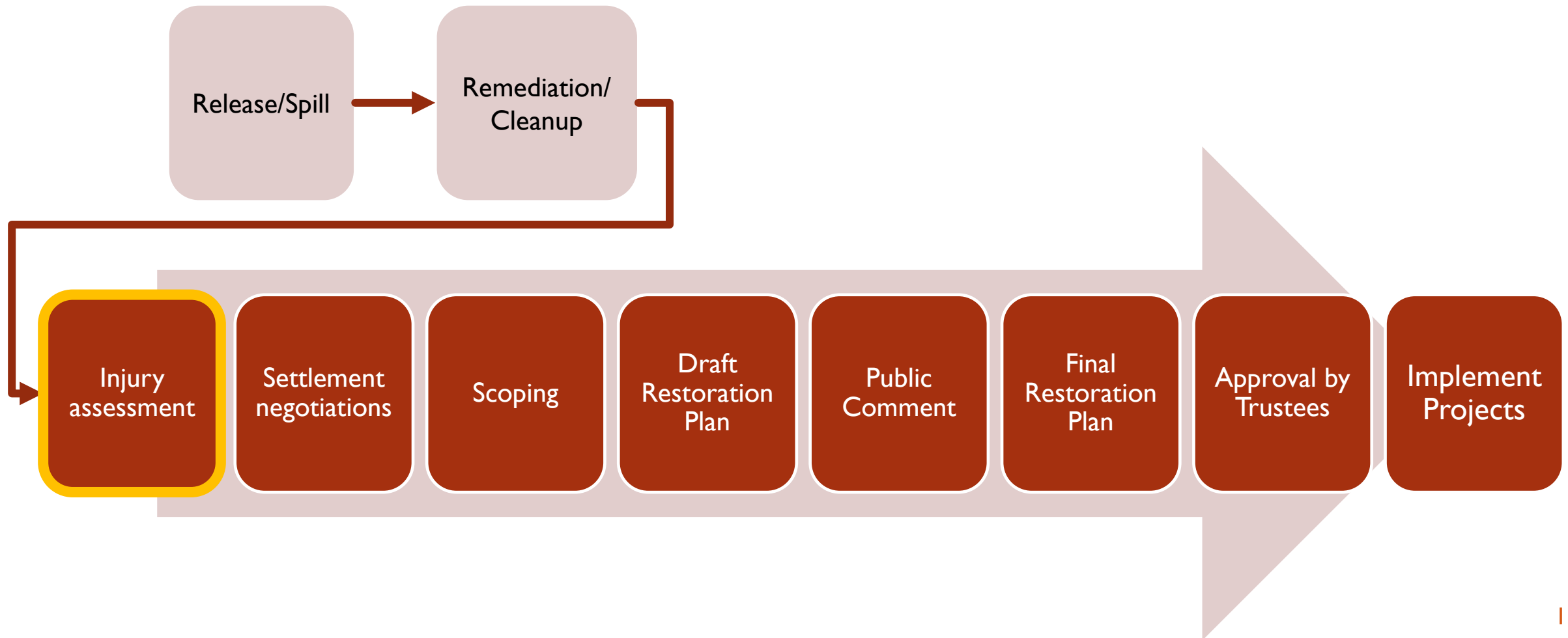


# NATURAL RESOURCE DAMAGE PLANNING PROCESS





# NATURAL RESOURCE DAMAGE PLANNING PROCESS



# NATURAL RESOURCE INJURIES – SURFACE WATER

- Benzene, polycyclic aromatic hydrocarbons (PAHs), volatile organic compounds (VOCs), other compounds from crude oil
- Concentrations exceeded water quality standards and aquatic life criteria
- Impacts:
  - January 18 – January 22, 2015: EPA issued consumption advisory for Glendive tap water. Bottled water was supplied to 6,000 residents.
  - March 2015 during ice break up: additional release of oil; City of Glendive issued request for residents to conserve water. Bottled water was made available.



U.S. Coast Guard collecting water samples through holes cored in the ice on the Yellowstone River - January 26  
Source: Weston Solutions, 2015

## NATURAL RESOURCE INJURIES – FISH AND LOST USE / RECREATION

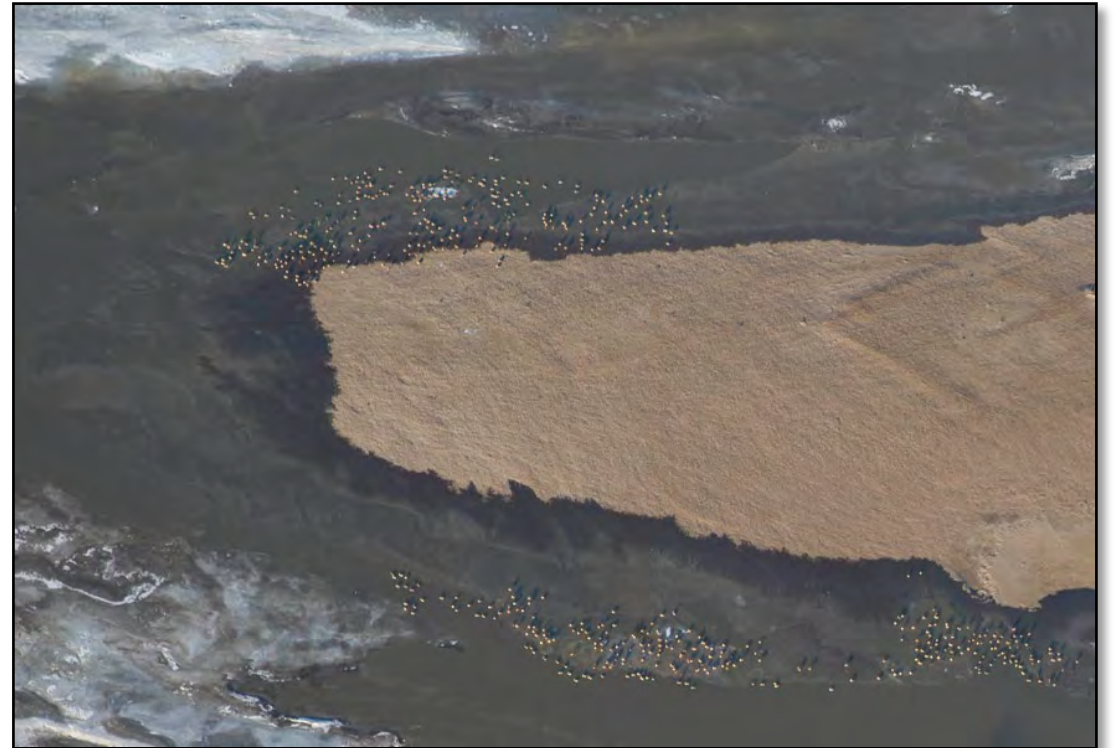
- Fish tissues revealed elevated PAHs, benzene, toluene, ethylbenzene, and xylene in fish tissue
  - Concentrations above human health standards and fish health thresholds
- Impact:
  - January 21 – April 13, 2015: Montana Fish, Wildlife, and Parks (FWP) issued fish consumption advisory



Channel catfish with lesion from the Yellowstone River (March 2015)

## NATURAL RESOURCE INJURIES – BIRDS

- Oiled birds observed
- Birds observed using oiled areas of the Yellowstone River
- Impact:
  - Oil is known to reduce reproduction, growth, and survival in birds



Birds on an oiled point bar on the Yellowstone River downstream of spill.

# NATURAL RESOURCE DAMAGE PLANNING PROCESS



# OVERVIEW OF THE SETTLEMENT AGREEMENT

Trustees began negotiations with Bridger in October 2018; Consent Decree entered January 13, 2022

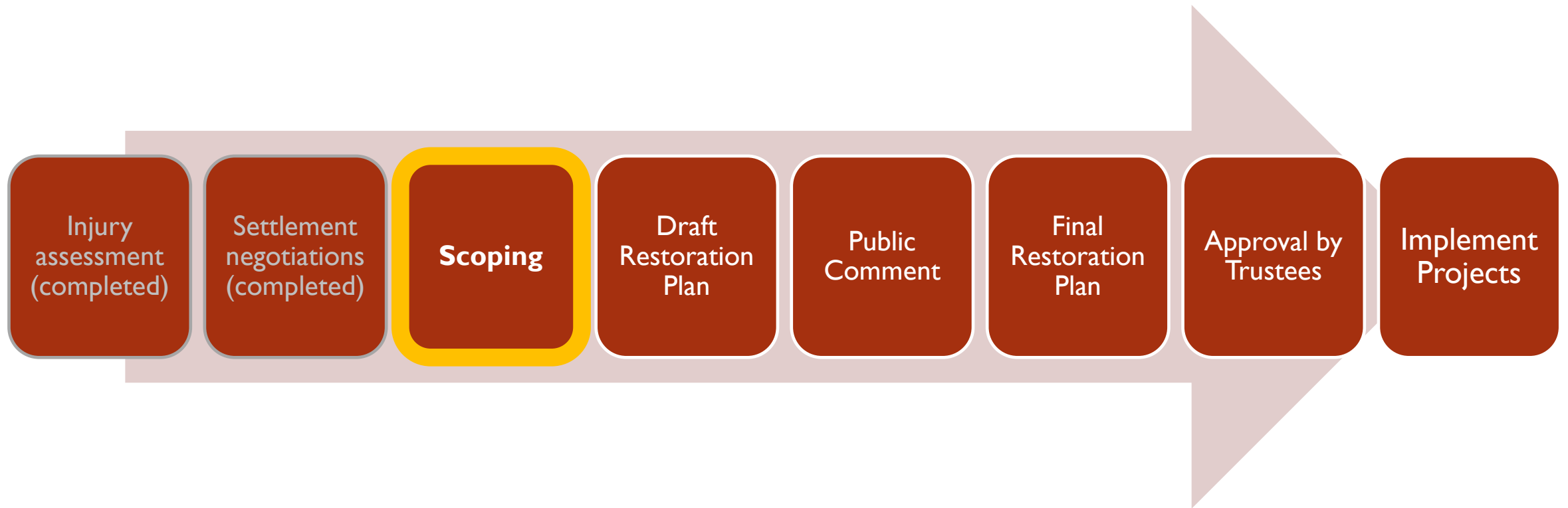
## SUMMARY OF FUNDS

<b>Amount</b>	<b>State (Fish / Lost Use)</b>	<b>USFWS (Birds)</b>	<b>Total</b>
<b>Allocated</b>	\$1,740,000	\$260,000	\$2,000,000
<b>Refund Past Costs</b>	\$230,000	\$70,000	\$300,000
<b>Available for Restoration</b>	<b>\$1,510,000</b>	<b>\$190,000</b>	<b>\$1,700,000</b>

Funding must be used to restore, rehabilitate, replace, or acquire the equivalent of the injured resource(s)



# NATURAL RESOURCE DAMAGE PLANNING PROCESS



Funding must be used to restore, rehabilitate, replace, or acquire the equivalent of the injured resource(s)

## EXAMPLES OF RESTORATION ACTIONS – FISH HABITAT

- Increase channel complexity
- Enhance floodplain connectivity
- Improve fish passage
- Locations: areas linked to injured resource

Scoping for project ideas



Restoration actions must restore, replace, rehabilitate, and acquire equivalent natural resource(s)

## EXAMPLES OF RESTORATION ACTIONS – LOST RECREATIONAL USE

- Fishing Access Site Development
- Enhance river access on private or federal lands
- Locations: within area of lost use

Scoping for project ideas



## EXAMPLES OF RESTORATION ACTIONS – BIRD HABITAT

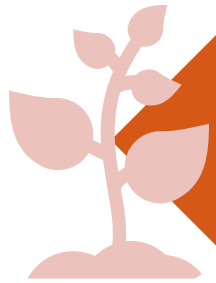
- Restore inland and riparian habitats
- Conservation easements or other restoration strategies for Prairie Potholes Region
- Locations: areas linked to injured resource



Scoping for project ideas



# HOW YOU CAN PARTICIPATE



Submit an abstract for  
a restoration project  
idea



Submit your concerns  
about impacts to the  
human environment  
(cumulative and  
secondary impacts)

- **Submissions due February 10, 2023, at 11:59pm**
- Abstract example and project criteria can be found at <https://dojmt.gov/lands/nrdp-public-notices/notices-of-public-comment/>
- Send submissions to:
  - [nrdp@mt.gov](mailto:nrdp@mt.gov)
  - Fax: 406-444-0236
  - Natural Resource Damage Program, PO Box 201425, Helena, MT 59620-1425
  - Put **“2015 Bridger Yellowstone River Oil Spill Scoping”** in the subject line

# SUBMISSIONS

Memorandum available on NRDP's website with project selection criteria and a template for abstracts

<https://dojmt.gov/lands/nrdp-public-notice/notices-of-public-comment/>

## **Project Abstract Submissions should include:**

- Your name and contact information
- Project purpose and benefits
- Project location
- Project description
- Project schedule
- General cost information/estimate

## **Concerns about potential impacts, for example:**

- Natural resources
- Construction, sound, air pollution
- Threatened and endangered species and Montana species of concern
- Visual resources
- Archaeological resources
- Cumulative Impacts



# CRITERIA FOR PROJECT SELECTION

## Oil Pollution Act Legal Criteria

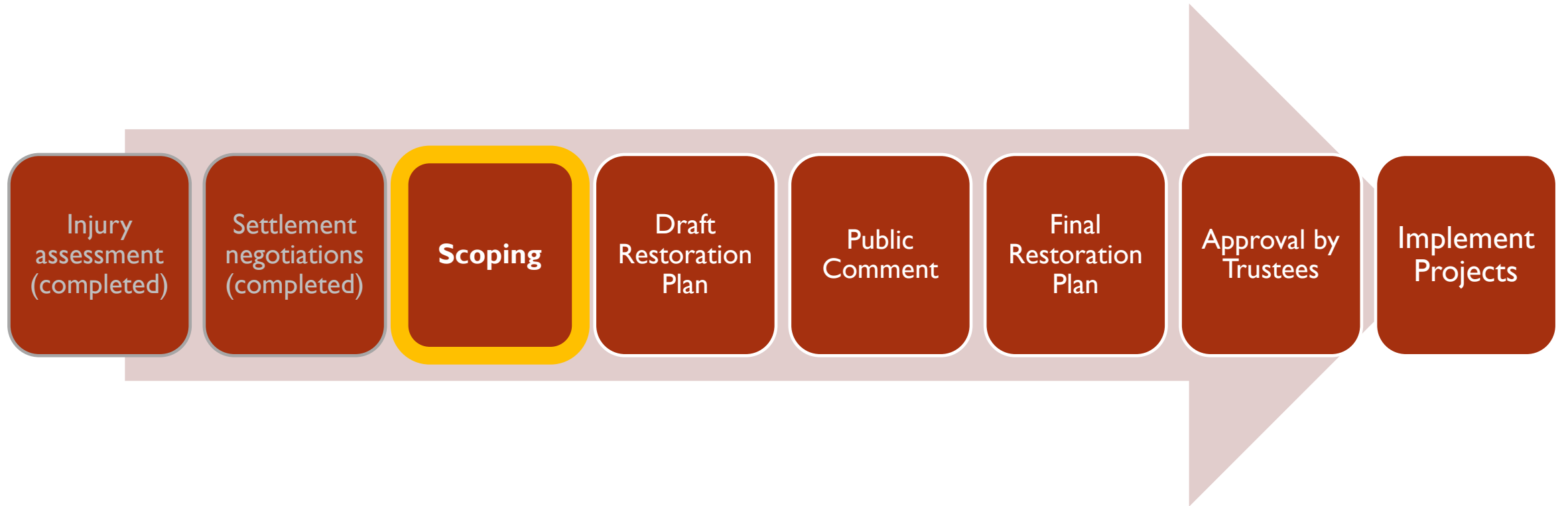
- Project cost and cost effectiveness
- Project goals and objectives
- Likelihood of project success
- Avoidance of adverse impact
- Multiple resource and service benefits
- Public health and safety

For more information on project selection criteria:

<https://dojmt.gov/lands/nrdp-public-notice/notices-of-public-comment/>



# WHAT'S NEXT?



Funding must be used to restore, rehabilitate, replace, or acquire the equivalent of the injured resource(s)

## QUESTIONS?

NRDP: Doug Martin  
dougmartin@mt.gov  
or Nathan Cook  
nathan.cook2@mt.gov  
(406) 444-0205

USFWS: Brian Balmer  
brian\_balmer@fws.gov  
(406)430-9013

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# RESOURCES AND ENTITIES CONSULTED/NOTIFIED

## Resources Consulted

- Yellowstone River Cumulative Effects Analysis (*US Army Corps of Engineers and Yellowstone River Conservation District Council, 2015*)
- Yellowstone River Recommended Practices and Position Statements (*Yellowstone River Conservation District, 2016*)
- Recommendations for Improving Public Access, Habitat Conservation, and Management of the Lower Yellowstone River Corridor (*Lower Yellowstone River Corridor Advisory Committee, 2021*)
- Revised Recovery Plan for the Pallid Sturgeon (*USFWS, 2014*)
- USDA Conservation Reserve Program for Waterfowl and Grassland Passerines in the Prairie Pothole Region of the U.S.

## Entities Consulted/Notified

- FWP Region 7
- Assiniboine and Sioux Tribes of Fort Peck, Montana
- Three Affiliated Tribes of Fort Berthold, New Town, North Dakota
- Richland County Commissioners
- Yellowstone River Conservation District Council
- Conservation Districts for Richland, Dawson, and Prairie Counties
- Bureau of Reclamation – Billings
- Montana DNRC
- Pheasants Forever – Sidney
- Walleye Unlimited – Glendive and Sidney
- Mule Deer Foundation – Glendive and Sidney
- Ducks Unlimited – Glendive and Sidney
- Glendive Chamber of Commerce
- Sidney Chamber of Commerce
- State Senator Steve Hinebauch
- State Representatives Bob Phalen and Brandon Ler

# RESTORATION PLAN OUTLINE

1. Information about the affected environment
2. Summary of injury and services losses to natural resources caused by the oil spill
3. Trustees' proposed restoration alternatives
4. Analysis of restoration alternatives
5. Selection of the preferred alternative
6. Plan for implementation of restoration actions

# FUNDING ALLOCATION FOR RESTORATION ALTERNATIVES

<b>Alternative</b>	<b>Fish Habitat</b>	<b>Bird Habitat</b>	<b>Recreation</b>	<b>Plan Development / Administrative Costs</b>	<b>Total</b>	<b>Remaining/ Leftover Funds</b>
<b>Alternative 1</b>	\$0	\$0	\$0	\$150,000	\$150,000	N/A
<b>Alternative 2</b>	\$1,365,000	\$115,000	\$0	\$220,000	\$1,700,000	Fish/Bird habitat
<b>Alternative 3</b>	\$0	\$115,000	\$1,365,000	\$220,000	\$1,700,000	Bird habitat
<b>Alternative 4</b>	\$890,000	\$115,000	\$475,000	\$220,000	\$1,700,000	Fish/Bird habitat

\*These are draft alternatives and may be revised



# CRITERIA FOR PROJECT SELECTION

## OPA

- Project cost and cost effectiveness
- Project goals and objectives
- Likelihood of project success
- Avoidance of adverse impact
- Multiple resource and service benefits
- Public health and safety

## NEPA/MEPA - Consider direct and indirect impacts on the following

- Injured resources
- Construction, sound, air pollution
- Threatened and endangered species and Montana species of concern
- Water quality and sediment
- Visual resources
- Archaeological resources
- Economic, historic, land use, and transportation resources
- Regulatory restrictions
- Climate change
- Cumulative impacts



## RESULTS OF THE SPILL

- January 18 – January 22, 2015
  - EPA issued consumption advisory for Glendive tap water. Bottled water was supplied to 6,000 residents.
- January 21 – April 13, 2015
  - Montana Fish, Wildlife, and Parks (FWP) issued fish consumption advisory.
- March 2015
  - Warm weather caused additional release of oil that had been stored within the ice; City of Glendive issued request for residents to conserve water. Bottled water was made available.



Auger hole drilled to recover oil by “auger mining.” Layers of oil-contaminated ice are visible.  
Source: Weston Solution, 2015

\*Restoration actions must restore, replace, rehabilitate, and acquire equivalent natural resources

## INJURY CATEGORIES & EXAMPLE ACTIONS

Injured Natural Resources	Examples of Restoration Actions*
Fish	<ul style="list-style-type: none"><li>▪ Increase channel complexity</li><li>▪ Enhance floodplain connectivity</li><li>▪ Improve fish passage</li><li>▪ Scoping for Other Ideas?</li><li>▪ Locations: areas linked to injured resource</li></ul>
Birds	<ul style="list-style-type: none"><li>▪ Restore inland and riparian habitats</li><li>▪ Conservation easements or other restoration strategies for Prairie Pothole Region</li><li>▪ Scoping for Other Ideas?</li><li>▪ Locations: areas linked to injured resource</li></ul>
Lost Use / Recreation	<ul style="list-style-type: none"><li>▪ Fishing Access Site Development</li><li>▪ Enhance river access on private or federal lands</li><li>▪ Scoping for Other Ideas?</li><li>▪ Locations: within area of lost use</li></ul>



# REMEDIATION / RESTORATION

