

Amendment to the Anaconda Uplands Restoration Plan



November 18, 2024

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1.0 INTRODUCTION

The purpose of this *Amendment to the Anaconda Uplands Restoration Plan* (Amendment) to the 2008 *Draft Conceptual Smelter Hill Uplands Resources Restoration Plan* (Anaconda Uplands Restoration Plan) is to identify actions on Anaconda Deer Lodge County (ADLC) lands within the Anaconda Co. Smelter Superfund site (Site) that singly or in combination restore, rehabilitate, replace, or acquire the equivalent of the natural resources injured by operations at the Site. The goals of these actions are to restore the injured resources to a condition where they provide the level of services available at baseline or to replace and/or acquire the equivalent natural resources capable of providing such services. This Amendment compensates for the interim loss of the injured resources and services until the resources are returned to baseline. Specifically, the goal is to restore and replace native vegetation and soils, wildlife habitat, and lost recreational services on ADLC lands within the injured area of the Site.

1.1 Purpose and Scope

The State of Montana Natural Resource Damage Program (NRDP), on behalf of the Governor as natural resource trustee pursuant to the Comprehensive Environmental Response, Compensation and Liability Act section 107(f)(2)(B) (CERCLA) and the Comprehensive Environmental Cleanup and Responsibility Act, § 75-10-715, MCA (CECRA), in collaboration with ADLC, has prepared an Amendment to the Anaconda Uplands Restoration Plan in order to direct how restoration funding will be spent on ADLC lands now that all remedial actions, except monitoring and long-term operations and maintenance, have been completed on State-owned lands on Stucky Ridge and the Mount Haggin Wildlife Management Area (WMA; Environmental Protection Agency [EPA] and Department of Environmental Quality [DEQ] 2023).

The Anaconda Uplands Restoration Plan identified actions to restore, rehabilitate, replace, or acquire equivalent natural resources and the services provided by natural resources that were injured by a century of smelting and ore processing in Anaconda. This Amendment allocates up to \$4 million of Upland Restoration funds to be spent on restoration actions on ADLC-owned lands. The allocation of \$4 million is consistent with the commitment made by the Trustee in the original 2008 Anaconda Uplands Restoration Plan to implement approximately \$4 million worth of restoration actions on ADLC-owned lands. These restoration actions may also be performed on ADLC lands acquired in the future, such as lands to be transferred from British Petroleum-Atlantic Richfield Company (BP-AR) to ADLC. Restoration actions will focus on the restoration and replacement of native vegetation, wildlife habitat, and recreational opportunities, as well as the acquisition of equivalent resources (purchase of the A-Hill).

NRDP prepared this Amendment in consideration of scoping comments received from the public during a 31-day comment period (Appendix A), a cost break down for identified opportunities for ecological restoration (Appendix B), MEPA review of restoration activities (Appendix C), knowledge of planned and executed remediation, mapping of trails networks, and public responses to an online survey about open space planning completed by SCJ Studio Landscape Architecture (SCJ) on behalf of ADLC. Knowledge and input from the community were critical to the development of this document.

Section 1 describes the purpose and scope of this document, provides background on the injury to the Anaconda Uplands, and summarizes efforts to complete open space planning, revegetate and complete remedy in the injured area. In addition, this section describes the public participation that informed development of this Amendment and describes the legal and policy criteria that guide the selection of restoration actions within the planning area (Figures 1 and 2).

Section 2 presents categories of restoration actions that will restore and compensate for injuries to natural resources because of the operation of smelters in Anaconda. The four restoration alternatives describing how settlement funds could be allocated to each restoration category are presented in Section 3. Section 4 evaluates the restoration alternatives and identifies the preferred alternative. Section 5 describes how the preferred restoration alternative will be implemented to assure there is no conflict with remedy and to most expeditiously complete identified restoration actions. Section 6 explains the remaining public process that will guide the development and adoption of this Amendment.

1.2 Background—Anaconda Uplands Natural Resource Damages

Over a century of smelting-associated aerial emissions in Anaconda resulted in the deposition of hazardous substances (notably copper, arsenic, lead, cadmium, and zinc) across hundreds of miles of surface soils surrounding and downwind of the smelters causing injuries to the State’s natural resources¹. The State’s natural resource injury assessment documented the resulting loss of native plants, extensive topsoil exposure, and erosion of native soils, all of which caused a drastic reduction in the quality and quantity of wildlife habitat (NRDP, 1995). Additional losses include ecosystem services (e.g., carbon sequestration or the extent and composition of pollinator habitat) and opportunities for outdoor recreation on injured lands.

The Governor, as Trustee, pursued a natural resource claim for these damages and negotiated a settlement with BP-AR for the Smelter Hill Area Uplands in 2008. The resulting 2008 Consent Decree provided approximately \$13.3 million to the State of Montana in natural resource damages for 17.8 square miles of injured lands on Stucky Ridge (480 acres), Smelter Hill (4,649 acres), and the Mount Haggin WMA (4,299 acres). As dictated by the 2008 Consent Decree, NRDP performed both remedial and restoration actions on injured areas on Department of Natural Resources & Conservation (DNRC) lands on Stucky Ridge and Montana Fish, Wildlife & Parks (FWP) lands on the Mount Haggin WMA.

In anticipation of the Consent Decree, NRDP prepared the Anaconda Uplands Restoration Plan, which specified that up to \$4 million from the Smelter Hill Area Uplands Restoration account could be used to complete restoration actions on ADLC-owned lands (Figures 1 and 2) once remedial obligations were met on the Stucky Ridge and the Mount Haggin WMA injured areas.

¹ Natural resources include “land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to,” or otherwise controlled by the State (42 U.S.C. § 9601(16)). Natural resource damages under CERCLA, 42 U. S. C. §§ 9601 et seq., are designed to compensate trustees for injuries to natural resources. The State is entitled to “damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from” the release of a hazardous substance (42 U.S.C § 9607(a)(4)(C)).

On April 4, 2023, the EPA and NRDP, with DEQ's concurrence, certified that the State's required remedy was complete (EPA and DEQ, 2023), thus making funds available for restoration actions on ADLC lands. The allocation of these funds is the subject of this amendment to the Anaconda Uplands Restoration Plan.

1.2.1 Public Participation

In 2023 NRDP prepared a public scoping memo outlining restoration goals and soliciting ideas for potential restoration actions on ADLC lands and any potential impacts of proposed projects. The public had the opportunity to offer ideas for restoration and comment on potential adverse impacts to the human and natural environment.

NRDP advertised the public comment period in the Anaconda Leader, Montana Standard, and the NRDP website. The public comment period was open for thirty-one (31) days, from May 9 to June 9, 2023. NRDP hosted a meeting in Anaconda on May 24, 2023. During that meeting NRDP provided background on the upland injury and the Anaconda Uplands Restoration Plan and outlined how the public could best engage with the Amendment planning process. Thirty-six (36) people filled out the sign-in sheet for this meeting; attendees included members of the Anaconda Trail Society, Anaconda Sportsmen's Club, the Clark Fork Coalition, and Friends of the Anaconda Stack. Attendees asked clarifying questions regarding the Amendment and were encouraged to submit written comments and project ideas.

NRDP specifically requested project abstracts that included preliminary information on restoration action concepts, including a description of a conceptual project, its location, potential benefits, a schedule, how it would integrate with or protect remedy, and a cost estimate. Fifty (50) comments were received from community members, organizations, and businesses. There were no submittals from state or federal agencies. Almost half of the written comments were from parties whose predominant interest was in enhancing opportunities for mountain biking in and around Anaconda. Other commenters were variously interested in hiking, habitat enhancement, lands conservation, weed management, opportunities to enhance trails and access, and recreational infrastructure unrelated to natural resource damages. All comments as well as the NRDP response to comments may be found in Appendix A.

1.2.2 Co-Trustee Coordination

Pursuant to the 1998 Memorandum of Agreement between the State of Montana, Confederated Salish and Kootenai Tribes (CSKT), and United States Department of the Interior (DOI), NRDP provided a draft of this Amendment to the co-trustees for review on October 4, 2024 CSKT was provided with an opportunity to review and comment on the Amendment for at least 30 days prior to final approval and before formal public review pursuant to Section 4(b) of the 1998 MOA. NRDP incorporated comments from those parties into this draft. NRDP will continue to coordinate and consult with CSKT as required under section 4 of the 1998 MOA.

Further, NRDP and CSKT will continue to coordinate and consult to ensuring implemented restoration projects follow the treatment of undocumented and undiscovered Tribal Cultural Resources and Tribal Religious Sites outlined in section 7(c) of the 1998 MOA. Both parties will coordinate between restoration and remedy pertaining to the CSKT and EPA cultural resources

mitigation agreement for the Anaconda NPL Site. This includes installation of ethnogeographic interpretative signage developed, designed, and provided by the Séliš Qlispé Culture Committee for the Anaconda are.

1.3 Existing Conditions

1.3.1 Status of Remedy

The status of existing remedy within the Anaconda Planning Area is shown in Figure 3 (ADLC, 2024). ADLC lands include parcels of the uplands north of Highway 1 from the Old Works Golf Course across Stucky Ridge to Lost Creek (RDU 1) and south of Highway 1 from Mill Creek to the Smelter west to the A-Hill (RDU 3).

ADLC lands in RDU 1 have been remediated during the last five years to implement the remedy described in the 1998 Anaconda Regional Water Waste and Soils Operable Unit Record of Decision (ROD) and subsequent ROD amendments. Remedial actions in RDU 3 are ongoing.

A portion of RDU 3 has been designated as the Smelter Hill High Arsenic Area (Figure 4), per the Record of Decision Amendment, Anaconda Regional Water, Waste & Soils Operable Unit, Anaconda Smelter NPL Site (2011 ROD Amendment; EPA and DEQ 2011). As described in the 2011 ROD Amendment, the Smelter Hill High Arsenic Area restricts public access to contaminated uplands owned by BP-AR and ADLC. Remedial requirements include restricting vehicular access by the public, and maintenance of these restrictions through fences, gates, signs and other constructed controls. Both BP-AR and ADLC have implemented and maintain these constructed controls.

The areas BP-AR has remediated were fertilized prior to the application of a native seed mix. Low and intermediate grade slopes were planted using heavy machinery. Steep slopes were treated by helicopter with hand planting of trees and shrubs in lime pits. Portions of the area are designated as ‘monitor-well vegetated.’ These areas show signs of natural recovery; however, the plant community would benefit from the addition of woody shrubs and native forbs.

In 2023, BP-AR remediated a total of 604.5 acres in RDU 1 and RDU 3.²

On February 23, 2024, EPA through CDM Smith (their consultant providing oversight) reported completion of the following work (pers. comm. Benjamin Simpson):

2023 RDU 1 Remedy Completed:

- Tillage – 56.5 acres. Tilled with lime to make the soil less acidic and then planted.
- Broadcast seed maintenance – 110 acres on private lands (the Kessler property).

2023 RDU 3 Remedy Completed:

- Tillage – 207 acres.

² At the time of developing the Anaconda Amendment, the 2023 Construction Completion Report was not available. The data and citations used were provided by CDM Smith with approval of EPA.

- Steep Slope Reclamation (SSR) Lime Pitting – 66.8 acres. (Consists of slope regrading, lime pitting, planting of trees and shrubs, and aerial seeding to reduce sediment transport, add roughness and facilitate the establishment of plants where in situ soil treatment with tillage was not practicable.)
- SSR Non-Lime Pitting – 164.2 acres.

EPA foresees that the following work will be accomplished in RDU 3 in 2024:

- Tillage – 28.2 acres.
- Lime Pitting – 25 acres.
- SSR-Lime Pitting – 179 acres.

EPA anticipates that all major remedies will be completed by December 31, 2025.

1.3.2 Injury Overview

NRDP identified four main categories of injured natural resources to be addressed by this Amendment — native vegetation, native soils, wildlife habitat, and lost services focused on ecological and recreational services. While the completed remedy will have positive impacts to those injuries there will also be a need for restoration actions to further expedite recovery to baseline conditions and meet the goals of this Amendment.

Specifically, after the completion of remedy, NRDP anticipates the following restoration actions will likely meet the goals of this Amendment: restoration plantings of woody shrubs and forbs, implementation of steep slope reclamation techniques (SSRs) and best management practices (BMPs) where they are not required by remedy, enhancement of aspen stands, multiuser trails development (designed for use by hikers, horseback riders, mountain bikers), and wildlife habitat enhancement.

The appropriate techniques for ecological restoration actions on ADLC lands were pioneered by NRDP on the adjacent Stucky Ridge and the Mount Haggin Injured Areas. Areas that would benefit from additional restoration actions are shown in Figure 5, which highlights revegetation areas and a proposed lands purchase (the A-Hill). Approaches and costs to implement ecological restoration are shown in Appendix B.

1.3.3 County Open Space Planning

ADLC worked with its citizens and SCJ to produce an Open Lands Plan, which was presented to ADLC Commissioners on January 23, 2024, and adopted on February 6, 2024. The Open Lands Plan will be used to direct future ADLC expenditures, including a portion of the \$4 million in restoration funding that is the subject of this Amendment. It is anticipated that significant match will be secured from ADLC, as well as private user groups and businesses to develop trail networks, signage, and other amenities to support recreation on county lands.

SCJ created and released an online survey and mapping tool to poll citizens' priorities and interest in recreational use of ADLC lands. The poll included an interactive element whereby participants were able to draw polygons and lines to illustrate preferred land uses as well as trail networks and features. This online public survey provided the public with the opportunity to help

develop the Open Lands Plan and has informed the analysis of priority projects in this Amendment. Four hundred and ninety-four (494) people participated in this poll between August 16, 2023, and September 4, 2023, with three-hundred and fifty-six (356) residing in ADLC. Overall participation of county residents was 3.75% (356 of 9491 citizens in the 2021 census). Citizens of all age groups and roughly an equal proportion of males and females participated in the poll. Non-motorized and motorized users contributed to the survey. Hikers and walkers were the predominant user types who responded to the survey.

Two hundred and one (201) participants indicated satisfaction with the amount of existing recreational use on ADLC lands and did not support additional development. There was consensus that better trail connectivity and awareness of trails would be helpful. Participants were polled on their relative priorities for existing and future use. The highest priorities for participants were: 1) multiuse trails (hiking, running, walking), 2) winter recreation (snowshoeing and cross-country skiing), 3) wildlife habitat conservation, and 4) establishing trailheads (Figure 6). Mountain biking, hunting access, wayfinding elements, interpretive features, trailheads, overnight camping, day use picnicking, and equestrian use were all less priorities for respondents.

1.3.4 Revegetation

Most revegetation on ADLC lands is naturally occurring or has been implemented as part of the ongoing CERCLA remedy being completed by BP-AR. Early successional species, like quaking aspen, lodge pole pine, and rabbit brush, have successfully pioneered hundreds of acres of ADLC lands. In some areas, ADLC lands are returning to their baseline condition (i.e., as they were pre-injury) without the expenditure of remedy or restoration funds.

There have been multiple reforestation efforts in the area. From 1986 to 1992 various entities cooperated to plant conifers on five hundred forty-nine (549) acres and shrubs on eighty-three (83) acres around Anaconda (pers. comm. Bob Andreozzi, retired DNRC Forester, June 2, 2023). In addition, Anaconda students and civic organizations also participated in numerous planting efforts beginning as early as 1940. The NRDP completed a pilot planting of one hundred fifty (150) trees and shrubs above the courthouse in October 2022 and worked with ADLC to complete youth Arbor Day plantings on April 28, 2023, and April 26, 2024. Over seven hundred and fifty (750) students participated in the planting of approximately 4,500 trees, shrubs, and forbs. The Arbor Day planting was a cooperative effort between ADLC, NRDP, and BP-AR.

1.3.5 Weed Management

There are significant existing weed infestations in the county as a result of degraded soils and unregulated motorized trails use on ADLC lands and BP-AR remedial sites. Initial management of these infestations will be necessary to ensure that the restoration actions do not increase the presence of weeds. As detailed below, BP-AR has existing remedial obligations for weed management. Once those obligations have been met ADLC will be responsible for weed management on their lands.

BP-AR is responsible for trail maintenance, including weed management, along the Anaconda Old Works Interpretive Trail (EPA and Montana Department of Health & Environmental

Sciences [MDHHS], 1994) but does not have any obligation for trails maintenance elsewhere within the Anaconda Regional Water, Waste & Soils Operable Unit.

BP-AR will be responsible for monitoring and controlling weeds on all Long-Term Inspection and Maintenance Category 5 (High Arsenic Areas) and Category 6 (Waste Management Areas) in perpetuity under the Final Vegetation Management Plan, Revision 2 (Atlantic Richfield Company, 2022). BP-AR is responsible for monitoring and weed control on the remaining properties until EPA has certified that the remediated parcels have met Category 3 requirements for maintaining vegetation performance standards attainment for 5 years after compliance determination. This could occur 5 to 10 years after remediation with EPA granting approval for the Category 3 monitoring report.

1.4 Criteria for Evaluating Alternatives

Natural resource damage (NRD) settlement funds can only be spent to restore, replace, rehabilitate, or acquire the equivalent of injured natural resources, and natural resource trustees must complete a restoration plan and consider public input before NRD settlement funds can be spent (42 U.S.C. §§ 9607, 9611(i)). The restoration plan must specify how funds will be spent and include an evaluation of various restoration alternatives according to criteria specified in federal NRD regulations (43 C.F.R. § 11.81(2)).

Restoration actions will only be considered on ADLC lands or lands that may be acquired by ADLC. While projects on adjoining lands owned by other parties may be relevant to ADLCs' open lands planning they are not eligible for funding under this Amendment.

To analyze restoration actions and determine the preferred alternative two types of criteria were used: legal and policy. The "Legal Criteria" are derived from the criteria set forth in the U.S. Department of the Interior natural resource damage assessment regulations under 43 C.F.R. § 11.82(d), which trustees use when selecting restoration projects. The "Policy Criteria" have been developed by the State to promote State goals.

In applying these criteria to evaluate proposed restoration actions, the criteria will be evaluated qualitatively rather than quantitatively. The importance of each criterion as applied to individual alternatives will vary depending upon the nature of the alternatives.

Restoration actions will be evaluated using the following Legal and Policy criteria:

- Legal Criteria
 - Technical Feasibility
 - Relationship of Expected Costs to Expected Benefits
 - Cost-effectiveness
 - Results of Response Actions
 - Adverse Environmental Impacts
 - Recovery Period and Potential for Natural Recovery
 - Human Health and Safety
 - Federal, State, and Tribal Policies, Rules, and Laws
- Policy Criteria
 - Normal Government Function
 - Price

1.4.1 Legal Criteria

Technical Feasibility: This criterion evaluates the degree to which a project employs well-known and accepted technologies and the likelihood that a project will achieve its objectives. 43 C.F.R. § 11.14(qq). Projects that are technologically infeasible will be rejected. However, projects that are innovative or that have some element of uncertainty as to their results may be approved. Different projects will use different methodologies with varying degrees of feasibility. Accordingly, application of this criterion will focus on an evaluation of a project's relative technological feasibility.

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

Cost-effectiveness: This criterion evaluates whether a particular project accomplishes its goal in the least costly way possible. When two or more activities provide the same or a similar level of benefits, the least costly activity providing that level of benefits will be selected. 43 C.F.R. § 11.14(j). To meaningfully apply this criterion, all benefits a project would produce must be considered, not just cost. If a project would fully restore a given resource in a short period of time whereas another project would restore the same resource at less cost but over a longer period of time, then considering cost alone ignores the benefits resulting from a shorter recovery period. In this example, since an accelerated recovery time is a benefit, that would need to be factored into a determination of cost-effectiveness.

Results of Response Actions: This criterion considers the results or anticipated results of response actions underway, or anticipated, of the Site. These response actions are discussed in Sections 1.3.1. Application of this criterion will require assessment of response actions at an adequate level of detail to make projections as to their effects on the natural resources and services. Consideration of response actions occurs in two principal contexts:

- Evaluating what is necessary in the way of restoration of resources and services considering the ongoing and planned response actions.
- Evaluating the degree of consistency between a project and a response action by looking at whether a project builds on a response action or may undo a response action.

Adverse Environmental Impacts: This criterion weighs whether, and to what degree, a restoration plan alternative will result in adverse human or physical environmental impacts. The State will evaluate significant adverse impacts of each alternative and the duration of direct or indirect impacts, including those that involve resources that are not the focus of the project.

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

Human Health and Safety: This criterion evaluates the potential for a project to have adverse effects on human health and safety to determine if protective measures should be added to the project to ensure safety.

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

1.4.2 Policy Criteria

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

Normal Government Function: This criterion evaluates whether a project involves activities for which a governmental agency would normally be responsible or that would receive funding in the normal course of events and would be implemented if recovered natural resource damages were not available. Settlement funds may be used to provide funds to government agencies to implement restoration projects that would not otherwise occur through normal government function. Based strictly on this criterion, a project involving activities that would fall within normal government responsibilities may be ranked lower than a project that does not fall within this category.

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

2.0 RESTORATION CATEGORIES

This Amendment seeks to restore and replace native vegetation and soils, wildlife habitat, and lost recreational services on ADLC lands within the Anaconda Uplands injured areas. The development of restoration alternatives is intended to identify restoration actions that restore, replace, and/or acquire the equivalent of natural resources injured by the release of hazardous substances from the smelting and the processing of ore. The following restoration categories have been developed by NRDP in coordination with ADLC for restoration projects on county lands to address injuries to native plants and soils, wildlife habitat, and lost services:

- Ecological Restoration
- Wildlife Habitat Restoration
- Recreational Services Restoration

NRDP is working with ADLC, FWP, and community stakeholders to identify restoration actions to restore natural resources to their baseline ecological condition while also providing opportunities for public recreation. The primary objectives are to protect existing and future native vegetation, diversify vegetation, decrease erosion of contaminated and non-contaminated

soils, conserve and enhance habitats, as well as implement the Open Lands Plan which envisions opportunities to expand recreational access and use for multiple user groups.

2.1 Ecological Restoration

Goal: Restore ecological function on ADLC lands within the injured area.

Objectives:

- Enhance the condition and geographic extent of aspen stands by reducing conifer encroachment to retain existing aspen stands.
- Revegetate along decommissioned trails, existing trails, and new trails constructed with restoration funding.
- Plant native species and implement weed management on decommissioned trails and along existing and new trails.
- Employ SSRs and BMPs to reduce erosion on slopes that will not be addressed through remedy.

In the context of this amendment, ecological restoration is focused on injuries to native plants and soils caused by hazardous substances. ADLC lands will be improved using restoration techniques, SSRs, and BMPs, developed on Stucky Ridge and Mount Haggin that apply ecological principles, along with stormwater and erosion control, and revegetation to minimize water runoff. NRDP will prioritize areas for revegetation on ADLC lands in consultation with ADLC based on the severity of degradation as well as current and expected recreational land use.

Shrub grasslands and grasslands on lands remediated by BP-AR on portions of Stucky Ridge and near the Anaconda have a depauperate forb community and are not as diverse as on similar sites in the Deer Lodge and Big Hole Valleys (NRDP, 1995 and 2008). Restoration plantings on ADLC lands would augment the remedial action and meet the goal of restoring ecological function by protecting existing and future native vegetation, diversifying vegetation, and reducing erosion.

Aspen Enhancement

There are extensive aspen stands in the foothills and mountains around Anaconda. Active management of existing aspen stands would enhance ecological function and wildlife habitat for multiple species. Mechanical thinning of aspen stands to remove conifers is a cost-effective action resulting in vigorous growth, sprouting, and the expansion of aspen clones. The restoration objective is to, within 10 years after adoption of this Amendment, complete any thinning necessary to retain all existing aspen stands.

Revegetate along decommissioned trails and existing and new trails

Revegetation is necessary to return ADLC lands to a baseline condition with a diverse native plant community which includes native grasses, forbs, and woody shrubs. Healthy plant communities help to prevent erosion and provide habitat for nongame and game wildlife populations. One key impediment to the restoration of native habitats on ADLC lands is the extensive network of user-constructed trails. Decommissioning select trails and revegetating

them will, as detailed in Appendix B, be an important component of ecological restoration. Successful revegetation will require weed management on some sites.

BP-AR is responsible for control of weeds on remediated sites as (*See Section 1.3.5*). Once they have met their remedial obligations, monitoring of weed infestations associated with newly constructed trails will be necessary to assure that construction activities did not spread weeds and assure revegetation will be successful. As such weed monitoring and control may be appropriate as a restoration action. The introduction of biological controls on ADLC lands where BP-AR has no responsibilities to manage weeds that compete with the establishment of native species will be implemented within ten (10) years.

Employ SSRs and BMPs to reduce erosion in areas not addressed by remedy.

Areas that were not addressed by remedy will be evaluated and monitored to determine if there may be the need to use SSRs and BMPs to assure that long term injury to soils and vegetation do not persist. Revegetation will be accomplished in selected areas with seeding, the application of fertilizers and soil amendments, as well as planting of woody trees and shrubs in order to support a diverse and self-sustaining plant community. Where necessary hand installed slope stabilization may be completed using gully slash filters, gully check dams, anchored brush bundles and other SSR techniques. Up to fifty (50) acres may be treated to supplement remedy for ecological, aesthetic, or other reasons.

2.1.1 Potential Projects identified through scoping

- Complete additional plantings of native trees, shrubs, and forbs on remediated lands to provide structural complexity and add botanical richness.
- Thin aspen stands identified through aerial photos using mechanical removal of invading conifers.
- Remove unnecessary trails on the A-Hill and C-Hill that are resulting in erosion, unnecessary disturbance to wildlife, and may compromise restoration actions.
- Prioritize weed management and revegetation in Fifer and Sheep Gulches where BP-AR does not have remedial obligations.
- Implement SSRs and BMPs to fix erosion problems on the A-Hill and C-Hill.

2.2 Wildlife Habitat Restoration

Goal: Restore lost wildlife habitat on ADLC lands within the injured area.

Objectives:

- Enhance native bunchgrass communities by removing encroaching conifers.
- Restore shrub grasslands that have a disproportionate value to wildlife and ecosystem services relative to their extent by planting antelope bitterbrush, sage brush, and associated species.
- Restore riparian habitat along two (2) miles of Sheep Gulch.

Wildlife habitat enhancement is the anticipated restoration action in this category. Habitat restoration will be complementary to ecological restoration and recreational services restoration.

Wildlife habitat restoration specifically addresses injuries to wildlife habitats and the species they support. Examples of habitat enhancement projects are the planting of antelope bitterbrush to improve shrub-grassland habitat for mule deer or the construction of beaver dam analogs and post-assisted log structures to expand riparian areas in degraded waterways. These actions have been successfully used on the Anaconda Uplands within the Mount Haggin WMA.

Respondents to the public solicitation for restoration projects expressed interest in public acquisitions in the Stucky foothills, near Blue-eyed Nellie Gulch, along the Fifer Gulch corridor to Hearst Lake, and of the A-Hill. ADLC is also interested in the conservation of these areas. With the exception of the purchase of the A-Hill, at this time the focus of the State will be on wildlife habitat improvement through restoration rather than the replacement and acquisition of wildlife habitat.

2.2.1 Potential Projects identified through scoping

- Plant additional woody shrubs in remediated areas to restore sage/bitterbrush communities for mule deer.
- Remove conifers expanding into native grasslands.
- Implement low tech stream restoration techniques including the construction of beaver dam analogs in Sheep Gulch.

2.3 Recreational Services Restoration

Goal: Restore and replace lost recreational services on ADLC lands within the injured area by completing multiuser trail systems in the Anaconda Uplands injured area.

Objectives:

- Design and develop a multiuser trail on the A-Hill and a connecting trail to the C-Hill.
- Consolidate and connect existing trails and trail segments on ADLC lands.
- Provide access and wayfinding for viable trails within ADLCs' existing trail network.

Recreation projects may be funded as compensation for lost services (e.g., hunting, wildlife viewing, hiking opportunities) resulting from injuries to the Anaconda Uplands.

The Open Lands Plan gathered community input to guide the expenditure of any funds, including NRD funds, which may be spent on recreation projects in the county. The Anaconda community expressed a clear interest in recreation projects in the county. This was reflected in the public scoping meeting, responses to the solicitation as well as participation in the online open lands planning survey. There was no unanimity of opinion on what actions or projects should be pursued. Mountain bikers dominated the response to the solicitation but were not the dominant respondents to the SCJ poll. There was a broad consensus that trails, and access, were important and that signage as well as connectivity between trails would improve the opportunity for recreation on ADLC lands.

Trails Development

Consolidation and removal of unneeded trails will be a benefit to recreation as well as ecology and wildlife habitat. This action reduces weeds, erosion, and unnecessary disturbance to wildlife. Trails planning, construction and use will have to be protective of remedy.

Within high arsenic areas on current BP-AR properties no motorized use by the public is or will be allowed. In high arsenic areas currently owned by ADLC, there are some existing roads with motorized use but per the 2011 ROD Amendment no new roads may be constructed (EPA and DEQ 2011). In other areas, once remedy is complete, motorized travel and soil disturbance necessary to construct trails may be acceptable if compatible with other user groups and lands use as envisioned by the Open Lands Plan.

Some appropriate restoration actions under this category would be the development of trail networks, trailheads and signage on the A-Hill and C-Hill that serve multiple user types as well as improvements to connectivity and signage to facilitate recreational use and/or to reduce unauthorized trails and prevent trespassing. The purchase of key parcels, like the A-Hill, that facilitate access or trailheads to public lands or are of value to the community could be acceptable if identified by ADLC and coordinated with EPA pursuant to Section 5.4.

For this category of restoration actions, trails may be developed for multi-use (mountain biking, hiking, running, and other recreational uses (wildlife watching, etc.)). Consultation with EPA to assure that new motorized trails do not pose an unacceptable risk to remedy will occur before any new motorized trails are constructed.

2.3.1 *Potential Projects identified through scoping*

- Purchase the A-Hill property.
- Construct a multiuser trails network on the A-Hill and C-Hill that is cohesive and connected.
- Develop an Anaconda loop trail incorporating trails along Warms Springs Creek, north and south of town.
- Improve the Sheep Gulch Road to make it a primary recreation corridor to access ADLC lands adjoining Anaconda to the south.
- Improve the Upper Old Works Trail and connect it to trails along Warm Springs Creek.
- Establish trailheads and signs to facilitate the use of trails.

3.0 RESTORATION ACTION ALTERNATIVES

The State has approximately \$4 million available for expenditure as directed by this Amendment and the Anaconda Uplands Restoration Plan. Based on restoration actions identified during public scoping, consultation with ADLC and FWP, and analysis of opportunities for ecological, wildlife, and recreation restoration, NRDP developed four restoration alternatives to allocate those funds. Fund allocations vary across alternatives depending on the amount of funds allocated to each restoration category (Table 1).

Table 1. Proposed Allocation for funding by Restoration Alternative (Note: Dollar amounts are approximate)

Alternative	Ecological	Wildlife Habitat	Recreation	A-Hill purchase	Total
Alternative 1.	\$0	\$0	\$0	\$0	\$50,000
Alternative 2. Ecological & Wildlife	\$2,600,000	\$900,000	\$300,000	\$200,000	\$4,000,000
Alternative 3. Recreation	\$1,000,000	\$50,000	\$2,750,000	\$200,000	\$4,000,000
Alternative 4. Balanced	\$1,300,000	\$600,000	\$1,900,000	\$200,000	\$4,000,000

Considered restoration alternatives were analyzed for their abilities to restore, replace, rehabilitate, and acquire the equivalent of the natural resources injured by the operation of the Anaconda smelter (described in the *Terrestrial Resources Injury Assessment Report* [NRDP, 1995] and the Anaconda Uplands Restoration Plan) to their baseline condition and to compensate the public for lost services.

Alternative 1 describes the no action/natural recovery approach; Alternative 2 prioritizes ecological and wildlife restoration; Alternative 3 prioritizes recreation; and Alternative 4 provides equal funding to ecological and wildlife restoration combined as would be allocated to lost recreational services. Alternatives 2, 3, and 4 utilize Appendix B, which provides additional details on the ecological treatments and how the costs were developed.

Alternatives 2, 3, and 4 vary by the intensity and frequency of ecological, wildlife and recreation actions. These alternatives are described in Sections 3.4 through 3.6.

3.1 Derivation of Cost Estimates to Complete Restoration

Funding amounts within the ecological category were derived from known costs to complete revegetation, aspen thinning, and SSRs on Mount Haggin (Appendix B).

Proposed funding amounts for the recreation category reflect the priority, which is placed on recreation, rather than the costs of construction, because the cost to implement all identified recreational projects exceeds available funding under all alternatives.

For the wildlife habitat enhancement category, costs for the construction of beaver dam analogs, thinning conifers from grasslands, and enhancement of shrub grasslands with native plantings (antelope bitterbrush, sage brush and associated forbs) was determined based on recent costs for habitat enhancement projects completed by NRDP and FWP in the Upper Clark Fork River Basin and on the Mount Haggin Wildlife Management Area.

Contractors who have completed similar low tech stream restoration on Mount Haggin estimate \$250 per beaver dam analog (pers. comm. Pedro Marquez and Ben Laport, Big Hole Watershed Committee, August 20, 2024). This estimate is supported by costs for similar work in the region and statewide (pers. comm. Torrey Ritter, FWP Region 2 Nongame Biologist, August 25, 2024).

The cost to remove conifers from grasslands varies depending on the density of conifers to be removed. Given the cost of similar thinning work and considering inflation, a cost of \$500 per acre is appropriate for aspen thinning (pers. comm. Glen Green, Watershed Restoration Coalition, August 20, 2024).

The cost per acre to plant bitterbrush, sage brush, and associated forb species to enhance shrub grasslands depends on which species are planted, their size, the location of the sites, and the cost of labor. On harsh sites like those that are most common in Anaconda, large-containerized plants are most likely to be successful. This restoration activity is evaluated based on an estimated cost for labor of \$75 per hour and 40 hours per acre (totaling \$3,000) and 1,000 plants of diverse species at an average cost of \$3 per plant.

3.2 A-Hill Purchase

The A-Hill is a dominant and attractive back drop to the City of Anaconda and has been used for recreation for decades. There are abundant aspen stands that benefit local ecology and provide wildlife habitat. Purchase of the A-Hill by ADLC with Anaconda Uplands funding would serve to replace and acquire equivalent lost ecological services, wildlife habitat, and associated lost recreational services.

Public ownership of the A-Hill is key for implementation of multiple proposed trails projects and ecological treatments along the south side of Anaconda. Without its purchase it may not be feasible to create a cohesive and connected system of trails on the A-Hill and the C-Hill – an opportunity that has been identified numerous times in scoping. Purchase of the A-Hill is prioritized under all action alternatives as all three restoration categories would benefit from it.

ADLC supports and has prioritized purchase of the A-Hill and there is strong public support for this project; \$200,000 would be available for purchase of the A-Hill under all action alternatives. Given that purchase of the A-Hill is of highest priority to ADLC, it is included in Alternatives 2, 3, and 4, and will not be evaluated independently as a restoration alternative.

3.3 Alternative 1: No Action

Pursuant to CERCLA (42 U.S.C. §§ 9601, *et seq.*) and MEPA (§§ 75-1-102, MCA, *et seq.*), the Trustee must consider a No Action Alternative. Under this alternative, the Trustee would rely on natural recovery and would take no direct action to restore injured natural resources or compensate for interim loss of natural resource services. This alternative would not prescribe restoration actions within any funding category, nor would the A-Hill be acquired for public use and its ecological values. There would be no expenditure for ecological restoration, wildlife habitat, and/or replacement of lost recreational services.

This alternative would not be consistent with the Anaconda Uplands Restoration Plan, which allows for expenditure of up to \$4 million on ADLC lands after completion of remedial actions on Stucky Ridge and Mount Haggin. The No Action Alternative would not allow for purchase of the A-Hill, which is a high priority for the community and provides important wildlife habitat.

The No Action Alternative would leave the injured resources (native vegetation, native soils, wildlife habitat, and lost recreational services) in their current condition, allowing only natural

processes to restore them and providing for no additional restoration, rehabilitation, replacement, or acquisition of equivalent resources to take place. The No Action Alternative would not compensate for the injured resources or lost recreational services. The No Action Alternative is not preferable because it does not meet the goals of this Amendment, meet objectives for any of the restoration categories or fund any projects that would restore ecological function, wildlife habitat or restoration of lost recreational services. The No Action Alternative will not be analyzed in detail in the evaluation of restoration alternatives (Section 4) since its selection will not result in an acceptable outcome or met the restoration objectives.

The cost of this alternative is \$50,000 for development of this Amendment, coordination, public scoping, and analysis. Funds would remain in the existing Smelter Hills Upland Restoration Fund to be used for continued monitoring and maintenance of remedy, and to pursue additional restoration actions on DNRC lands on Stucky Ridge and FWP lands in the Mount Haggin WMA.

3.4 Alternative 2: Ecological and Wildlife Prioritized

Alternative 2 would prioritize the restoration and replacement of ecological function and wildlife habitat on ADLC lands. The majority of the funding (\$3.5 million) would be allocated to the complementary goals of restoration and replacement of ecological systems and wildlife habitats. Meeting ecological and wildlife habitat objectives would be the highest priority.

This alternative consists of the following:

- \$2.6 million in funds would be available for the High Intensity Treatment for ecological restoration: thinning of all aspen stands, up to five revegetation treatments in 10 years, and treatment of up to 50 acres of steep slopes. All the ecological objectives would be met.
- For wildlife habitat restoration, this alternative would provide approximately \$900,000 in funds to enhance 500 acres of native bunchgrass communities, restore 100 acres of shrub grasslands, and restore approximately two miles of riparian habitat using 200 beaver dam analogs. The wildlife objectives would be met.
- Funding reserved for actions to restore lost recreational services would be \$300,000. That amount would provide monies for ADLC and recreational proponents to leverage additional funds or to initiate the highest priority recreation projects like development of a cohesive trails network on and between the A-Hill and the C-Hill. The recreational objectives would not be met under this alternative.
- Consistent with other the action alternatives, \$200,000 would be reserved for the purchase of the A-Hill.

In prioritizing ecological restoration under this alternative, there is the opportunity for a large investment in the three ecologically important restoration activities, including thinning all aspen stands, steep slope restoration, and revegetation work in all recreation corridors. Alternative 2 would provide highest level of restoration addressing injuries to native soil, vegetation and wildlife habitat and provide the greatest funding for restoration actions prioritized by FWP.

3.5 Alternative 3: Recreation Prioritized

Recreation would be prioritized under Alternative 3 with \$2.75 million (69% of available funding) allocated to restoration and replacement of lost recreational services. Substantial funds would be available to develop trails, and additional funding could be leveraged to complete trail projects as it is unlikely that all proposed trail projects would be completed with \$2.75 million.

This alternative consists of the following:

- \$1 million would be available for ecological restoration for the Aspen and Revegetation treatment, which consists of treating light and moderate conifer encroachment areas and providing funds for trailside revegetation two times in 10 years. Aspen stands with heavy conifer encroachment would not be thinned. This alternative does not provide any funding to meet the objective of completing up to 50 acres of SSR work and that would not be funded under this alternative.
- Available funding for wildlife habitat restoration would be \$50,000 which would allow for construction of 200 beaver dam analogs along two miles of Sheep Gulch. Enhancement of native grasslands and shrub grasslands, both important objectives, would not occur.
- For recreational services, all the objectives would be met. The \$2.75 million allocated for recreation projects would allow for the completion of a comprehensive high priority trail network and should encourage match funding for multiple recreation projects. Trail projects could include a trails network on and between the A-Hill and C-Hill, developing an Anaconda loop trail, and/or providing connectivity along existing trail networks.
- Consistent with the other action alternatives, \$200,000 would be allocated for the purchase of the A-Hill.

3.6 Alternative 4: Balanced Priorities

Alternative 4 provides funding of \$1.9 million for recreation and \$1.9 million for ecological and wildlife habitat restoration. Under this alternative, funding would likely be available to complete a single high priority, high-cost project recreation project or multiple lower cost recreation projects. Whether spent on a single project or multiple projects, \$1.9 million for recreation and \$1.9 million for ecological and wildlife habitat restoration would be enough funds to leverage additional funding.

This alternative consists of the following:

- This alternative would provide approximately \$1.3 million for the Low Intensity Treatment for ecological restoration: treatment of all aspen stands, two revegetation treatments in 10 years, and steep slope reclamation on up to 50 acres. Since other restoration opportunities may arise expenditures may not be limited to those actions. The ecological objectives to retain all aspen stands, revegetate along approximately 140 acres of decommissioned, existing and new trails, and provide funding to complete SSRs on 50 acres would be met under this alternative.
- For wildlife habitat restoration, approximately \$600,000 in funding would be available to meet the wildlife habitat objectives to enhance native bunchgrass communities on

approximately 500 acres, implement restoration on 2 miles of Sheep Gulch by constructing approximately 200 beaver dam analogs, and restore shrub grasslands by planting native plant species on approximately 50 acres.

- Approximately \$1.9 million would be available for recreational services, which would allow ADLC to implement higher priority projects in the Open Lands Plan. Sufficient funds would be available to meet the recreation objectives to complete a multiuser trail system connecting the A-Hill to the C-Hill, consolidate and connect 25% of existing trails and trail segments, and to provide access to 100% of the existing viable trails. While uncertainties in design and construction costs make it challenging to determine exact implementation costs for trails projects, ADLC and partners could provide funding to consolidate the multiple-user created trails on the A-Hill into a single trail system.
- Consistent with the other action alternatives \$200,000 would be allocated for the purchase of the A-Hill.

This alternative provides for all identified ecological restoration treatments (aspen stand enhancement, revegetation along trails, and SSRs) with a decreased intensity of revegetation work. This alternative allocates funding for two treatments of recreation corridors over 10 years and meets the wildlife objectives.

This alternative is a compromise between competing priorities for funding and provides a balanced approach to allocation of funds.

4.0 EVALUATION OF RESTORATION ALTERNATIVES

The Trustee considered four restoration alternatives to compensate for loss of natural resources, and associated services, and evaluated each alternative against the project selection criteria summarized in this section.

This section as well as Appendix C serves as an environmental assessment (EA) under MEPA and uses factors provided under CERCLA's natural resource damage assessment regulations to consider and evaluate restoration alternatives (43 C.F.R. § 11.82(d)). These factors address the potential impact of the Trustee's proposed restoration actions on the quality of the physical, biological, and cultural environment.

4.1 Evaluation of Restoration Alternatives by Legal and Policy Criteria

After developing the range of restoration alternatives, alternatives were evaluated according to the legal and policy criteria described in detail in Section 1.4.

Below is a brief comparison of how action alternatives meet the selection criteria.

1. Technical Feasibility. Technology and management skills are well known, and each element of the alternative has a reasonable chance of successful completion in an acceptable period of time. 40 C.F.R. § 11.14(qq).

It would be technically feasible to complete ecological, wildlife habitat or recreational services restoration under all of the alternatives.

Ecological restoration techniques, including SSRs and BMPs, developed and implemented by NRDP on Mount Haggin and Stucky Ridge could successfully be applied on fifty (50) acres of ADLC lands since they are similar environments. Multiple thinning and riparian enhancement projects have been funded and successfully implemented by NRDP on Mount Haggin with Smelter Hill Uplands funds. The techniques used to accomplish those projects are well known and it is feasible to use them to retain and enhance all aspen stands identified for thinning. Revegetation along trail corridors is also feasible though travel management will be necessary to be most successful. Restoration and replacement of wildlife habitat is technically feasible within each alternative. Similar restoration actions are ongoing and have been implemented at numerous sites in the Upper Clark Fork River Basin (NRDP, 2024).

Trails planning, development and construction are technically feasible within each alternative. NRDP has successfully funded and implemented trails projects near Butte, Deer Lodge, Drummond, East Helena, Missoula, and Billings. Design, engineering, and construction techniques for trails are well known.

2. Relationship of Expected Costs to Expected Benefits. The relationship between the expected benefits of an alternative versus the cost; the full range of costs and benefits should be considered, in terms of recovery of the resource and public use.

Alternative 2 (Ecological & Wildlife) would provide \$3.5 million for ecological and wildlife restoration, and \$300,000 for recreation. This level of funding for ecological and wildlife restoration would be commensurate with the expected benefits and the time to recovery on ALDC lands would be reduced. The recovery of lost recreational services would be delayed or largely dependent on other funders. Purchase of the A-Hill would occur at fair market value which given the multiple resource benefits associated with it would provide a high benefit for its cost. This alternative commits over half the total funds available to complete trailside revegetation projects, yet; there is a high level of uncertainty as to what work would actually be required, because without other funding, the trails themselves may not be built. While all the treatments are desirable, there are uncertainties that make the cost-benefit analysis for the intensity of revegetation proposed under Alternative 2 less favorable.

Alternative 3 (Recreation) would provide \$2.75 million to restore lost recreational services. That would provide significant funds to implement recreation projects but would not provide adequate funding to meet the objectives of ecological or wildlife habitat restoration. Recovery to baseline would occur only through natural processes or in the most injured areas not at all. Ecological and wildlife resources would continue to be impaired. Limited funding would not allow for the implementation of additional SSRs. There would not be enough funding to mitigate the ecological impacts associated with planned additional trails and recreational use.

Alternative 4 (Balanced) would provide a high cost- benefit. With equal funding provided to recreation (\$1.9 million) and the combination of ecological and wildlife habitat (\$1.9 million) recovery of one resource would not occur at the expense of another. This alternative commits less funds for high-intensity revegetation than Alternative 2 and is preferred as the more conservative allocation of available funds. Ecological recovery, enhancement of wildlife habitat, and recreation management could occur in a manner complementary to each action. As an example, thinning of an aspen clone could provide a more diverse understory with more forbs

providing more pollinator habitat (ecological), stimulate sprouting of aspen, which provides additional forage for elk (wildlife), and could increase over-winter survival of elk who would provide more hunter opportunity (recreation). The A-Hill and abundant aspen stands on it would be purchased and conserved as outlined in Section 3.2.

3. Cost-effectiveness. When two or more activities provide the same or similar level of benefits, the least costly activity providing that level of benefit will be selected. 40 C.F.R. § 11.14(j). Projects that are implemented under a shorter time period, and that address the most resource needs concurrently will be most cost-effective.

The time to recovery would be shortest under a balanced approach (Alternative 4) whereby all injured resources are restored simultaneously, rather than one resource being dominant and funds either not being available to restore other injured resources or their restoration occurring over a longer period.

Alternative 2 (Ecological & Wildlife) provides enough funding to implement the High Intensity vegetation treatment. That level of funding is more than is necessary to meet the ecological objectives.

Alternative 3 (Recreation), provides limited ecological and wildlife habitat funding and would preclude application of SSR techniques. In that scenario the ecological restoration of steep slopes would not occur—thus reducing cost effectiveness. There would not be enough funding available to mitigate the impacts of planned additional trails and recreational use on the areas' ecology.

Alternative 4 (Balanced) is superior when evaluated for cost: effectiveness. It would meet the objectives of all restoration categories for the least cost.

4. Results of Response Actions. The contribution of any action to clean up the site will be considered in the identification and evaluation of restoration alternatives.

BP-AR is obligated to complete the remedial work within Anaconda Smelter NPL Site, Anaconda Regional Water, Waste & Soils Operable Unit. Restoration actions under any of the alternatives would not interfere with planned remedy because they will occur after it has been designed and completed. Additional restoration funding would be used to complement remediation and shorten the time to return to baseline natural conditions in both Alternative 2 (Ecological & Wildlife) and Alternative 4 (Balanced).

For all three alternatives (Ecological & Wildlife Habitat, Recreation and Balanced), funds spent for revegetation along existing trail networks, decommissioning trails, and diversification of vegetation would all complement the required response actions.

5. Adverse Environmental Impacts. The weight and degree to which the alternative will result in adverse impacts to both the physical and human environment, and what significant adverse impacts could arise from the alternative in the short- and long-term, direct or indirect on resources involved in the project and those that are not the focus of the project all must be considered.

The environmental impacts resulting from the proposed actions include both short-term transient impacts associated with construction and long-term benefits resulting from completion of the actions. Potential short-term impacts to the environment during construction would be effectively mitigated by compliance with permitting and best management practices to protect the environment.

Implementation of actions proposed under the restoration categories for Alternatives 2, 3, and 4, would generally have beneficial or no impact to the environment (*See Appendix C*). However, increased recreational use resulting from implementation of Alternative 3 (Recreation) could result in greater disturbance to, and adverse impacts to, wildlife and wildlife habitat as a result of more recreationists using county lands. Also, with an increased number of recreationists, disturbance to wildlife and wildlife habitat would occur over a longer time period (daily and seasonally) thus exacerbating its impact. Consolidating the recreational users into one comprehensive trail network and eliminating redundant trails (as allowed for under Alternatives 3 and 4) could reduce the impacts on the environment, as would providing weed control on decommissioned, existing, and new trails.

6. Recovery Period and Potential for Natural Recovery. If the resource can recover naturally, and if a resource can recover naturally (i.e., without human intervention), how long will it take. The term recovery under this evaluation refers to the time it will take an injured natural resource to recover to its baseline (i.e., pre-injury condition).

Restoration projects on ADLC lands would not be implemented or further contemplated under the No Action Alternative. While natural recovery processes are currently underway, without action injured resources may not return to baseline condition or the return to baseline will take longer than under a scenario where restoration actions were taken. The recovery period and potential for natural recovery would be shortened by revegetation, construction of SSRs, and wildlife habitat enhancement through thinning and the planting of native shrubs.

The recovery period for native soils, vegetation, and wildlife habitat would be shortest under Alternative 2 (Ecological & Wildlife) and longest under Alternative 3 (Recreation). Alternative 2 would not expeditiously address injury to lost recreational services. Alternative 3 (Balanced) would simultaneously address injury to impaired natural resources as well as the recreational services they provide.

7. Adverse Effects to Human Health and Safety. Whether the alternative would pose unacceptable risks to public health and safety.

No unacceptable risks to public health and safety are anticipated under any action alternative (*See Appendix C*). Protective measures would be required to assure that impacts on human health and safety would be limited to the extent practicable.

8. Federal, State, and Tribal Policies, Rules, and Laws. Whether an alternative conflicts with federal, state and tribal policies, rules and laws.

All alternatives are compliant with applicable laws. NRDP and ADLC would require or obtain all necessary permits and authorizations and consult with Federal, State and tribal entities.

Alternatives selected and restoration actions completed under these alternatives would be consistent with the 2008 Consent Decree as well as CERCLA.

9. Normal Government Function. The State will not fund restoration activities for which a governmental agency would normally be responsible or that would receive funding in the normal course of events. Funds for restoration activities may be used to augment funds normally available to government agencies to perform a particular action if such cost sharing would result in the implementation of a restoration action that would not otherwise occur through normal agency function.

Currently identified projects under all proposed Alternatives could be funded which are not duplicative of normal government function. The State will consider trails projects that augment, not replace, normal government function. Ecological and wildlife habitat restoration on county lands is not the responsibility of ADLC or FWP. Given these considerations there is no difference in how selection of any of the action alternatives complete functions that would otherwise be completed by local government.

10. Price. Requires that land easements, water rights, or other property interests to be acquired are being offered for sale at or below fair market value.

ADLC paid for an appraisal of the A-Hill by a qualified appraiser that complies with the Uniform Standards of Professional Appraisal Practice to verify the property's value of the A-Hill in 2023. The fair market value was found to be \$201,000. Alternatives 2, 3, and 4 are equivalent, as the A-Hill is the only acquisition proposed and it is being proposed to be purchased at fair market value.

4.2 Evaluation of Restoration Alternatives under MEPA

Potential impacts and other factors are considered under MEPA. A detailed EA checklist that evaluates potential impacts from implementation of actions to complete ecological, wildlife habitat and recreational services restoration can be found in Appendix C. With one exception, there are no anticipated impacts associated with the No Action Alternative and no significant adverse impacts associated with the action alternatives.

Alternatives 2, 3, and 4 may result in adverse impact on wildlife because of increased recreational use and associated disturbance. Wildlife is particularly vulnerable to disturbance during winter when energy reserves are low and in spring when rearing young, increased recreational use may have an adverse impact during those seasons. Alternatives 2 and 4 would have less impact than Alternative 3 because there would be more funding for ecological and wildlife habitat restoration actions, paired with less development of recreational trails. (Wildlife impacts will be considered during the development of all trails regardless of the alternative selected). Alternatives 3 and 4 would allow for consolidation of multiple trails into a consolidated network, which would reduce the impact on wildlife, although construction of new trails may increase the impact.

4.3 Preferred Alternative

After consideration of legal and policy criteria as well as analysis of potential impacts under MEPA the State proposes Alternative 4 (Balanced) as the preferred alternative as it will best restore, replace, rehabilitate, or acquire equivalent resources to those that were injured by operation of the Anaconda smelters and associated deposition of hazardous materials. This alternative best meets the restoration objectives for all three categories. Alternative 2 meets the restoration objectives for ecological and wildlife restoration but fails to meet the objectives for recreational services. Similarly, Alternative 3 meets the recreational objectives but only very minimally meets some of the objectives for ecological and wildlife restoration.

Alternative 4 would allow for simultaneous implementation of projects that will address injury to natural resources as well as the ecological and recreational services they provide. It would maximize the opportunity to secure matching funds. Parallel timing for implementation of ecological, habitat, and recreation projects will provide opportunities for integration and synthesis. Purchase of the A-Hill, which will replace lost wildlife habitat as well as associated ecological and recreational services, would proceed. Adoption of the preferred alternative and actions associated with it will have either no significant adverse or beneficial impacts to the human and natural environment.

5.0 RESTORATION PLAN IMPLEMENTATION

This chapter explains the process that will be followed for project selection and implementation. NRDP and ADLC anticipate implementing the project types described in this Amendment within 10 years. There is inherent uncertainty associated with implementation of numerous project types, under three different restoration categories, as such contingencies associated with timing, costs, the allocation of funds between restoration categories, and what issues could trigger modifications to this Amendment are provided.

Given that unanticipated opportunities may arise, additional restoration actions than those identified in the Alternatives may be implemented if they are consistent with natural resource damage legal and policy criteria and the implementation process detailed below.

5.1 Project Selection Process

The process to select projects will, as discussed below, depend on whether it is a recreation, ecological or wildlife habitat focused project. Each of those categories will follow a specific process to implement projects. The intent is to have a flexible and clear process that is consistent with the interests of ADLC and this Amendment — including the legal and policy criteria, as well as State procurement requirements.

5.1.1 Recreation

ADLC will be responsible for implementing recreation projects identified in the Open Lands Plan on county lands (unless NRDP and ADLC agree in writing for NRDP to implement a project). ADLC will screen, prioritize, and recommend recreation-focused project proposals that carry community support, adhere to the Open Lands Plan, are consistent with the recreation

objectives detailed in Section 2.3 of this Amendment, have a high cost-benefit, and can be implemented on a timely basis.

ADLC will identify priority projects in the Open Lands Plan, including projects identified in the public project solicitation process that informed development of this Amendment. ADLC may identify priority projects from amendments to its Open Lands Plan, as long as those amendments go through a public review and comment process. No recreation project will use Smelter Hills Upland Restoration Funds without preapproval and concurrence of NRDP.

ADLC will develop a work plan and budget to submit for NRDP review annually or at another frequency agreed upon in writing by NRDP and ADLC. NRDP's role in review of work plans and recreation projects will be to verify that projects comply with natural resource damage legal and policy criteria, including an evaluation of coordination with remedy, and as well as the terms of this Amendment. Recreation projects that carry matching funds may be prioritized and have a higher cost-benefit, though matching funds are not a requirement for NRDP to approve a project. Once approved, ADLC may proceed with implementation in accordance with a contract between ADLC and NRDP.

NRDP will review all invoices received from ADLC to ensure that all approved recreation projects implemented by ADLC are consistent with the scope and budget as approved. NRDP may terminate funding if it finds that the project is not consistent with the approved contract. Implementation will include necessary oversight and review by NRDP. For projects implemented by ADLC, ADLC will be responsible for ensuring compliance with all legal requirements, such as procurement and permitting. It is possible that some priority projects identified by ADLC will not be eligible for NRDP funding. Where that is the case ADLC may seek other funders to complete the work.

Recreation projects will only be completed on lands that are owned by ADLC at the time the projects are proposed and where EPA has approved the remedial action Construction Completion Reports (CCRs) as well as confirmed that the restoration action will not interfere with the remedy or operation and maintenance of the remedy.

5.1.2 Maintenance and Weed Management

NRDP will provide up to 5% of a projects' construction cost to provide initial operations and maintenance costs for no more than two years after completion of construction for a recreational project. After two years, ADLC will be responsible for all long-term operations and maintenance. Each contract that funds a recreation project will include a commitment from ADLC or its partners to provide maintenance.

Weed management on ADLC lands where BP-AR has remedial obligations is the responsibility of BP-AR until EPA certifies that BP-AR has completed remedial work in a given RDU (or portion thereof) as well as met the vegetation compliance standard. It is anticipated that it will be five (5) to ten (10) years after the issuance of remedial CCRs before BP-AR meets the standard of 5%, or less, weed cover in the relevant analysis unit. After that time, ADLC will be responsible for weed management on their lands. In areas where EPA, in consultation with DEQ, has confirmed that BP-AR has no remedial obligations NRDP will consider funding weed

management where it will prevent the spread of weeds during construction, or decommissioning, of trails.

The preferred Alternative 4 includes weed control for ten (10) years on portions of ADLC properties as part of the ecological restoration action. In addition, NRDP may provide funds for maintenance and weed management of the ecological and wildlife restoration actions until two years after construction of a project. Subsequent to that period ADLC would be responsible for weed treatment on all their lands where remediation has been completed.

Maintenance and weed control would potentially be available for projects such as:

- Planting of additional woody shrubs in remediated areas to restore sage brush/antelope bitterbrush communities for mule deer.
- Restoration of bunchgrass communities by removal of conifers.
- Implementing low tech stream restoration techniques in Sheep Gulch.

5.1.3 Ecological

NRDP, in consultation with ADLC and FWP, will lead the implementation of ecological restoration projects as identified in Section 2.1. Ecological projects will not interfere with or undo remedy and will in some cases be integrated with trails development.

Ecological projects will be implemented based on their overall priority as outlined in Appendix B as well as how they best integrate with recreation and wildlife habitat projects. Ecological projects will only be completed on lands that are owned by ADLC at the time the projects are proposed, with written concurrence of ADLC, and where EPA has approved the remedial action CCRs and confirmed that the restoration action will not interfere with the remedy or operation and maintenance of the remedy.

5.1.4 Wildlife Habitat

NRDP will lead the implementation of wildlife habitat restoration projects as identified in Section 2.2, in cooperation with FWP and ADLC. Other projects may be implemented through agreements with FWP or contracted directly by NRDP in compliance with State procurement requirements.

5.2 Administration

5.2.1 Process

As described above, ADLC will implement recreation projects through the process outlined in Section 5.1.1 and NRDP will implement ecological and wildlife habitat restoration actions. With approval of this Amendment, ADLC will enter into an agreement with NRDP before any funds governed by this Amendment can be spent. Since ADLC is a local government, NRDP will enter into a contract directly without a formal solicitation, as allowed under State procurement requirements. Detailed scopes of work, budgets, and project schedules must be approved by NRDP before any work can begin. Expenses incurred by ADLC before the contract agreement becomes effective will not be reimbursed.

5.2.2 Administrative costs

NRDP administrative costs and program expenses including staff time for development of this Amendment and project implementation related to this Amendment will be funded by the Smelter Hills Upland Restoration Fund. Program costs will not be deducted from the \$4 million dedicated to restoration on ADLC lands.

Funding of ADLC for project development, design, and implementation will be on a reimbursement basis. Reimbursement will occur following the submittal of a complete and correct invoice, with proper documentation of the activities covered in the invoice (including a progress report) pursuant to the provisions of the applicable contractual arrangement with NRDP.

5.2.3 Matching Funds

ADLC, FWP, and other partners will be encouraged to provide matching funds for all projects as matching funds increase the project's cost-effectiveness and cost-benefit. NRDP will consider the value of the matching funds when determining a project's priority, cost-effectiveness, and cost-benefit. Matching funds are specific to proposed projects and provided over a similar timeframe as proposed projects. Matching funds can be in-kind.

5.2.4 Timing of Implementation, Leftover Funds, Cost Increases, Interest

This Amendment includes the following requirements:

- With the exception of the revegetation treatments, which are expected to take ten (10) years, if a project is not substantially completed within three years from the date of NRDP's approval of the project, funds may be reallocated to other projects that fall within the same restoration category.
- If a project is completed under budget, the remaining funds will remain allocated to the same funding category.
- NRDP will consider how any proposed changes, including increases in cost of more than 10%, may impact the evaluation of the project according to the legal and policy criteria detailed in Chapter 1. A project that significantly changes or increases in cost from a previously approved work plan may be unapproved based on this evaluation.
- A project will be considered complete after all activities have been accomplished for that project.
- The \$4 million from the Smelter Hill Restoration Fund allocated to this amendment will not incur interest earnings. The interest earnings from this fund will remain for State obligations at Stucky Ridge and the Mount Haggin WMA.

5.3 Contingency to Reallocate funds, development of an additional Amendment

Three (3) years after approval of this Amendment, if there is a shortage of funds to implement projects in another category NRDP will consider, on a case-by-case basis if funds may be used from one category to implement a high priority project(s) within another restoration category. Changes in category allocations up to 10% of the allocated funds will be considered insignificant and NRDP may approve without amending the Plan. Significant changes or changes greater than 10% would require Trustee approval following public comment.

If a project is completed under budget, the remainder funds will be used in the original funding category. If after ten (10) years of the Trustee's approval of this Amendment there are unspent funds that have not been identified for a specific project, the preferred alternative will be evaluated, and this Amendment may be updated. Funds could be shifted between restoration categories, or other changes made to accommodate new opportunities, or other issues that may arise. Any significant changes to the Amendment must be put out for public comment and approved by the Trustee.

5.4 Coordination with Remedy

The natural resource damages obtained by the State of Montana for the injuries to the Anaconda Uplands must be used to restore, replace, rehabilitate, or acquire the equivalent of the injured natural resources — these funds cannot be used for remedial actions or to attain an adequate remedy, which remains the responsibility of BP-AR with oversight by EPA, in consultation with DEQ.

NRDP and ADLC, in coordination with EPA, have identified three primary considerations regarding how to best coordinate with remedy. These considerations are:

- ensure that restoration will not conflict with or be impacted by remedial actions,
- assure that restoration funds will not be used to complete or maintain remedy, and
- consider potential opportunities to integrate restoration and remediation.

NRDP or ADLC will only initiate restoration work when: EPA has approved all the CCRs for that RDU and has determined the remedy to be operational and functional, only initiate restoration work on lands owned by ADLC at the time the project is proposed (not on lands pending transfer), and coordinate all restoration actions with EPA, DEQ, and BP-AR to assure that they will not impact remedy. This coordination will occur by providing work plans to EPA, DEQ, and BP-AR for review and comment. NRDP or ADLC will review comments and make changes to the plan(s) where appropriate.

Pursuant to the 1998 MOA with CSKT, NRDP will provide opportunity for review of work plans prior to finalization. NRDP and CSKT will coordinate and consult on restoration activities associated with this Amendment. This coordination and consulting, as described in section 4 of the 1998 MOA, will include at a minimum (1) an opportunity to participate in restoration planning meeting; and (2) ensure protections for natural resources of special interest, such as special environmental, recreational, commercial, cultural, historic, and religious significance to CSKT. If any undiscovered, undocumented Tribal Cultural Resources (TCR) are encountered during construction performed in implementing this Amendment, NRDP shall follow the consultation process outlined in section 4(7)(c) of the 1998 MOA. This includes ceasing construction in the immediate area and notifying the Tribal Preservation Office (TPO) of the potential TCR. NRDP shall consider TPO's findings and recommendations and make a preliminary determination of any actions to be taken and consult with TPO prior to a final decision.

NRDP will make an independent assessment that the restoration funds are not being used to complete or maintain remedy that BP-AR has an obligation to perform. NRDP will work with stakeholders to identify opportunities to coordinate restoration with remedy.

Construction to complete remedial actions in RDU 1 and RDU 3 is anticipated to be substantially complete by December 31, 2025. Full vegetation compliance, however, is not expected to occur until five (5) to ten (10) years subsequent to approval of the CCRs. Waiting to begin restoration until full vegetation compliance would preclude implementation of this Amendment five (5) to ten (10) years in most sites. A determination by EPA that the remedy is operational and functional, with vegetation monitoring ongoing will, in close coordination with EPA, allow for restoration to begin.

Coordination with remedy will be continuous, and determinations will be made on a case-by-case basis. For example, while there are no specific prohibitions on trail excavation, there may be sites where it is determined that digging to create a trail would adversely impact the re-establishment of vegetation or may cause erosion in SSR areas or otherwise cause an unacceptable risk or impact to the remedy. In such case the trail would be placed in another location that does not interfere with the remedy.

5.5 A-Hill Purchase & Recommendation

ADLC entered into a contract with NRDP on April 14, 2023, to complete early restoration and planning. ADLC identified purchase of Anaconda's A-Hill as a high priority action to be funded contingent upon approval of its purchase by the Trustee through this Amendment. ADLC secured an agreement with the owner to purchase the 160-acre parcel for \$201,000 with approval by the ADLC Commissioners to own the property.

As proposed, the A-Hill would be owned and managed by ADLC in accordance with its Open Lands Plan. Its ownership would complement existing ADLC lands management and replace lost wildlife habitat, and the recreational services provided by injured resources. The State would provide \$200,000 of the purchase price and up to \$10,000, available for two years, to address immediate operation and maintenance needs like the placement of signs or development of a parking area.

Purchase of the A-Hill is evaluated in the Restoration Action Alternatives (Chapter 4) and is included in proposed actions to be implemented as part of this Amendment. Approval of this Amendment, and the preferred alternative, by the Trustee will allocate \$200,000 from the Smelter Hill Uplands Restoration Fund to the acquisition of the A-Hill from a private party by ADLC. The State will enter into a contract with ADLC outlining all requirements and funding conditions for this acquisition.

6.0 PUBLIC PARTICIPATION

A fifty (50) day public comment period for the draft Anaconda Amendment will run from November 26, 2024, to January 15, 2024. During this comment period, the document will be available electronically through NRDP's website: <https://dojmt.gov/nrdp/public-notice/notice-of-public-comment/>.

On January 7, 2024, NRDP will present the draft Anaconda Amendment at 6 pm at public meeting at the Montana Hotel, 200 Main Street Anaconda, Montana. NRDP will advertise the draft Anaconda Amendment and public meeting, through display ads in the Montana Standard and the Anaconda Leader. For the public meeting, NRDP will notify and coordinate with local organizations and entities, including, but not limited to the Anaconda Trails Society, Anaconda Sportsmen, Anaconda Deer Lodge County Commission, and Montana Fish, Wildlife & Parks.

Selected early restoration projects will undergo additional public review and analysis according to the Montana Environmental Policy Act (MEPA) as necessary. FWP will be responsible for the required review and analysis of the projects they propose to implement. NRDP has included a Draft Environmental Assessment Checklist (Appendix C) for the types of projects proposed for funding that involve construction and that would be led by NRDP or local governmental entities. Additional projects to be implemented by ADLC or NRDP in the future may require additional MEPA analyses.

NRDP will respond to all public comments received during the public comment period and responses will be included in the final Anaconda Amendment. Public comments will be considered, and appropriate changes made, when finalizing the Amendment. Subsequently the final Anaconda Amendment will be advanced to the Trustee for consideration. Restoration actions identified in the preferred alternative will be implemented once the Anaconda Amendment is signed by the Trustee.

7.0 LITERATURE CITED

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7.1 List of Figures

Figure 1. County lands and potential transfers from BP-AR in the Anaconda Uplands

Figure 2. Land Ownership in the Anaconda Amendment planning area (Anaconda Deer Lodge County. Open Lands Plan. 2024.)

Figure 3. Existing Conditions within Anaconda Planning Area. (Anaconda Deer Lodge County. Open Lands Plan. 2024.)

Figure 4. Smelter Hill High Arsenic Area (2011 ROD Amendment).

Figure 5. Proposed Revegetation Areas and Trails from the ADLC Open Lands Plan. (Anaconda Deer Lodge County. Open Lands Plan. 2024.)

Figure 6. Public survey results illustrate participants' highest priority recreation interests for ADLC lands (Anaconda Deer Lodge County. Open Lands Plan. 2024.)

7.2 List of Appendices

Appendix A. Response to Scoping Comments

Appendix B. Ecological Treatment Cost Evaluation for Anaconda-Deer Lodge County Lands

Appendix C. Draft Environmental Assessment Checklist

Anaconda Amendment Figures

Figure 1. Amendment Planning Area — ADLC lands and potential transfers from BP-AR in the Anaconda Uplands

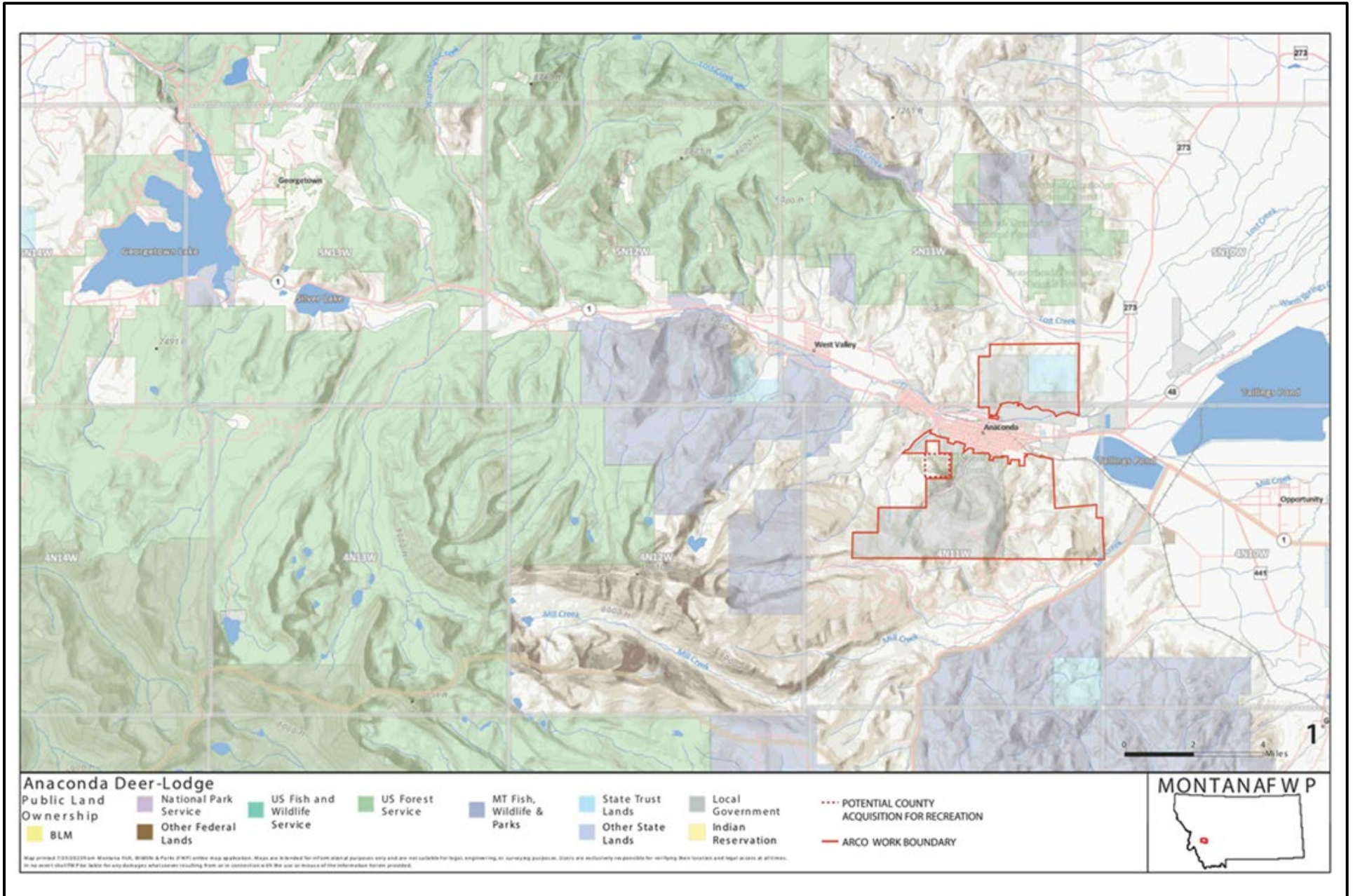


Figure 2. Land Ownership in the Anaconda Amendment planning area (ADLC, 2024.)

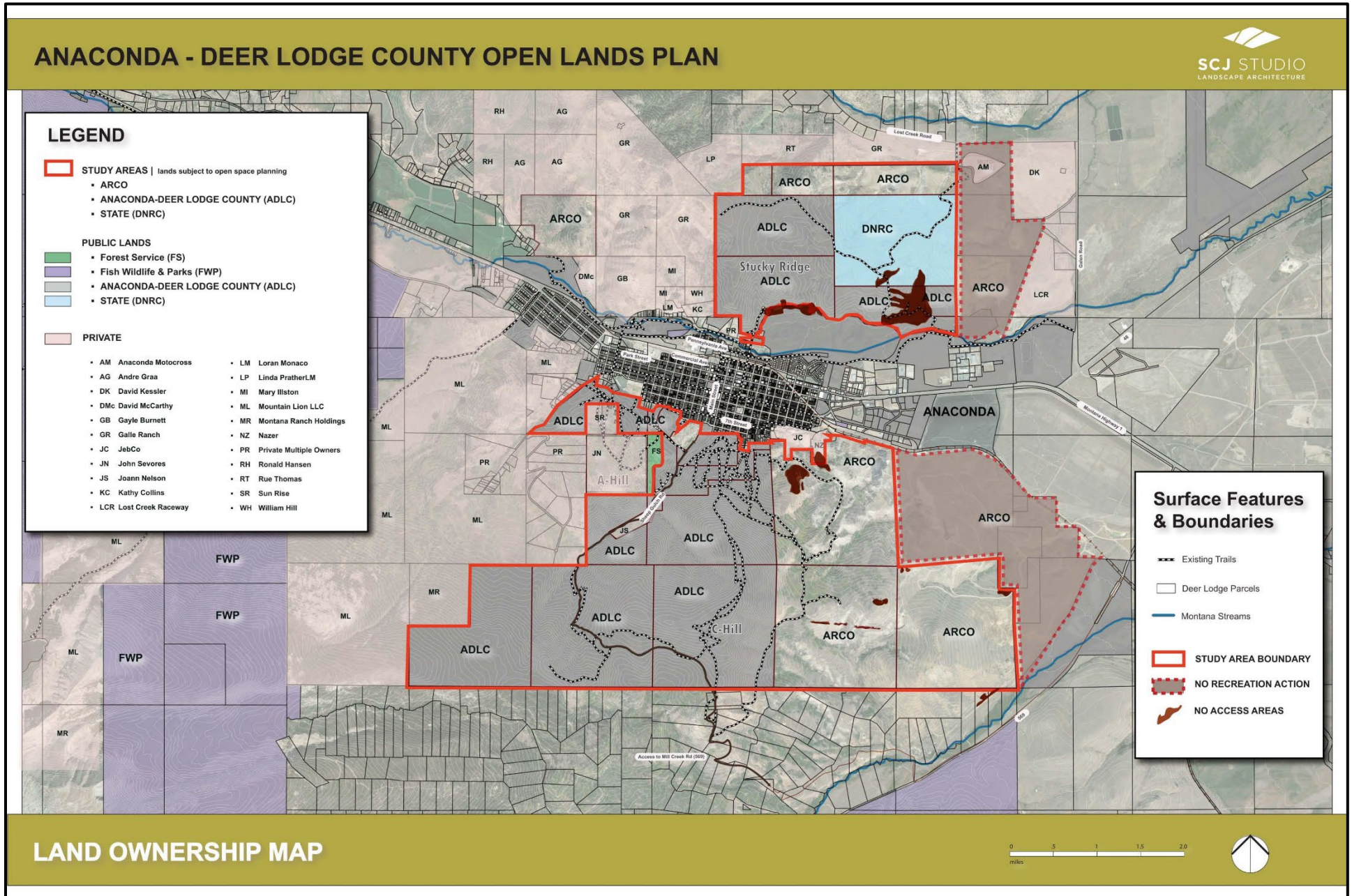


Figure 3. Existing Conditions within the Anaconda Planning Area. (ADLC, 2024.)

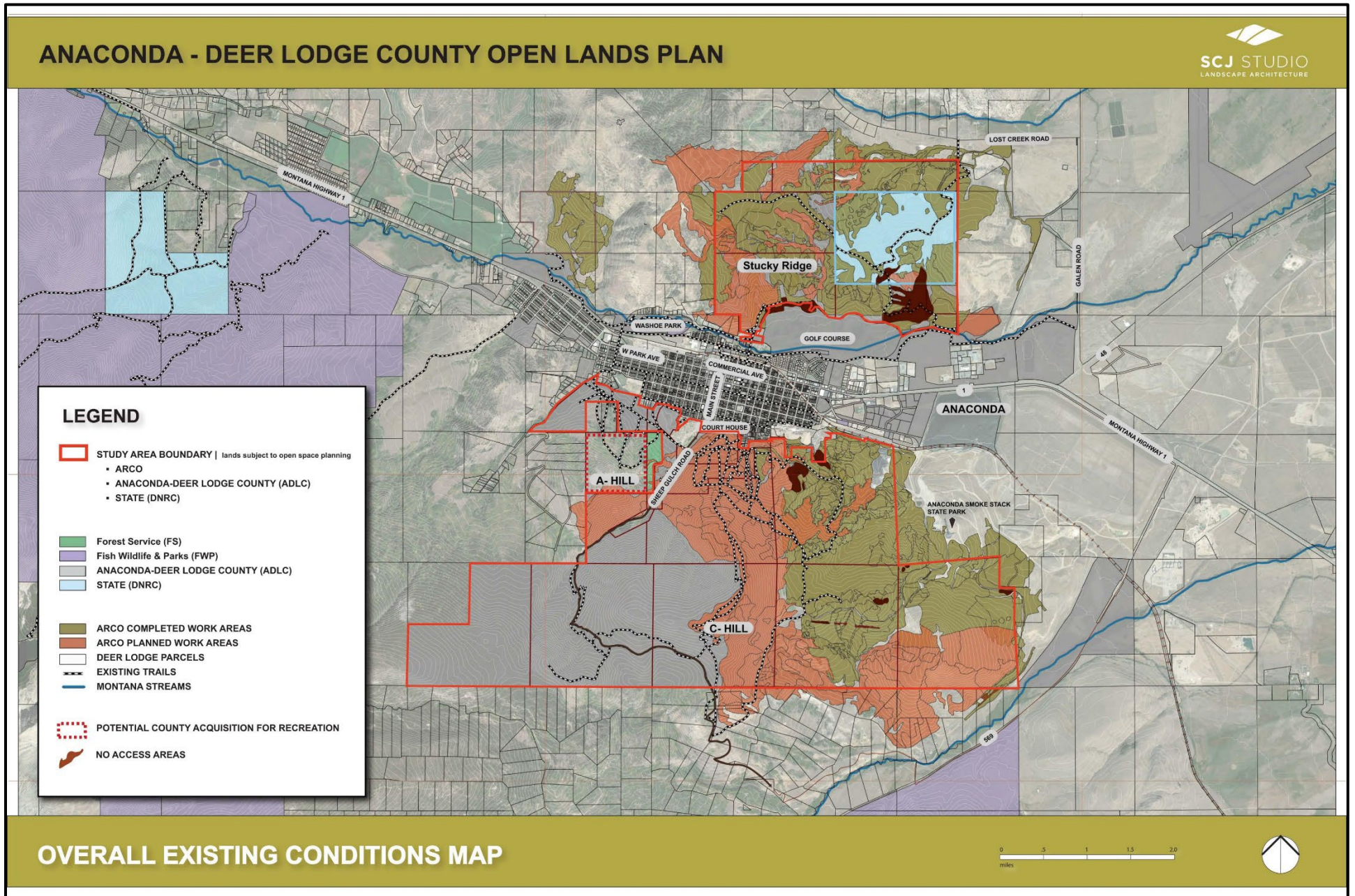


Figure 4. Smelter Hill High Arsenic Area (EPA, 2011).

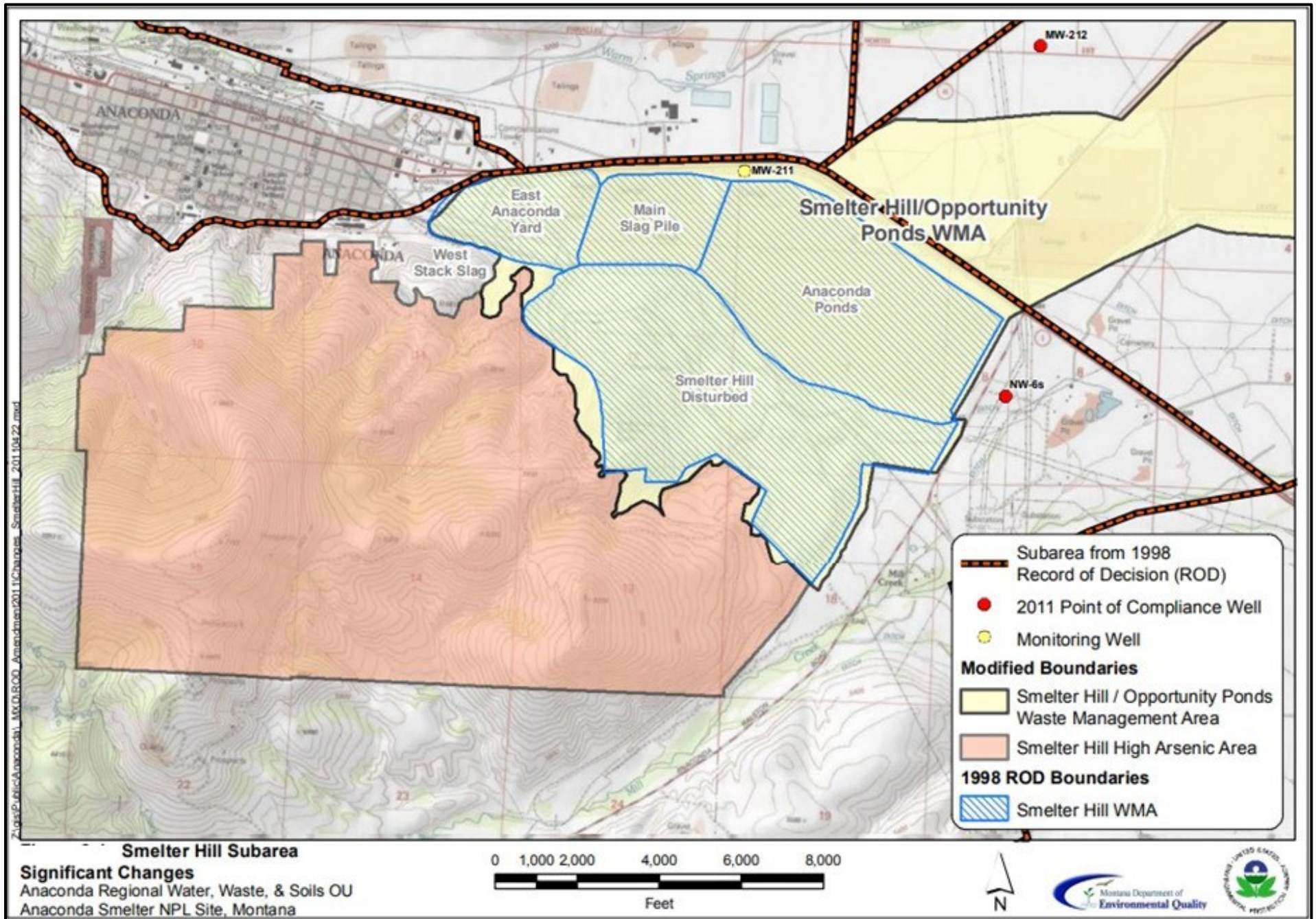


Figure 5. Proposed Revegetation Areas from the ADLC Open Lands Plan. (ADLC, 2024.)

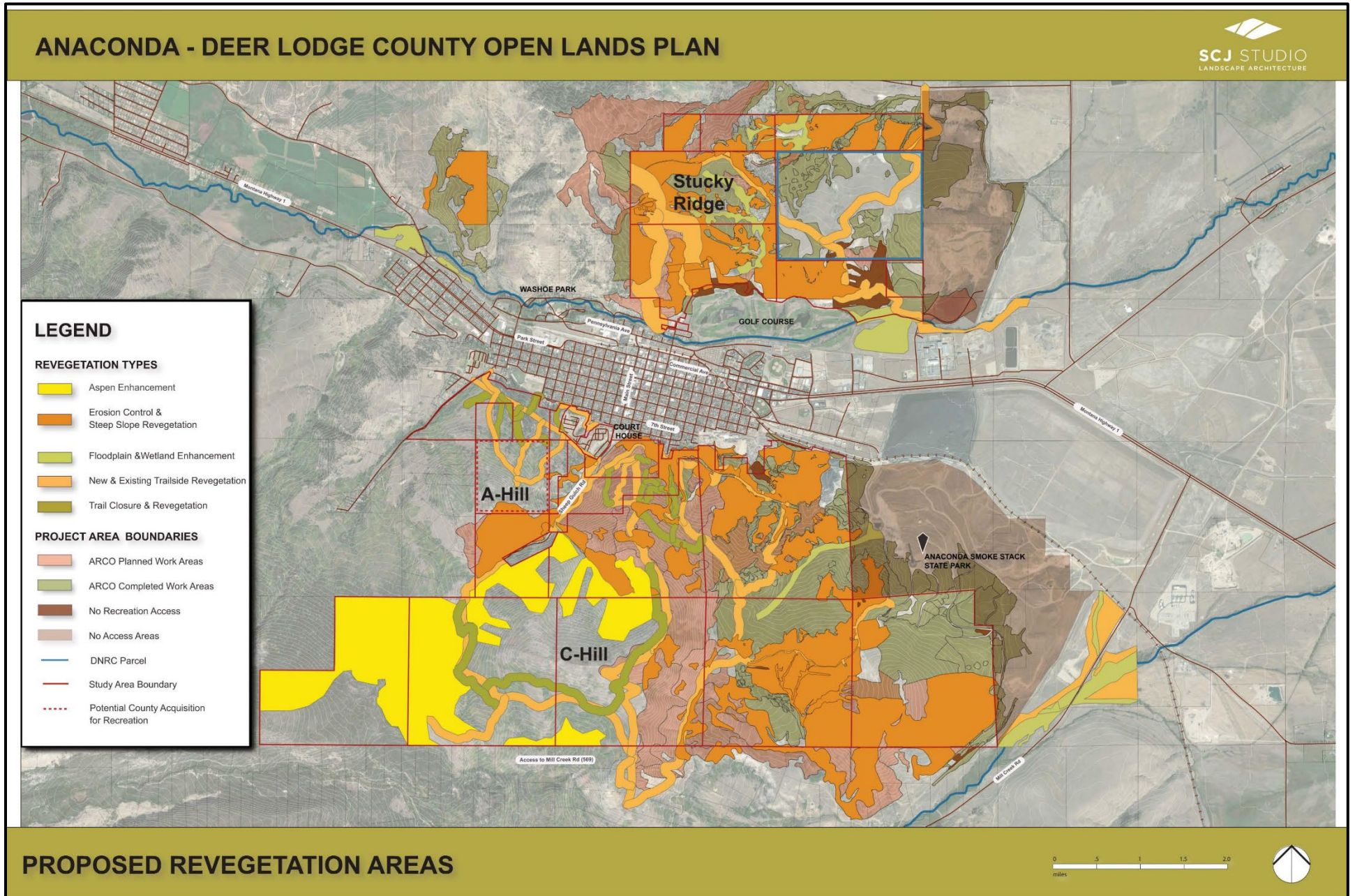
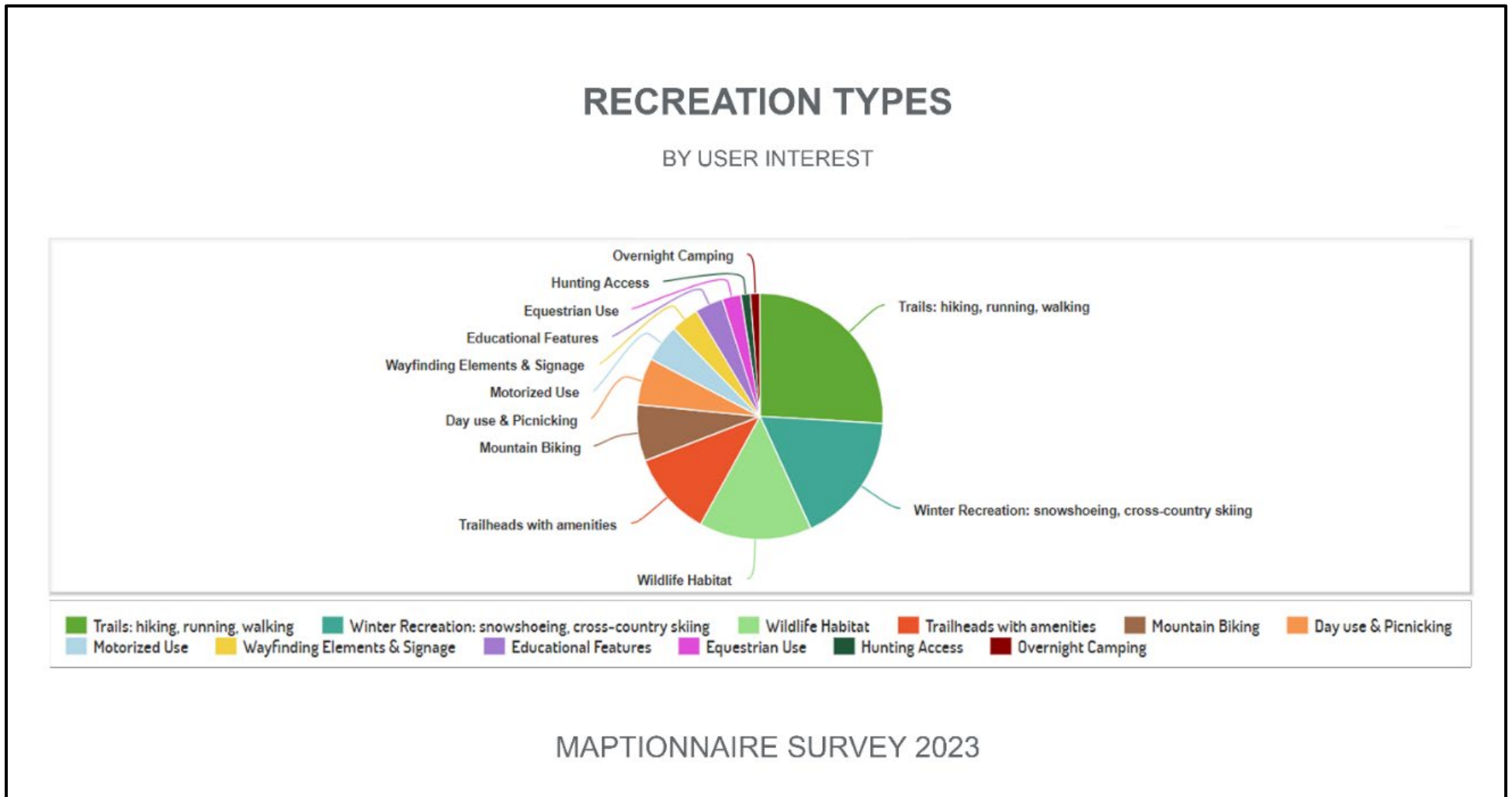


Figure 6. Public survey results illustrate participants' highest priority recreation interests for ADLC lands (ADLC, 2024.)



APPENDIX A

Response to Scoping—Anaconda Amendment Public Solicitation

Section I. Overview

- ✓ 36 people attended the public meeting on May 24, 2023
- ✓ 50 parties provided comments by June 9, 2023 (respondents from Anaconda, Butte, Helena, Philipsburg)
- ✓ 494 participated in interactive online survey about Anaconda open space planning
- ✓ The Montana Natural Resource Damage Program (NRDP) identified wildlife habitat, native vegetation, native soils, and associated services including lost recreation as the injuries from the 2008 *Draft Conceptual Smelter Hill Uplands Resources Restoration Plan* (Anaconda Uplands Restoration Plan) to focus on in the scoping for this Anaconda Amendment (Amendment).
- ✓ Comments fall into seven general categories and responses are grouped by category
 - Weed Control
 - Remediation
 - Recreation—not connected to injury
 - Recreation—specific user group
 - Recreation—general recreation & trails
 - Lands Acquisition & Access
 - Habitat Restoration
- ✓ Support for
 - Recreational trails development: mountain biking and hiking trails—dedicated as well as multi-use
 - Lands acquisition and public access
 - Wildlife habitat restoration
 - Revegetation and weed management

Section II. Comment Summary and Response

NRDP solicited comments on scoping for a proposed amendment to the Anaconda Uplands Restoration Plan in the spring of 2023. NRDP advertised the opportunity to offer restoration proposals and potential impacts in the Anaconda Leader, Montana Standard, and on the NRDP website. The public comment period was open for thirty-one (31) days, from May 9 to June 9, 2023. As part of that process NRDP held a public scoping meeting in Anaconda on May 24, 2023, and solicited project ideas and potential impacts from the public during a comment period that closed on June 9, 2023. Thirty-six (36) people attended the public meeting and fifty (50) offered written public comment.

In addition, Anaconda Deer Lodge County (ADLC) completed an online interactive survey to learn about citizens' visions for open space use in the county. The effort was conducted to

inform development of the Amendment as well as an Open Space Plan adopted by ADLC on February 6, 2024. Four hundred ninety-four (494) people participated in the online survey. Community members represented a broad range of interests and demographics. There was strong support for improved trail networks, recreational amenities, and the conservation of open space and wildlife habitat.

In total between the ADLC survey and the responses to the NRDP scoping, five hundred forty-four (544) parties provided input on public use of ADLC lands. Mountain bikers were the primary respondents to the NRDP solicitation; twenty (20) responses were a variant of a form letter. They represented approximately 20% of participants in the open space survey.

Table 1 summarizes public input provided to NRDP on projects which could potentially be funded by the allocation of \$4 million to ADLC lands. Comments are listed and described by what injury they address, comment category, and whether or not they meet the legal criteria and state policy criteria for inclusion in the Amendment. Nine proposed projects do not meet the criteria for funding because they do not address injuries to natural resources, and seventeen (17) potential projects meet funding criteria. Especially detailed project ideas regarding trail networks were presented by the Anaconda Trails Society, Anaconda Bicycles, and a longtime resident with knowledge of remediation as well as area recreational opportunities. A theme throughout the comments from the mountain biking community was that biking trails, some dedicated to biking, some multiuse, would benefit the health and economy of the Anaconda community. All commenters were supportive of implementation of restoration actions on ADLC lands.

Public Conceptual Restoration Project Proposals and Responses

Comments were classified into seven categories that are addressed below.

1. Comments Proposing Weed Control – One comment

Comments: Commenter 1 expresses concern about weed infestations on ADLC lands and proposes treatment in specific areas. They note the need for weed management in Fifer Gulch and Sheep Gulch.

Response: NRDP and ADLC are aware of and concerned about the impact of weeds on the human and natural environment. Weed infestations are likely a result of injured soils, unmanaged recreational use, and the loss of native plants and soils. Monitoring of weed infestations associated with trails is necessary. BP-AR is responsible for monitoring and control of weeds as discussed in Section 2.1 of the Anaconda Amendment. Weed control may be eligible for limited restoration funding as outlined in Section 2.1.

2. Comments Discussing Remediation – Three comments

Comments: There is general community support for remediation in the county and three comments (comments 1, 20, 36) address it. Individuals note that there is a connection between a clean and healthy environment, prosperity and opportunities for recreation.

Response: NRDP also supports a protective remedial action at the Anaconda Co. Smelter Superfund site. We note that there is a distinction between remediation and restoration. BP-AR is

responsible for remedial actions (‘clean-up’) on the ADLC land in the Site. The State will, in concert with the ADLC and other partners, implement restoration on ADLC lands in accordance with the Amendment. See Section 5.4 for a discussion of how NRDP will coordinate the restoration with the remedy.

3. Comments Proposing Recreation for Specific User Groups – Thirty-eight comments

Comments: Thirty-eight (38) parties provided comments or proposals outlining opportunities for recreational enhancements that would predominately serve individual user groups like mountain bikers or motorized recreation. Numerous mountain bikers provided input (comments 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 45, 46, 50) — they generally suggested the construction of trails built specifically for their use. Identified opportunities include purpose-built mountain bike trails with jumps and contouring, loop trails, and trail heads. One resident (35), the Anaconda Trails Society (42), and Anaconda Bicycles (39) expressed an interest in designated or shared use, in some areas, with motorized recreationalists.

Response: The State’s injury claim (*Terrestrial Resources Injury Assessment Report* 1995) did not identify the extensive use of mountain bikes or motorized transportation for recreation. Identified lost recreational opportunities in the uplands were big game hunting, wildlife watching, hiking and picnicking. Given that mountain biking and motorized recreation were not identified as lost recreational opportunities, NRDP finds that funding allocated specifically for the benefit of those individual user groups does not address the full scope of the injury to recreational services. Trails development or improvements that benefit multiple user groups are most appropriate for the expenditure of restoration funding. Trails may be developed in a way that allows for use of mountain biking along with hiking, running, and other recreational uses (wildlife watching, etc.).

4. Comments Proposing Trails – Fifteen comments

Comments: Many parties offered comments and ideas regarding trails generally and trails that would be suitable for use by multiple user groups. Fifteen (15) commenters (5, 8, 15, 16, 20, 26, 28, 35, 36, 39, 42, 43, 45, 47, 50) provided specific recommendations for trail routes, features, or use. Conceptual proposals to use existing and new trails to develop a trails network were presented by the Anaconda Trails Society (35), Anaconda Bicycles (42) as well as a private citizen (36). Given the breadth and variety of proposals for general trails development we summarize them and their eligibility for restoration funding in Table 2 — Recreation General Trails Comments.

Response: NRDP appreciates the thought that respondents put into comments and proposals for trails that may be used by multiple user groups. Hiking trails are of particular interest to the community and compatible with other user groups. Table 2 shows that all ideas may, contingent on the projects serving multiple user groups, be eligible for funding. These projects would restore, rehabilitate or replace lost or injured recreational services. All alternatives identified in the Amendment (except the no action alternative) would provide funding for the enhancement of recreational opportunities which service multiple user groups, including hikers. See Section 5.1.1 for a discussion of how ADLC will prioritize recreational projects for implementation.

5. Comments Proposing Ineligible Recreation Projects – Nine comments

Comments: Nine parties (comments 1, 2, 3, 8, 20, 27, 38, 43, 48) outline opportunities to spend restoration funds on recreational enhancements and infrastructure not related to injury to natural resources or lost services. Projects were identified to: improve the Mill Creek Shooting range and transfer it to ADLC (1); construct a viewing stand, bathroom, museum and road to access the Anaconda Smelter Stack (2, 3); establish a disc golf course (3); build a skate park (20), develop an incline trail (8); put bike repair stations at trail heads (7); build a bike park (38); and replace the old football field at Mitchell Stadium (48). These proposals were offered by Anaconda residents who are vested in the quality of life in the community.

Response: NRDP appreciates the breadth of proposals and thought given to enhance recreation opportunities for Anaconda residents and visitors. The proposed recreation enhancements and infrastructure would be a clear benefit to the County but are not eligible for natural resource damage funding. Expenditures of restoration funds must be directly related to restoring, replacing, or acquiring the equivalent of the injured natural resources. While these projects are related to recreation, they are not related to lost recreational services from the hazardous substances released at the Site.

6. Comments Proposing Lands Acquisition & Access – Thirteen comments

Comments: Interest in lands acquisition and public access to open lands was a theme in response to the solicitation for project ideas. Seven individuals (2, 4, 20, 35, 36, 39, 46) as well as the Anaconda Trails Society (50) requested purchase of the A-Hill; one suggested purchase of the Sevores' land property adjoining the A-Hill (20); three residents (39, 46, 47) and the Anaconda Sportsmen (44) stated an interest in public acquisitions in Fifer Gulch/the Hearst Lake corridor (the Mountain Lion LLC property), near Blue-eyed Nellie Gulch, and in the Stucky Foothills due to these lands value for elk and bighorn sheep. The Anaconda Trails Society expressed interest in acquisition of an inholding in Sheep Gulch above the courthouse as well as general support for acquisitions to improve trails networks and protect habitat (35). Comment 39 suggests that any BP-AR lands in the uplands should be protected from development and access assured through either conservation easements or other mechanisms.

Response: The eligibility of public acquisition of land to replace lost and/or injured natural services as well as the ecological and recreational services they provide will be considered on a project-by-project basis to ensure projects are consistent with the Anaconda Uplands Restoration Plan, the 2008 Consent Decree, and NRDP's legal and policy criteria. Acquisition of land for recreation in the injured area generally meets the legal and policy criteria for a restoration action, as detailed in Section 1.4 of the Amendment. Cost effectiveness and cost: benefit will depend on the specific property, its natural resources and the transaction price. In the case of the A-Hill extensive and longstanding public use for recreation, strong community support, and purchase of an ironic property at its market value would provide a high net benefit for restoration.

7. Comments Proposing Habitat Restoration – One comment

Comments: One party (43) highlighted the value of Anaconda's extensive aspen stands and their ecological as well as aesthetic value for the community. They encourage maintenance of these

aspen stands to assure their vigor and propagate expansion through thinning and removal of conifers.

Response: Aspen stand enhancement would restore injured resources and benefit both the ecology and wildlife habitat on county lands. NRDP has worked with FWP and other cooperators to expand aspen clones on Mount Haggin and has prioritized their establishment on Stucky Ridge as well. Multiple alternatives in this Amendment provide funding for ecological restoration and wildlife habitat restoration. As such, implementation of projects to enhance aspen stands through active management is likely.

Table 1. Summary of responses to NRDP solicitation projects for the Anaconda Amendment

Comment Number/s	Submitted by	Comment	Injury: soils, vegetation, recreation, or wildlife habitat	Comment Category	Eligibility—meets Criteria for inclusion in Amendment
1	Citizen	Fifer Gulch weed control	Vegetation	Weed control	No
1	Citizen	Sheep Gulch garbage & weeds	Recreation, Vegetation	Remediation & Weed control	No
1	Citizen	Mill Creek Shooting Range: cleanup & transfer to ADLC	Recreation	Recreation— not connected with injury	No
2, 43	Citizen	Stack State Park: viewing stand, O & M, road to stack	Recreation	Recreation— not connected with injury	No
4, 20, 35, 36, 39, 46	Citizens, Anaconda Trails Society	Purchase A-Hill	Vegetation, Recreation	Lands acquisition & access	Yes
20	Citizen	Purchase John Sevores land for ADLC	Recreation	Lands acquisition & access	Yes
2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 21, 22, 23,	Citizens, Ranch at Rock Creek, Linked Adventures,	A-Hill and/or C-Hill- bike trails	Recreation, Soils	Recreation— specific user group (mountain bike)	No

24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 46, 50	Discovery Ski Area, Anaconda Outdoor, Derailed Bike Shop, Highlands Cycling Club, Anaconda Bicycles, Anaconda Trails Society				
43, 45, 47	Citizens	Stucky Ridge trails development	Recreation	Recreation General (trails)	Yes
35	Anaconda Trails Society	Leverage existing trail networks, integrate with remediation	Recreation, Soils, Vegetation	Recreation General (trails)	Yes
3, 8, 27, 38, 48	Citizens	Disk golf course, incline trail, bike repair stations at trailheads, replace Mitchell Stadium field, bike park, groomed ski trails	Recreation, Soils	Recreation— not connected to injury	No
20	Citizen	Skate Park, requests \$400 k	Recreation	Recreation— not connected to injury	No
5, 8, 15, 42	Citizens, Anaconda Bicycles	A-Hill and C-Hill: Hiking trails	Recreation	Recreation General (trails)	Yes
16, 43	Citizen	Build walking trail behind Cedar	Recreation	Recreation General (trails)	Yes

		Park bowling area (Upper Old Works Trail)			
20, 36	Citizens	General Support for remediation	Vegetation, Soils, Recreation	Remediation & Weed control	No
20, 26, 28, 35, 36, 39, 43	Citizens, Linked Adventures, Anaconda Trails Society	Multi-user trail A and C Hills (hiking, motorized, other)	Recreation	Recreation General (trails)	Yes
4, 5, 7, 14, 15, 20, 35, 36, 37, 39, 42, 43, 45, 47	Citizens, Anaconda Trail Society, Anaconda Bicycles	Build cohesive and connected multiuse trails system	Recreation, Soils	Recreation General (trails)	Yes
35	Anaconda Trail Society	Develop wayfinding sites, restrooms, trailheads	Recreation	Recreation General (trails, interpretive features)	Yes
35, 39, 42	Citizen, Anaconda Bicycles, Anaconda Trail Society	Retain and maintain historic motorized trails	Recreation, Soils, Vegetation	Recreation—specific user group (motorized)	No
39, 44, 46, 47	Anaconda Sportsmen, Citizens	Support acquisitions in Fifer Gulch/Hearst Lake Corridor, adjoining the Blue-eyed Nellie WMA and Stucky Ridge for bighorn & elk habitat	Wildlife habitat, Recreation	Lands acquisition & access	Yes
35	Anaconda Trails society	Purchase Sevores inholding up Sheep Gulch	Wildlife habitat, Recreation	Lands acquisition & access	Yes

35	Anaconda Trails Society	General support for acquisitions for wildlife & trails	Wildlife habitat, Recreation	Lands acquisition & access	Yes
43	Citizen	Habitat enhancement of aspen stands	Wildlife habitat, Vegetation	Habitat restoration	Yes
35, 36, 39, 42	Citizen, Anaconda Bicycles, Anaconda Trails Society	Use Sheep Gulch as access corridor to trails	Recreation	Recreation General (trails)	Yes
36	Citizen	Concern about ‘serious erosion problems’ off A and C Hills	Soils	Remediation & weed control	No
36	Citizen	Develop Anaconda loop trail incorporating trails along Warm Springs, north & south of town	Recreation	Recreation General (trails)	Yes
35, 36	Anaconda Trail Society, Citizen	Develop a trails corridor from Old Works to Lost Creek	Recreation	Recreation General (trails)	Yes
35, 36	Anaconda Trails Society, Citizen	Detailed proposal for trails system using existing and new trails	Recreation	Recreation General (trails)	Yes

Note: there were especially detailed comments from a citizen (36) re: trail routes, Anaconda Bicycles (42) re: an approximately \$1.2 M trails network, and Anaconda Trails Society (35) which provided a proposal for a trails network—largely for mountain bikers. There were twenty iterations of a form letter on biking trails.

Table 2. Recreation General Trails Comments.

Comment Number	Comment—Idea	Eligible for restoration funding?
43, 45, 47	Stucky Ridge trails development	Yes. Inclusion of trails on the 480-acres of the DNRC lands is possible contingent on permitting and travel management
35-Anaconda Trails Society	Leverage existing trails networks and integrate with remediation	Yes. Integration of restoration & remediation is possible.
5, 8, 15, 42-Anaconda Bicycles	A & C-Hills general trails development—hiking & multiuse.	Yes. Hiking and multiuser trails are eligible for funding.
16, 43	Walking trail—Upper Old Works Trail, behind Cedar lanes	Yes, BP-AR is responsible for maintenance of the existing Upper Old Works trail. Additional trails in the area could be eligible for restoration funding.
35-Anaconda Trails Society, 36, 37, 39, 42, 43	Improvement of multiple use trails network on the A-Hill & C-Hill.	Yes. Trail planning will be necessary to assure different user groups are compatible on the same trails.
4, 5, 7, 14, 15, 20, 35, 36, 37, 39, 43, 45, 47	Build a cohesive and connected multiuse trails system.	Yes.
35-Anaconda Trails Society	Develop wayfinding sites, restrooms and trailheads.	Yes. If these sites accommodate multiple user groups.
35-Anaconda Trails Society, 36, 39, 42-Anaconda Bicycles	Use Sheep Gulch as access corridor.	Yes.
36	Develop Anaconda town loop trail.	Yes. If it is for multiple user groups.
35-Anaconda Trails Society, 36	Develop a trails corridor from Old Works to Lost Creek.	Yes. If it is for multiple user groups.
35-Anaconda Trails Society, 42-Anaconda Bicycles 46-citizen	Develop a multiuser trails network— conceptual proposals provided.	Yes.

List of Public Comments

No.	Individual/Organization
1	Mike Finnegan
2	Margie Smith
3	Keith McGlothlin
4	Tom & Joan Folkers
5	Matthew Windsor & Alyssa Hartson
6	The Ranch at Rock Creek/Rexford Tugwell
7	Mark Proxell
8	Brandt Wright
9	Member of Anaconda Trail Society, Highlands Cycling Club, Southwest Montana Mountain Bike Club—Bryan Cyr
10	Kevin Luebke
11	Anna Beers
12	Mark Switek
13	Devin McCarthy
14	Gregory Schulte, M.D.
15	Shannon Legge
16	Anaconda Sportsman’s Club—Jim Bjornemo
17	Justin Morris
18	Jake Gunther
19	Zachary Kozicky
20	Anthony Bartoletti
21	Lone Peak Physical Therapy—Jake Querciagrossa
22	Xtant Medical—Will Stillens
23	Bryan Fulcher
24	John Walker
25	Danielle Schnake
26	Charles Schnake
27	Highlands Cycling Club Board Member—Alex George
28	Linked Adventures—Gina Evans
29	John Coulthard
30	Sherry Coulthard
31	Discovery Ski Area—Ciche Pitcher
32	Carl Schillhammer

33	Erin Stillens
34	Cory Daniels
35	Anaconda Trail Society—Robin McKernan, Alex Leone, Emily Adams
36	Katie Racette
37	Anaconda Outdoor—Jordan Wilson
38	Jeffrey Druce
39	Rich Keeland
40	Derailed Bike Shop—Sara Dennehy
41	Highlands Cycling Club—Sierra Lutke
42	Anaconda Bicycles—Emily Adams & Matt Johnson
43	Sam McColley
44	Anaconda Sportsmen—Chris Marchion
45	Mark Schaffer
46	Joe Romero MS, CRNA
47	Alison Dougherty
48	Terry Miller
49	Joe Radonich
50	Micaul McClafferty PA-C Intermountain Healthcare (late comment)

APPENDIX B

Ecological Treatment Cost Evaluation for Anaconda-Deer Lodge County Lands

Background

This document describes proposed restoration actions and associated costs to enhance ecological function and habitat on Anaconda-Deer Lodge County (ADLC) lands impacted from over a century of smelting and ore processing activities at the Anaconda Co. Smelter Superfund site (Site). NRDP and project partners will use a toolbox of restoration techniques developed by NRDP on the Mount Haggin Injured Area to improve the density and diversity of native vegetation communities and enhance the landscapes' ability to support a variety of habitats and native vegetation as well as increased public recreation opportunities.

Existing vegetation on ADLC lands varies widely, particularly between the south-facing and north-facing aspects bordering Anaconda. South-facing slopes on Stucky Ridge in Remedial Design Unit 1 (RDU) trend toward grasslands, with a patchy distribution of shrubs like chokecherry and snowberry, and fewer trees. North-facing slopes around the A-Hill and C-Hill in RDU 3 receive less solar radiation and hold more snow and moisture, resulting in a greater diversity and density of shrubs and trees dominated by quaking aspen and Douglas fir.

Both slopes have been, or will, have remedy implemented by British Petroleum-Atlantic Richfield Company (BP-AR) as part of their Superfund remedy requirements (Environmental Protection Agency [EPA] and Department of Environmental Quality [DEQ] 2011). EPA has indicated that remedy is anticipated to be completed by December 31, 2025. Since the remedy is being implemented by BP-AR, they will be responsible for long-term operation and maintenance of the remedy, and compliance with the performance standards for remedy set by EPA. Ecological restoration approaches presented in this document in no way serve to replace this work. Instead, the proposed ecological restoration actions will be implemented subsequent to remedy and serve to achieve ADLC's broader goals for the community.

The restoration toolbox employed by NRDP on the steep slopes of the nearby Mount Haggin Wildlife Management Area (WMA) are highly applicable techniques and are described in Chapter 4 of the *Mount Haggin Uplands Remedy and Restoration Work Plan* (NRDP, 2008). These are shown in Table 1 below using the Steep Slope Reclamation (SSR) language used under Superfund in the Uplands. BP-AR is using all of these techniques on Anaconda area lands.

Table 1. Steep Slope Reclamation techniques applicable to ADLC lands

Revegetation		
Name	Description	Notes
SSR-1a	Broadcast Seeding	A native mix of grasses and forbs
SSR-1b	Broadcast Seeding with Fertilization	Organic or inorganic fertilizer
SSR-1c	Soil Scarification/Trenching	Includes hand-broadcast and coir blanket
SSR-1d	Woody Plant Establishment	Includes willow stakes and/or container plants
SSR-1e	Other Soil Amendment	Lime, compost, other
Hand-installed slope and stream/gully Best Management Practices		
SSR-2a	Slope stabilization	Coffee bags, slash, coir/straw wattles
SSR-2b	In-stream check structures (brush, straw bale)	For wetland and riparian enhancement, stream aggradation, beaver mimicry
SSR-2c	Gully Slash filters	Not constructed structures
SSR-2d	Gully Check Dams	Rock, log, geo-bag, coir fabric
SSR-2e	Anchored brush bundles/brush boxes	Higher intensity construction, includes metal support in banks or mechanical trenching for brush trenches

Ecological Restoration Actions

Based on preliminary site assessments and twelve (12) years of implementation experience at the Anaconda Uplands, the restoration toolbox will be employed to meet ecological goals and objectives as described in Section 2.1 of the Amendment:

- 1) Enhance the condition and extent of aspen stands by removing conifers. Reduce conifer encroachment in aspen stands to retain existing aspen stands.
- 2) Revegetate along decommissioned trails, existing trails and new trails. Plant native species and implement weed management on about one hundred-and-forty (140) acres along decommissioned trails, existing trails and new trails.
- 3) Employ Steep Slope Reclamation (SSRs) techniques and Best Management Practices (BMPs) to reduce erosion on up to fifty (50) acres where not addressed by remedy.

These three ecological objectives are intended to be implemented over a ten (10) year timeframe.

Enhance Aspen

The aspen clones on ADLC lands, particularly the A-Hill and C-Hills south of Anaconda, are a valuable natural resource asset, which provide wildlife habitat, ecological services, and important aesthetics for Anaconda. To meet the objective to enhance aspen stands, conifers will be removed to promote the expansion of these clones and to ensure their long-term persistence on the landscape.

Under natural conditions, aspen clones regenerate under an approximately a hundred (100) year fire return interval. As an early successional species, aspen clones take advantage of groundwater and surface water to establish. This occurred in Anaconda even after smelting and logging greatly reduced the number of trees in the Anaconda Uplands. Aerial imagery from the 1950s shows ADLC lands south of Anaconda largely devoid of vegetation (Figure 1). The hills were

grasslands with aspen colonies establishing in clumps where groundwater and surface water was available. After the initial die-off of vegetation from smelting and the rapid growth of Anaconda aspen were likely among the first tree species to re-establish.

Revegetation efforts beginning in the 1990s, as well as natural regeneration, led to an increase in the number and density of conifers on the landscape. The expansion of conifer forests into aspen stands is now the biggest threat to aspen persistence on ADLC lands. While ecosystems with natural forest fire regimes re-set the balance of aspen and conifers, ADLC lands are within the wildland-urban interface where fire will be suppressed, disrupting natural ecological disturbance regimes. Without intervention, conifer trees will slowly encroach on these aspens and over time, shade them out. Research by the University of Montana has mapped the encroachment of conifers across Montana rangelands (Figure 2). Conifer encroachment on ADLC lands south of Anaconda is shown in Figure 3. Utilizing this map and aerial imagery, conifer encroachment was categorized by its density (heavy, moderate/light, and no encroachment) as shown in Table 2 and described below.

Table 2. Aspen acres and density of conifer encroachment on county lands

Total Acres of Aspen	2,746
Heavy Encroachment	250
Moderate/Light Encroachment	332
No Encroachment	2,164

Conifer encroachment was categorized into three broad categories:

- **Heavy encroachment**: Dense stands of conifers largely surrounding an aspen clone that would otherwise be contiguous with nearby aspen-dominated areas (Figure 4). These areas are likely to transition to conifer forests within a few decades. Treating heavy encroachment requires substantial effort and would generate a large volume of woody by-product and fuels that would require additional management.
- **Moderate/Light encroachment**: Areas of conifer regeneration near aspen stands with some conifers mixed among the aspen (Figure 5). These stages of encroachment are the most cost-effective for treatment without creating excessive fuel loads of downed material. This category includes areas of sparse conifer widely spaced from each other—the early stages of conifer establishment on the landscape.
- **No encroachment**: Areas where there is not significant, or any, conifer encroachment near aspen stands. These areas do not require treatment, and additional management is not considered for these areas.

It is unlikely that there will be viable merchantable stands of conifer. As such, treatments will include cutting all conifers within a 100-foot buffer surrounding existing aspen clones, limbing the branches and leaving the material on site unless another disposition is identified.

Revegetate along decommissioned trails, existing, and new trails

Based on community surveys and outreach efforts in 2023, there is interest in Anaconda to enhance recreational opportunities with trails development. ADLC's Open Lands Plan (ADLC, 2024) proposes consolidation of trail networks north and south of town, with enhanced wayfinding and improved trailheads. During the development of the Open Lands Plan, local organizations and ADLC provided locations of the existing trails networks in and around the A-Hill and C-Hill as well as on Stucky Ridge. After extensive public outreach and feedback from the community and user groups, the Open Lands Plan identified potential new trail loops to complement the existing trail network and identified redundant, and user-created trails that could be decommissioned Figure 6.

While an increase in recreational trails is desirable for recreationalists, trail and road networks are a primary vector for spreading noxious and undesirable weed species. The establishment of native vegetation decreases the chance of noxious weeds becoming established or displacing desired species. Revegetation along trailside areas and subsequent decommissioning of trails will ensure that desired species are the dominant vegetation along trails. (Noxious weed control is the responsibility of BP-AR and will be monitored through the performance standards process). Effective management of trailside vegetation will ensure that the new public amenities and recreation opportunities do not become a maintenance issue in the future. Roads maintained by ADLC such as Sheep Gulch and Flume Road were not included in the development of this Appendix, nor is the Old Works Trail as BP-AR is responsible for its maintenance.

Methodology to Measure Revegetation Areas

Using the spatial data layer of existing and potential trails, a buffer of thirty-two (32) feet was created for each non-motorized and motorized trail. Trails were designated as motorized or non-motorized based on attributes in the spatial data layers, the length of proposed new trails and the length of trail closures derived from the Open Lands Plan. Total acres encompassed by that buffer and associated trail lengths are described in Table 3. The table delineates a revegetation zone (buffer) along recreational corridors where funds from the ecological category will pay for trails decommissioning and revegetation alongside new and existing trails. Within that buffer, native species listed in Table 4 will be prioritized for establishment.

Table 3. Trails summary showing linear feet of non-motorized and motorized trails and acres in the associated 32-foot revegetation buffer.

Existing Trails			
<i>Non-motorized</i>		<i>Motorized*</i>	
<i>Feet</i>	<i>Acres within buffer</i>	<i>Feet</i>	<i>Acres within buffer</i>
25,315.2	18.6	63,856.5	46.9
* Length does not include Sheep Gulch Road, Flume Road, the C Summit Road or Old Works Tour Road			
Potential New Trails			
<i>Non-motorized</i>		<i>Motorized</i>	
<i>Feet</i>	<i>Acres within buffer</i>	<i>Feet</i>	<i>Acres within buffer</i>
82,492.9	60.6	0	0
Potential Trail Closures			
<i>Non-motorized</i>		<i>Motorized</i>	
<i>Feet</i>	<i>Acres within buffer</i>	<i>Feet</i>	<i>Acres within buffer</i>
0	0	19,262	14.2

Table 4. Target species for revegetation.

Grasses	Forbs	Shrubs	Trees
Blue bunch wheatgrass	Asters	Rabbitbrush	Aspen
Slender wheatgrass	Lupines	Chokecherry	Douglas fir
Western wheatgrass	Fireweed	Snowberry	Limber pine
Great basin wildrye	Goldenrod	Wax currant	
Idaho fescue	Oregon grape	Woods Rose	
	Silverleaf phacelia		

The goal of revegetation treatments is to enhance native vegetation establishment along trails while decreasing the presence and spread of weeds. Treatments would involve seeding and planting within a buffer along each trail, including the addition of soil amendments and containerized plantings. Many of these soil amendments and seed mixes are currently being actively studied and refined in the Mount Haggin area under an adaptive management approach. That effort will inform the future composition of seed mixes and use of soil amendments. While BP-AR is responsible for weed control until sign-off by the EPA, revegetation costs across all trail types will include at least two weed control treatments over ten (10) years.

Treatment alternatives were developed for each of the trail types. While the basic treatments remain consistent across trail types (as shown in Table 5), the intensity/frequency of treatments over ten (10) years presents the greatest difference in cost and feasibility (Table 6).

Table 5. Trail Revegetation Treatment Types

Trail Type	Treatments	Intensity/Frequency
Existing Trail Network (12.1 miles motorized, 4.8 miles non-motorized)	(SSR-1a-e): Native seeding and planting with soil amendments; weed treatments	High: 5 treatments in 10 years
		Low: 2 treatments in 10 years
New Trails: Non-motorized (15.6 miles)	(SSR-1a, -1b, -1d): Native seeding along disturbed soils; weed treatments	High: 5 treatments in 10 years
		Low: 2 treatments in 10 years
Trail Closure and Decommissioning (3.6 miles motorized)	(SSR-1a, -1b, -1d, SSR-2a): Native seeding and planting with soil amendments; soil cover (slash, fabric); weed treatments	High: 5 treatments in 10 years
		Low: 2 treatments in 10 years

Table 6. Ecological treatments respective intensities and frequencies

Ecological Treatments	
High Intensity Treatment:	<i>Treatment of all Aspen units on county lands Five Revegetation treatments in 10 years Treatment of up to 50 acres of Steep Slopes</i>
Low Intensity Treatment:	<i>Treatment of all Aspen units on county lands Two Revegetation treatments in 10 years Treatment of up to 50 acres of Steep Slopes</i>

Employment of Steep Slope Reclamation techniques and Best Management Practices to reduce erosion where not addressed by remedy

Under this Amendment, all ADLC lands assessed have remedy being implemented by BP-AR and will be required to pass performance standards overseen by the EPA. Remedial work includes all steep slopes where erosion would potentially lead to sedimentation of downstream waterways.

In 2023, BP-AR conducted remediation on 604.5 acres in RDU 1 and RDU 3. An additional 232.2 acres were scheduled for remediation in those RDUs in 2024. If and when performance standards are met, which include measures for vegetation establishment and soil erosion, BP-AR will be responsible for long-term operation and maintenance of steep slopes. While achievement of performance standards by BP-AR will satisfy EPA requirements for remediation of contaminated soils, this metric may or may not meet the quality of restoration desired for a diverse and self-sustaining vegetative community and associated wildlife habitat. As such, additional steep slope enhancements may be required to support revegetation and erosion control beyond the requirements of remedy.

Given some uncertainty regarding the condition of lands subsequent to BP-AR remedy, and to provide for the possibility of additional enhancements, this Appendix considers an additional 50 acres of steep slope areas for native vegetation enhancement and erosion control. This approach provides NRDP and ADLC with the option to select up to fifty (50) priority acres for restoration actions to supplement remedy for ecological, aesthetic, or other reasons.

Summary of Ecological Restoration Treatments

While all aspen treatments are proposed for one-time treatment, there are different intensities and frequencies that can be applied to revegetation ranging from single entries to annual implementation and maintenance. To offer contrasting allocation scenarios, high and low intensity treatments were developed for revegetation efforts over the ten (10) years envisioned for use of these funds. High intensity revegetation involves five years of treatment in ten (10) years and low intensity includes two treatments in ten (10) years (Table 6). Based on the scenarios detailed above, three different sets of ecological treatments (High Intensity, Low Intensity and Aspen & Revegetation) were developed to enhance ecological conditions on ADLC lands and analyzed under associated alternatives in the Amendment.

Per acre costs for implementation of these alternatives were estimated from known costs for similar actions completed on the Mount Haggin WMA during the past ten (10) years. These initial cost estimates reflect a one-time application of each ecological treatment and are summarized in Table 7.

Table 7. Summary ecological treatment cost estimates for a single treatment.

Ecological Treatments	Description		Cost High Intensity/Frequency	Cost-Low Intensity/Frequency
<i>Aspen Enhancement</i>	Removal of conifers	Cost/Acre	\$400	\$250
		Acres	250	332
		Total	\$100,000	\$83,000
<i>Revegetation associated with trails and decommissioned trails</i>	Revegetation New Trail (non-motorized)	Cost/Acre	\$3,364	
		Acres	60.6	
		Total	\$203,861	
	Trail Closure (motorized)	Cost/Acre	\$3,764	
		Acres	14.2	
		Total	\$53,262	
	Revegetation Existing Trail (motorized)	Cost/Acre	\$3,364	
		Acres	46.9	
		Total	\$157,806	
	Revegetation Existing Trail (non-motorized)	Cost/Acre	\$3,364	
		Acres	18.6	
		Total	\$62,560	
<i>Steep Slope Erosion Control</i>	Application of hand installed SSRs where necessary	Cost/Acre	\$3,321.50	
		Acres	50.0	
		Total	\$166,075	

(Aspen treatment includes lop and scatter thinning treatments for heavy and light/moderate encroachment densities. Revegetation efforts combine per-acre costs for seeding, fertilization, and additional soil amendments. Steep slope erosion control measures include labor and costs for materials such as erosion control fabric, container plantings, seeding.)

The restoration plan alternative associated with each set of ecological treatments is shown in Table 8. The cost to implement each of these ecological treatments informs the development and evaluation of restoration alternatives in Chapter 3 and Chapter 4 of the Amendment. For

example, implementation of the high intensity ecological treatment for a cost of approximately \$2.5 million would require selection of the Ecological & Wildlife Alternative as the Preferred Alternative.

Table 8. Proposed allocation for funding by prescribed restoration approach

Ecological Treatments	Ecological Restoration Cost	Corresponding Restoration Amendment Alternative
<i>High Intensity Treatment:</i> <i>All Aspen + High intensity Revegetation (5 plantings in 10 years) + Steep Slopes</i>	\$2,561,025	Alternative 2 Ecological & Wildlife
<i>Low Intensity Treatment:</i> <i>All Aspen + Low intensity Revegetation (2 plantings in 10 years) + Steep Slopes</i>	\$1,264,818	Alternative 4 Balanced
<i>Aspen and Revegetation:</i> <i>Moderate/Light density Aspen thinning with Low intensity Revegetation (2 plantings in 10 years)</i>	\$998,743	Alternative 3 Recreation

Note: Dollar amounts are approximate

Remedy by BP-AR to address hazardous substances on ADLC lands is ongoing. Ecological restoration will be necessary to accelerate the return to baseline condition, while also facilitating the replacement of lost recreational services. Three sets of ecological treatments and associated costs were described to enhance ecological function and native vegetation establishment. This Appendix presented the methods used to determine how cost estimates for ecological treatments were derived and informs the Anaconda Amendment.

Literature Cited

Anaconda Deer Lodge County. 2024. Open Lands Plan. Anaconda, MT. February 6, 2024.

Environmental Protection Agency and Department of Environmental Quality. 2011. Record of Decision Amendment, Anaconda Regional Water, Waste & Soils Operable Unit, Anaconda Smelter NPL Site, Anaconda – Deer Lodge County, Montana.

Natural Resource Damage Program. 2008. Mount Haggin Uplands Remedy and Restoration Work Plan. Helena, MT.

Appendix B Figures

Figure 1. Anaconda County Lands in the 1950s. Map shows aspen on northern and western aspects along drainage pathways and few conifer trees. *Mapping tree cover expansion in Montana, U.S.A. rangelands using high-resolution historical aerial imagery.*

Online at: <https://smorford.users.earthengine.app/view/montana-conifer-expansion#lon=-113.5217;lat=46.3775;zoom=8>



Figure 2. Woodland expansion on ADLC lands



Figure 3. Mapped Conifer Encroachment on ADLC lands

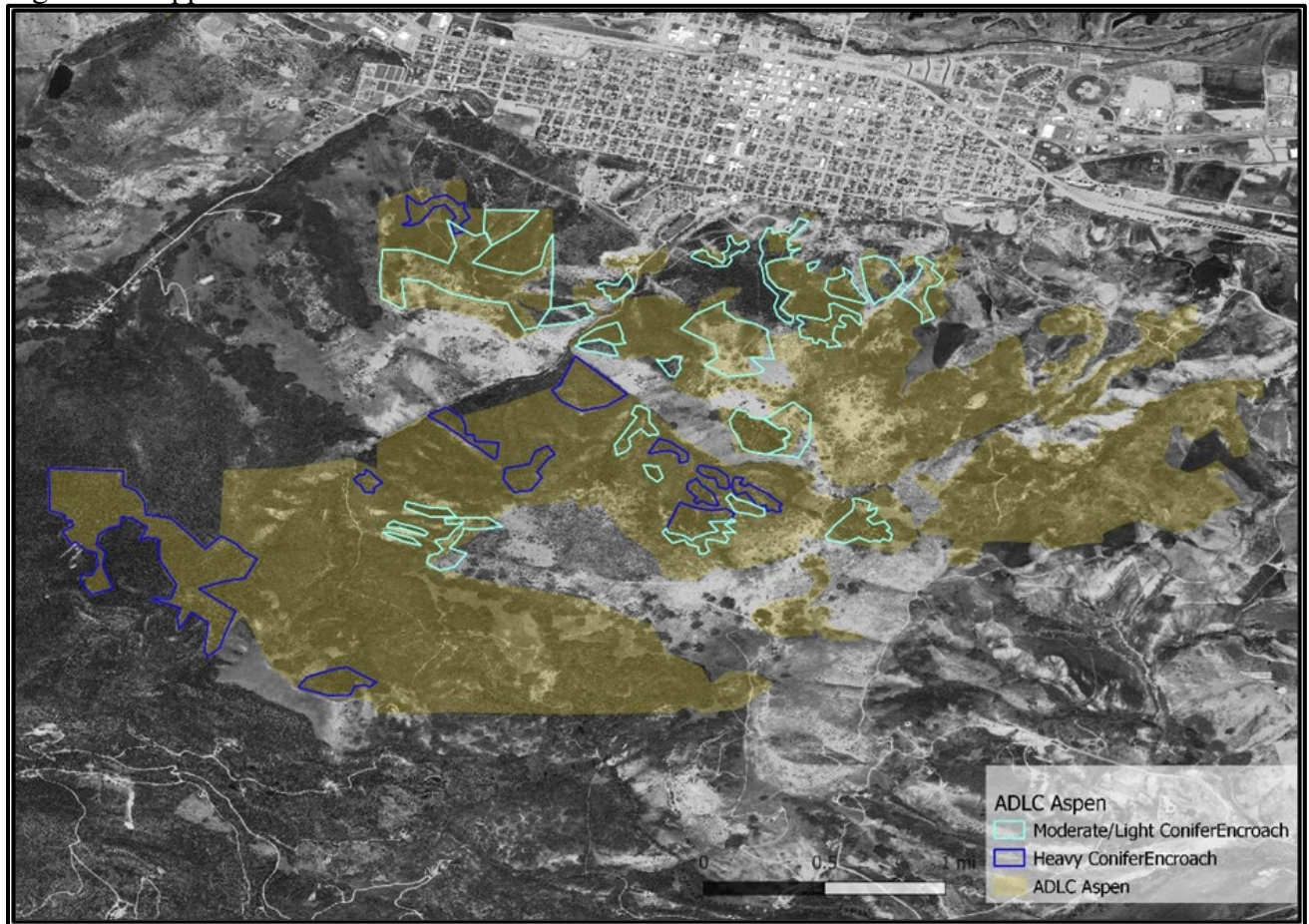


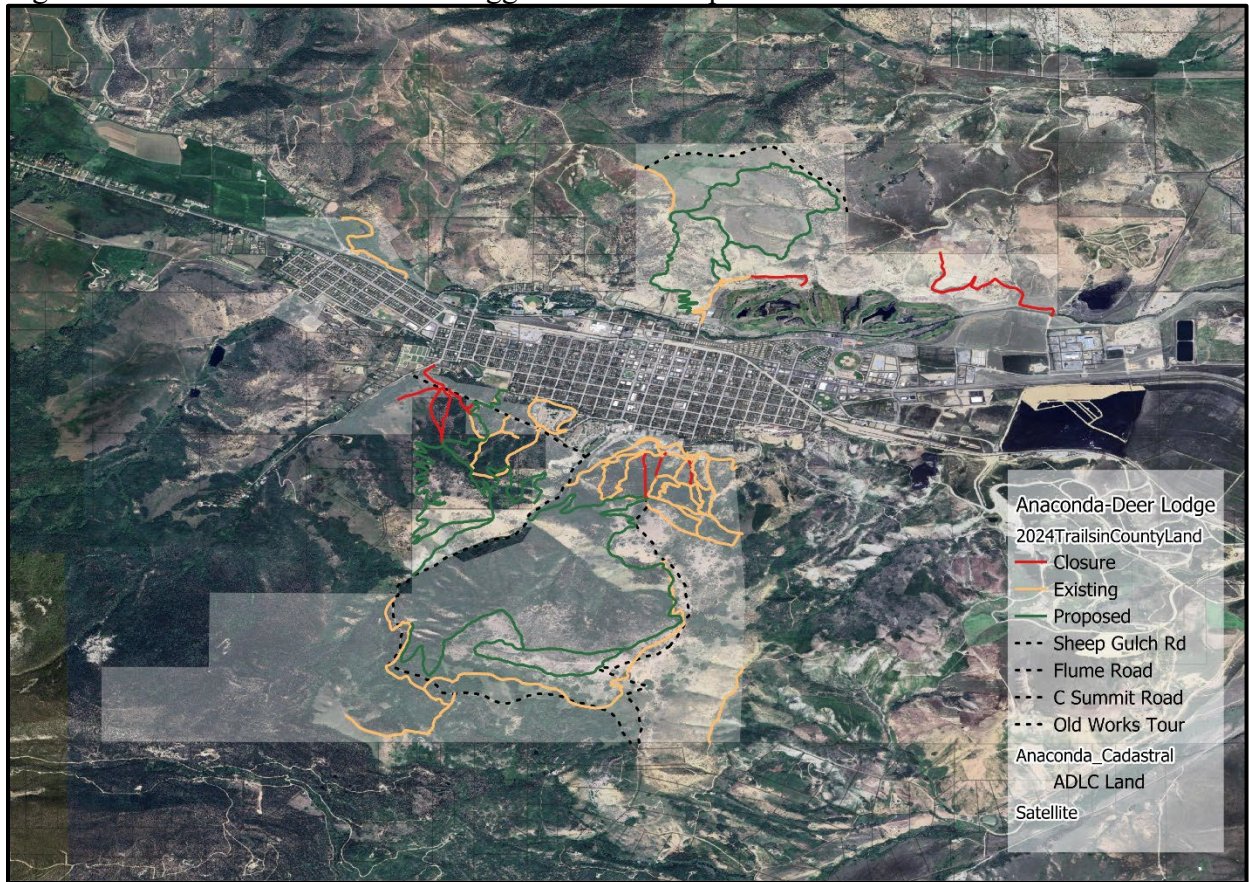
Figure 4. Example of Heavy Conifer Encroachment



Figure 5. Example Moderate/Light Encroachment



Figure 6. Recreation Enhancement suggestions from Open Lands Plan



APPENDIX C

**DRAFT ENVIRONMENTAL ASSESSMENT
CHECKLIST**

**Anaconda-Deer Lodge County Lands
Ecological Restoration**

November 18, 2024



I. Background and Description of Potential Ecological Projects

This Environmental Assessment (EA) was prepared in compliance with the Montana Environmental Policy Act (MEPA). General requirements of the Environmental Review Process are found in § 75-1-201, Montana Code Annotated (MCA) and the Administrative Rules of Montana (ARM) 12.2.430.³ As details for specific projects under the scope Anaconda-Deer Lodge County Lands Ecological Restoration Projects develop, a supplementary environmental review of that specific project will be performed if appropriate and if the potential duration or severity of the impacts of that specific project are significantly different from impacts discussed and analyzed below.

Name of Project: Anaconda-Deer Lodge County Lands Ecological Restoration Projects

Ecological projects contemplated under the Anaconda Uplands Restoration Plan Amendment (Amendment) are analyzed in this Environmental Analysis (EA) checklist. All projects would occur within the Amendment planning area shown in Figure 1. Additional descriptions of these types of projects can be found in the Amendment and Appendix B to the Amendment. Briefly, this project considers three types of ecological restoration projects on Anaconda-Deer Lodge County Lands (ADLC):

1. Aspen stand enhancement
2. Revegetation along existing and new trails
3. Employment of Steep Slope Reclamation (SSR) techniques Best Management Practices (BMPs) to reduce erosion on areas that will not be addressed through remedy.

Aspen Stand Enhancement

The aspen clones on ADLC lands, particularly the A-Hill and C-Hill - south of Anaconda, are a valuable natural resource asset, providing wildlife habitat, ecological services, and an aesthetically pleasing backdrop for Anaconda. The goal of aspen enhancement activities is to reduce conifer encroachment and promote the expansion of these clones to ensure their long-term persistence on the landscape. On ADLC lands, the expansion of conifer forests into aspen stands is the biggest threat to their persistence. Projects to thin aspen stands of invading conifers will be implemented for ecological benefit.

Revegetate along existing and new trails

Revegetation along trails is important to assure recovery of injured ecological services since trails are vectors for noxious weeds, contribute to erosion and result in the compaction of soils. The establishment of native vegetation decreases the chance of noxious weeds becoming established or displacing desired species. Revegetation along trailside areas and subsequent decommissioning of trails will ensure that desired species are the dominant vegetation along trails.

³ NRDP has based this EA checklist on one developed by Montana Fish, Wildlife, and Parks (FWP). The regulatory citation to the ARM is for reference only. NRDP has not developed a separate regulatory ARM.

Employ Steep Slope Reclamation (SSR) techniques and Best Management Practices (BMPs) to reduce erosion

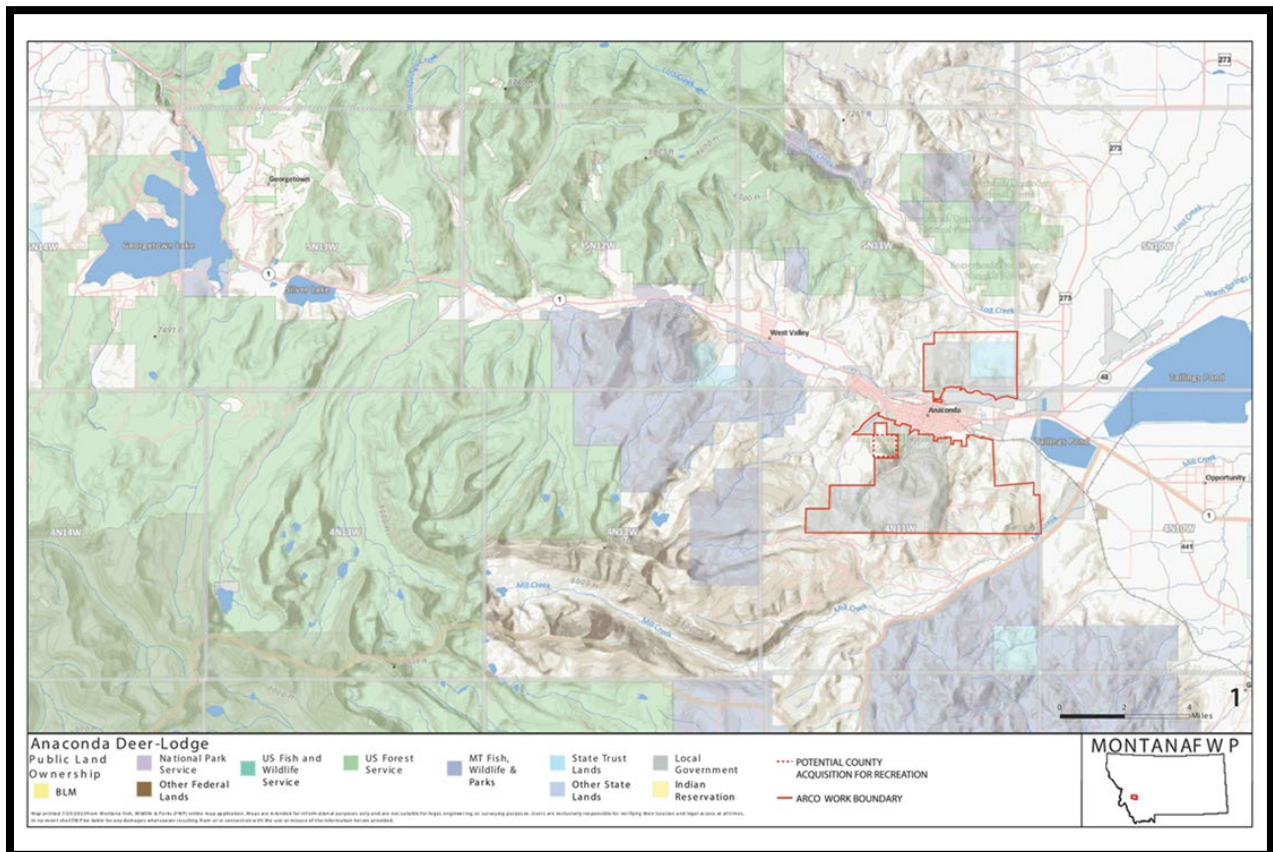
SSR techniques and BMPs may be used on up to fifty (50) acres of ADLC lands where necessary after the completion of remedy to reduce erosion, improve the condition of soils and provide sites for native grasses, forbs and trees to become established. It is anticipated that these projects will primarily occur on county lands behind the courthouse and in proximity to the A-Hill and C-Hill.

Anticipated Project Schedule: Subject to availability of contractors and other factors, NRDP anticipates that projects will be implemented beginning in 2025—and continuing until 2035.

Legal Description of Location of Affected Area / Location of Proposed Projects: portions of Townships 4 North, 11 West and 5 North, 11 West.

Town/City, County, Montana: Anaconda, Anaconda-Deer Lodge County, Montana

Figure 1. Anaconda Amendment Planning area. Projects may be completed in the area outlined in red.



II. List of Mitigations, Stipulations

Mitigations, stipulations, and other *enforceable* controls required by NRDP, or another agency, may be relied upon to limit potential impacts associated with a proposed Project. The table below lists and evaluates enforceable conditions NRDP may rely on to limit potential impacts associated with the proposed Project.

Table 1: Listing and Evaluation of Enforceable Mitigations Limiting Impacts

<i>Are enforceable controls limiting potential impacts of the proposed action? If not, no further evaluation is needed.</i>			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
<i>If yes, are these controls being relied upon to limit impacts below the level of significance? If yes, list the enforceable control(s) below</i>			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Enforceable Control	Responsible Agency	Authority (Rule, Permit, Stipulation, Other)	Effect of Enforceable Control on Proposed Project	

III. Summary of Potential Impacts of the Proposed Project on the Physical Environment and Human Population

The impacts analysis identifies and evaluates **direct**, **secondary**, and **cumulative impacts**.

- **Direct impacts** are those that occur at the same time and place as the action that triggers the effect.
- **Secondary impacts** are further impacts to the human environment that may be stimulated or induced by or otherwise result from a direct impact of the action. ARM 12.2.429(18).
- **Cumulative impacts** “means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when these actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures.” ARM 12.2.429(7).

Where impacts are expected to occur, the impact analysis estimates the **extent**, **duration**, **frequency**, and **severity** of the impact. The duration of an impact is quantified as follows:

- **Short-Term:** impacts that would not last longer than the proposed project.
- **Long-Term:** impacts that would remain or occur following the proposed project.

The severity of an impact is measured using the following:

- **No Impact:** there would be no change from current conditions.
- **Negligible:** an adverse or beneficial effect would occur but would be at the lowest levels of detection.
- **Minor:** the effect would be noticeable but would be relatively small and would not affect the function or integrity of the resource.
- **Moderate:** the effect would be easily identifiable and would change the function or integrity of the resource.
- **Major:** the effect would irretrievably alter the resource.

Some impacts may require mitigation. As defined in ARM 12.2.429(14), mitigation means:

- Avoiding an impact by not taking a certain action or parts of a project.
- Minimizing impacts by limiting the degree or magnitude of a project and its implementation.
- Rectifying an impact by repairing, rehabilitating, or restoring the affected environment; or
- Reducing or eliminating an impact over time by preservation and maintenance operations during the life of a project or the time period thereafter that an impact continues.

A list of any mitigation strategies including, but not limited to, design, enforceable controls or stipulations, or both, as applicable to the proposed project is included in **Section II** above. NRDP must analyze impacts to the physical and human environment for each alternative considered. The proposed project considered the following alternatives:

- **Alternative 1: No Action. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

Under the “No Action” alternative, the proposed project would not occur. Therefore, no additional impacts to the physical environment or human population in the analysis area would occur. The “No Action” alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

- **Alternative 2: Proposed Ecological Projects. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

See Table 2 (Impacts on Physical Environment) and Table 3 (Impacts on Human Population) below.

Table 2 - Potential Impacts of Alternative 2: Proposed Ecological Projects on the Physical Environment

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	
Terrestrial, avian, and aquatic life and habitats	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to terrestrial, avian, and aquatic life and habitats would be expected because of the proposed projects. Wildlife habitat would be enhanced as a result of a more expansive aspen stands and revegetation on damaged areas along trails. Additional revegetation and employment of SSR and BMPs, would result in less erosion and potential deposition of contaminants or sediment which would reach Warm Springs Creek and impact aquatic habitat. Thinning of aspen stands and associated disturbance for to up to a week within a stand may displace foraging or nesting birds—this impact would be short-term and minor. Any impacts would be short- and long-term, consistent with existing impacts, and be negligible and minor.
Water quality, quantity, and distribution	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to water quality, quantity, and distribution would be expected because of the proposed project. The proposed project would not require the use of any additional new water resources, nor would it affect the distribution of any existing water resources. Implementation of projects may result in short-term and minor increases in water turbidity generated by work conducted in-stream and along streambanks. However, any impacts would be consistent with, but likely would not exceed, the level of turbidity generated by

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures	
	Resource	None	Short Term	Long Term	None	Negligible	Minor	Moderate		Major
										high water events experienced during spring runoff. Operation of equipment in the stream channel would be minimized to the extent practicable. Necessary permits would be obtained prior to implementation and adhered to during construction to meet short-term water quality standards and protect against adverse impacts to aquatic resources during operations. BMPs would be employed to minimize construction impacts. Any adverse impacts to water quality, quantity, and distribution would be short-term, consistent with existing natural impacts, and minor.
Geology	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact to geology would be expected because of the proposed project. The proposed project would not affect any geologic features in the project area; therefore, no impacts to geology are expected because of the proposed project.
Soil quality, stability, and moisture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to soil quality, stability, and moisture would be expected because of the proposed project. Negligible compaction would occur where SSRs or BMPs are installed or aspen thinned, but in the long term those actions will improve soil stability and moisture. Trail decommissioning paired with construction of new trails would reduce erosion overall.
Vegetation cover, quantity, and quality	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to vegetation cover, quantity, and quality would be expected because of the proposed project.

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures	
	Resource	None	Short Term	Long Term	None	Negligible	Minor	Moderate		Major
										Treatment of invasive weeds with herbicides would potentially reduce the diversity and abundance of native forbs. This impact is likely to be minor because in many sites native forbs are already uncommon and herbicides would be applied selectively. Any impacts associated with noxious weeds would be long-term and minor.
Aesthetics	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the aesthetic nature of the affected area would be expected because of the proposed projects. Short-term and minor adverse aesthetic impacts may result from construction due to increased levels of noise, fugitive dust, and the presence of equipment and staged construction materials. Long-term and minor adverse impacts may also result from development of currently open land to support the proposed project. Any long-term aesthetic impacts would be consistent with the area’s current use.	
Air quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to air quality would be expected because of the proposed project. Minor and temporary fugitive dust and vehicle emissions would be created by equipment during construction but would end after completion. There would be no additional new air quality disturbance in the affected area and no significant point-sources of air pollution exist in the area affected by the proposed project. Any impacts to air	

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	
									quality would be short-term, consistent with existing impacts, and negligible.
Unique, endangered, fragile, or limited environmental resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to any unique, endangered, fragile, or limited environmental resources would be expected because of the proposed project. White bark pine trees and bull trout (both threatened species) are present within 5 miles of the project area. Neither are onsite. It is unlikely that other threatened or endangered species are in the project area and if they were present any impacts would be short- and long-term, consistent with existing impacts, and negligible.
Historical and archaeological sites	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to historic and archaeological sites would be expected because of the proposed project. As appropriate, the Trustees will work with project managers during the permitting process to ensure that they consult with the State Historical Preservation Office and Tribal Historic Preservation offices to confirm that there are no known archeological and cultural sites that would be disturbed. If cultural resources within or near the project areas are recorded and eligible for the National Register of Historic Places, the Trustees would work with the project manager to redesign projects so as to minimize or not adversely affect any known archaeological sites or sites of cultural significance, or a similar project in a

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures	
	Resource	None	Short Term	Long Term	None	Negligible	Minor	Moderate		Major
										different location in the watershed would be substituted. If cultural resources are unexpectedly discovered during project implementation, NRDP will cease implementation and contact FWP’s Heritage Program for further evaluation.
Demands on environmental resources of land, water, air, and energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to demands on the environmental resources of land, water, air, and energy would be expected because of the proposed project. Fuel would be required to operate equipment and vehicles used for the proposed project. No other demands on the environmental resources of land, water, air, and energy would be expected because of the proposed projects. Therefore, any impacts to such resources would be short-term, negligible, and limited to energy resources in the form of fuel.

Table 3 - Potential Impacts of Alternative 2: Proposed Project on the Human Population

HUMAN POPULATION	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	
Social structures and mores	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to social structures and mores in the affected area would be expected because of the proposed projects. Recreation areas, including trailheads and trails, support the existing social structure, customs, values, and conventions in and around the City of Anaconda. Refinement of the trails network by decommissioning some trails and building others is consistent with the communities’ long-term interest in recreation and would have no impact. Any impacts would be long-term, consistent with existing impacts, beneficial, and minor.
Cultural uniqueness and diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to cultural uniqueness and diversity in the affected area would be expected because of the proposed project. Project is not expected to result in any relocation of people into or out of the affected area.
Access to and quality of recreational and wilderness activities	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to access or the quality of recreational and wilderness activities would be expected because of the proposed project. No Wilderness areas currently exist in the affected area; therefore, no impacts to Wilderness recreation activities would occur because of the proposed project. No closures of public lands would occur because of the proposed project. Any impacts would be moderate and beneficial in providing access to public lands and trails. Any impacts to the access and

HUMAN POPULATION	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	
									quality of recreational and wilderness activities in the affected area would be long-term, beneficial, and moderate.
Local and state tax base and tax revenues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the local and state tax base and tax revenue would be expected because of the proposed project. The proposed project would be expected to increase state and local tax revenues from the sale of fuel, supplies and/or equipment to complete the project. Any impacts to the local and state tax base and tax revenue would be short-term and negligible, lasting only as long as the proposed project.
Agricultural or Industrial production	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts on agricultural or industrial production in the affected area would be expected because of the proposed project. Because the affected area is not currently used for agricultural and/or industrial production the proposed project would not impact such practices. Therefore, no impacts to agricultural or industrial production would be expected because of the proposed project.
Human health and safety	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to human health and safety would be expected because of the proposed project. Affected government staff and/or contractors hired to conduct the project may realize increased risk to human health and safety; however, affected staff and/or contractors would be required to operate in a safe manner and utilize best management practices, including

HUMAN POPULATION	Duration of Impact			Severity of Impact					
Resource	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
									<p>the use of available and appropriate safety precautions. When complete, ecological projects are expected to lead to safer recreational access to public lands. Therefore, any potential direct impacts to human health and safety would be both short-term and negligible, lasting only as long as the proposed project, and long-term, minor, and beneficial.</p>
Quantity and distribution of employment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>No significant adverse impacts to the quantity and distribution of employment in the affected area would be expected because of the proposed projects. Short-term and minor impacts to the local quantity and distribution of employment may be realized because existing government staff or contracted services would be required to complete restoration activities. Any impacts the quantity and distribution of employment in the affected area would be short-term and negligible, lasting only as long as the proposed projects.</p>
Distribution and density of population and housing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>No significant adverse impacts to the distribution and density of population and housing would be expected because of the proposed project. The proposed project would use existing government staff or contractors to accomplish the proposed project and would not otherwise require or result in the movement of existing or new population into or out of the affected area. Therefore, no impacts to the distribution and</p>

HUMAN POPULATION	Duration of Impact			Severity of Impact					
Resource	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
									density of population and housing in the affected area would be expected because of the proposed project.
Demands for government services	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the demands for government services in the affected area would be expected because of the proposed project. The proposed project would use existing government staff or hired contractors to complete the work. No additional demand for government services would be expected because of the proposed projects. Any impacts would be short-term and negligible.
Industrial, agricultural, and commercial activity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to industrial, agricultural, and commercial activity would be expected because of the proposed project. The proposed projects would not disturb or otherwise impact any industrial, agricultural, or commercial properties or operations; therefore, no impacts to industrial, agricultural, or commercial activity would be expected because of the proposed projects.
Locally adopted environmental plans and goals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to locally adopted environmental plans and goals would be expected because of the proposed project. NRDP is unaware of any locally adopted environmental plans or goals that may be adversely impacted by the proposed project. Therefore, no significant adverse impacts to locally adopted environmental plans and goals would be expected because of the proposed project.

HUMAN POPULATION	Duration of Impact			Severity of Impact					
Resource	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Other appropriate social and economic circumstances	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to any other appropriate social and economic circumstances would be expected because of the proposed project. NRDP is unaware of any other appropriate social and economic circumstances that may be impacted by the proposed project. Therefore, no significant adverse impacts to other appropriate social and economic circumstances would be expected because of the proposed project.

Table 4: Determining the Significance of Impacts on the Quality of the Human Environment

<p>If the EA identifies impacts associated with the proposed project, NRDP must determine the significance of the impacts. This determination forms the basis for NRDP’s decision as to whether it is necessary to prepare an environmental impact statement.</p> <p>According to the applicable requirements of ARM 12.1.431, NRDP considers the criteria identified in this table to determine the significance of each impact on the quality of the human environment. The significance determination is made by giving weight to these criteria in their totality. For example, impacts identified as moderate or major in severity may not be significant if the duration is short-term. However, moderate or major impacts of short-term duration may be significant if the quantity and quality of the resource is limited and/or the resource is unique or fragile. Further, moderate or major impacts to a resource may not be significant if the quantity of that resource is high or the quality of the resource is not unique or fragile.</p>	
<p>Criteria Used to Determine Significance</p>	
1	<p>The severity, duration, geographic extent, and frequency of the occurrence of the impact</p> <p>“Severity” describes the density of the potential impact, while “extent” describes the area where the impact will likely occur, e.g., a project may propagate ten noxious weeds on a surface area of 1 square foot. Here, the impact may be high in severity, but over a low extent. In contrast, if ten noxious weeds were distributed over ten acres, there may be low severity over a larger extent.</p> <p>“Duration” describes the time period during which an impact may occur, while “frequency” describes how often the impact may occur, e.g., an operation that uses lights to mine at night may have frequent lighting impacts during one season (duration).</p>
2	<p>The probability that the impact will occur if the proposed project occurs; or conversely, reasonable assurance in keeping with the potential severity of an impact that the impact will not occur</p>
3	<p>Growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts</p>
4	<p>The quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources and values</p>
5	<p>The importance to the state and to society of each environmental resource or value that would be affected</p>
6	<p>Any precedent that would be set as a result of an impact of the proposed project that would commit FWP to future actions with significant impacts or a decision in principle about such future actions</p>
7	<p>Potential conflict with local, state, or federal laws, requirements, or formal plans</p>

IV. Private Property Impact Analysis (Takings)

The 54th Montana Legislature enacted the Private Property Assessment Act, now found at § 2-10-101, MCA. The intent was to establish an orderly and consistent process by which state agencies evaluate their proposed projects under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency projects pertaining to land or water management or to some other environmental matter that, if adopted and enforced without due process of law and just compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agencies to assess the impact of a proposed agency project on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency project has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act.

Table 5: Private Property Assessment (Takings)

	Yes	No	
<i>Is NRDP regulating the use of private property under a regulatory statute adopted pursuant to the police power of the state? (Property management, grants of financial assistance, and the exercise of the power of eminent domain are not within this category.) If not, no further analysis is required</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Does the proposed regulatory action restrict the use of the regulated person's private property? If not, no further analysis is required.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Does NRDP have legal discretion to impose or not impose the proposed restriction or discretion as to how the restriction will be imposed? If not, no further analysis is required</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>If so, NRDP must determine if there are alternatives that would reduce, minimize, or eliminate the restriction on the use of private property, and analyze such alternatives. Have alternatives been considered and/or analyzed? If so, describe below:</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
PRIVATE PROPERTY ASSESSMENT ACT (PPAA)			
Does the Proposed Action Have Takings Implications under the PPAA?	Question #	Yes	No
Does the project pertain to land or water management or environmental regulations affecting private property or water rights?	1	<input type="checkbox"/>	<input type="checkbox"/>
Does the action result in either a permanent or an indefinite physical occupation of private property?	2	<input type="checkbox"/>	<input type="checkbox"/>

Does the action deprive the owner of all economically viable uses of the property?	3	<input type="checkbox"/>	<input type="checkbox"/>
Does the action require a property owner to dedicate a portion of property or to grant an easement? (If answer is NO, skip questions 4a and 4b and continue with question 5)	4	<input type="checkbox"/>	<input type="checkbox"/>
Is there a reasonable, specific connection between the government requirement and legitimate state interest?	4a	<input type="checkbox"/>	<input type="checkbox"/>
Is the government requirement roughly proportional to the impact of the proposed use of the property?	4b	<input type="checkbox"/>	<input type="checkbox"/>
Does the action deny a fundamental attribute of ownership?	5	<input type="checkbox"/>	<input type="checkbox"/>
Does the action have a severe impact of the value of the property?	6	<input type="checkbox"/>	<input type="checkbox"/>
Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public general? (If the answer is NO, skip questions 7a-7c.)	7	<input type="checkbox"/>	<input type="checkbox"/>
Is the impact of government action direct, peculiar, and significant?	7a	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?	7b	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?	7c	<input type="checkbox"/>	<input type="checkbox"/>
Does the proposed action result in taking or damaging implications?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Taking or damaging implications exist if YES is checked in response to Question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to question 4a or 4b.			
If taking or damaging implications exist, the agency must comply with § 2-10-105, MCA of the PPAA, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.			
Alternatives: The analysis under the Private Property Assessment Act, §§ 2-10-101 through -112, MCA, indicates no impact. NRDP does not plan to impose conditions that would restrict the regulated person’s use of private property to constitute a taking.			

V. Public Participation

The level of analysis in an EA will vary on the complexity and seriousness of environmental issues associated with the proposed actions. The level of public interest will also vary and affect the appropriateness of public participation. NRDP will adjust public review to match these factors per ARM 12.2.433(1).

Because NRDP determines the proposed action would result in limited environmental impact, and this action was proposed by the public with minimal opposition or concern expressed. NRDP

determines the following public notice strategy will provide an appropriate level of public review.

- This EA is a public document and may be inspected upon request. Any person may obtain a copy of the EA by making a request to NRDP. If the document is out-of-print, a copying charge may be levied. ARM 12.2.433(2).
- Public notice will be served on the Natural Resource Damage Program website at: <https://dojmt.gov/nrdp/public-notices/notices-of-public-comment/>
- NRDP maintains a mailing list of persons interested in a particular action or types of action. NRDP will notify all interested persons and distribute copies of the EA to the persons for review and comment. ARM 12.2.433(3).
- NRDP will issue public notice in the following newspaper periodical(s) during the public comment period:
 - Montana Standard
 - Anaconda Leader
- Public notice will announce the availability of the EA, summarize its content, and solicit public comment.
- Public meeting to provide information about proposed project will be held in Anaconda, Montana at 6:00 pm on January 7, 2024 at the following location:
 - The Montana Hotel, 200 Main Street, Anaconda Montana.
- **Duration of Public Comment Period:** The public comment period begins after the date of publication of legal notice in area newspapers (see above) and will coincide with the draft Amendment. Written or e-mailed comments will be accepted until 5:00 p.m., MST, on the last day of public comment as listed below:
 - **Length of Public Comment Period:** 50 days
 - **Public Comment Period Begins:** November 26, 2024
 - **Public Comment Period Ends:** January 15, 2024
- **Where to Mail or Email Comments on the Draft EA:**
 - Subject: Anaconda Uplands Restoration Plan Amendment, ADLC Ecological Restoration EA
 - Email: nrdp@mt.gov
 - Mailing Address:
PO Box 201425
Helena, MT 59620

VI. Recommendation for Further Environmental Analysis

NO further analysis is needed for the proposed action	<input checked="" type="checkbox"/>
NRDP must conduct EIS level review for the proposed action	<input type="checkbox"/>

VII. EA Preparation and Review

EA prepared by: Natural Resource Damage Program

**DRAFT
ENVIRONMENTAL ASSESSMENT
CHECKLIST**

Anaconda-Deer Lodge County Lands Recreation Restoration Projects

November 18, 2024



I. Background and Description of Proposed Project

This Environmental Assessment (EA) was prepared in compliance with the Montana Environmental Policy Act (MEPA). General requirements of the Environmental Review Process are found in § 75-1-201, Montana Code Annotated (MCA) and the Administrative Rules of Montana (ARM) 12.2.430.⁴ As details for specific projects under the scope Anaconda-Deer Lodge County Lands Recreational Service Restoration Projects develop, a supplementary environmental review of that specific project will be performed as appropriate and if the potential duration or severity of the impacts of that specific project are significantly different from impacts discussed and analyzed below.

Name of Project: Anaconda-Deer Lodge County Land Recreational Services Restoration Projects

Proposed recreational services restoration projects will be completed under the Anaconda Uplands Restoration Plan Amendment (Amendment). All projects would occur within the Amendment planning area shown in Figure 1.

The full project descriptions can be found in the Amendment and Appendix B to the Amendment.

Briefly, this project considers three types of recreational services restoration projects on Anaconda-Deer Lodge County Land (ADLC):

1. Design and develop a multiuser trail on the A-Hill and a connecting trail to the C-Hill.
2. Consolidate and connect existing trails and trail segments.
3. Provide access and wayfinding to trails within ADLCs' existing trail network.

There is community interest in the use of restoration funds to enhance recreational opportunities. Funding will be available to complete the three types of projects consistent with ADLC's Open Lands Plan (February 6, 2024) which proposes consolidation of trail networks north and south of town, with enhanced wayfinding and improved trailheads.

Design and complete a multiuser trail on the A-Hill and a connecting trail to the C-Hill

The A-Hill and C-Hill are prominent landmarks with significant, but undirected use. Restoration projects would better direct existing use by completing a multiuser trail on the A-Hill with a connection to the C-Hill. Numerous user-built trails in the area would be decommissioned and revegetated.

Consolidate and connect existing trails and trail segments

Consolidation and removal of redundant trails will benefit recreation as well as ecology and wildlife habitat. It will reduce weeds, erosion, and unnecessary disturbance to wildlife.

⁴ NRDP has based this EA checklist on one developed by Montana Fish, Wildlife, and Parks (FWP). The regulatory citation to the ARM is for reference only. NRDP has not developed a separate regulatory ARM.

Provide access and wayfinding to trails within ADLCs’ existing trail network

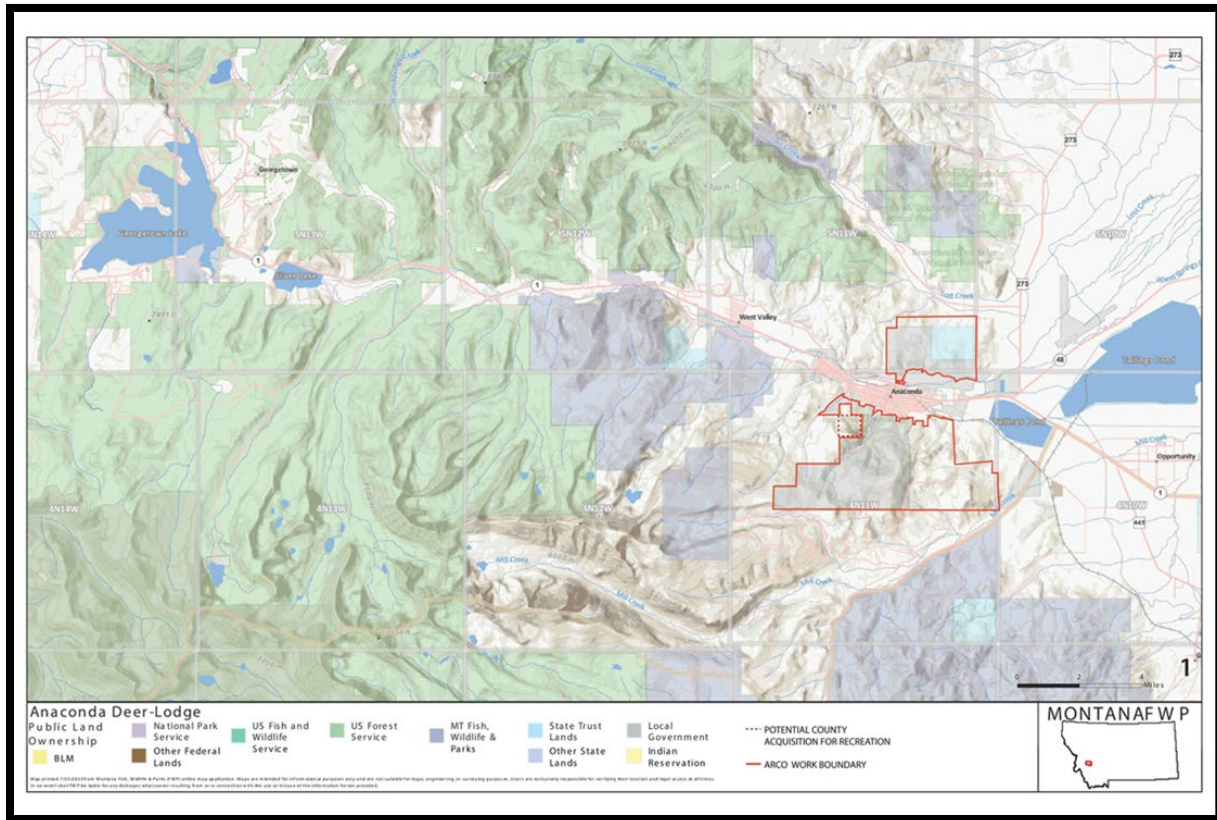
Improved signage and development of common access points for recreationists will be funded. It is anticipated that ADLC will identify trailheads, sites for additional signage and potentially new parking areas.

Anticipated Project Schedule: Subject to availability of contractors and other factors, NRDP anticipates that projects will be implemented beginning in 2025—and continuing until 2035.

Legal Description of Location of Affected Area / Location of Proposed Projects: portions of Townships 4 North, 11; West and 5 North, 11 West.

Town/City, County, Montana: Anaconda, Anaconda-Deer Lodge County, Montana

Figure 1. Anaconda Amendment planning area. Projects may occur in the area outlined in red.



II. List of Mitigations, Stipulations

Mitigations, stipulations, and other *enforceable* controls required by NRDP, or another agency, may be relied upon to limit potential impacts associated with a proposed Project. The table below lists and evaluates enforceable conditions NRDP may rely on to limit potential impacts associated with the proposed Project.

Table 1: Listing and Evaluation of Enforceable Mitigations Limiting Impacts

<i>Are enforceable controls limiting potential impacts of the proposed action? If not, no further evaluation is needed.</i>			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
<i>If yes, are these controls being relied upon to limit impacts below the level of significance? If yes, list the enforceable control(s) below</i>			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Enforceable Control	Responsible Agency	Authority (Rule, Permit, Stipulation, Other)	Effect of Enforceable Control on Proposed Project	

III. Summary of Potential Impacts of the Proposed Project on the Physical Environment and Human Population

The impacts analysis identifies and evaluates **direct, secondary, and cumulative impacts**.

- **Direct impacts** are those that occur at the same time and place as the action that triggers the effect.
- **Secondary impacts** are further impacts to the human environment that may be stimulated or induced by or otherwise result from a direct impact of the action. ARM 12.2.429(18).
- **Cumulative impacts** “means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when these actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures.” ARM 12.2.429(7).

Where impacts are expected to occur, the impact analysis estimates the **extent, duration, frequency, and severity** of the impact. The duration of an impact is quantified as follows:

- **Short-Term:** impacts that would not last longer than the proposed project.
- **Long-Term:** impacts that would remain or occur following the proposed project.

The severity of an impact is measured using the following:

- **No Impact:** there would be no change from current conditions.
- **Negligible:** an adverse or beneficial effect would occur but would be at the lowest levels of detection.
- **Minor:** the effect would be noticeable but would be relatively small and would not affect the function or integrity of the resource.

- **Moderate:** the effect would be easily identifiable and would change the function or integrity of the resource.
- **Major:** the effect would irretrievably alter the resource.

Some impacts may require mitigation. As defined in ARM 12.2.429(14), mitigation means:

- Avoiding an impact by not taking a certain action or parts of a project.
- Minimizing impacts by limiting the degree or magnitude of a project and its implementation.
- Rectifying an impact by repairing, rehabilitating, or restoring the affected environment; or
- Reducing or eliminating an impact over time by preservation and maintenance operations during the life of a project or the time period thereafter that an impact continues.

A list of any mitigation strategies including, but not limited to, design, enforceable controls or stipulations, or both, as applicable to the proposed project is included in **Section II** above.

NRDP must analyze impacts to the physical and human environment for each alternative considered. The proposed project considered the following alternatives:

- **Alternative 1: No Action. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

Under the “No Action” alternative, the proposed project would not occur. Therefore, no additional impacts to the physical environment or human population in the analysis area would occur. The “No Action” alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

- **Alternative 2: Proposed Project. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

See Table 2 (Impacts on Physical Environment) and Table 3 (Impacts on Human Population) below.

Table 2 - Potential Impacts of Alternative 2: Proposed Project on the Physical Environment

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	
Terrestrial, avian, and aquatic life and habitats	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Development of new trails, consolidation & connection of existing trails, as well as improved wayfinding and access would have the net impact of increasing trails use by people and associated disturbance to terrestrial wildlife and habitat. Disturbance could displace wildlife from foraging and rearing habitat. These adverse impacts would be partially offset by the decommissioning of some existing roads and trails. Significant adverse impacts to terrestrial, avian, and aquatic life and habitats are not expected. Impacts would be short- and long-term, consistent with existing impacts, and be negligible, minor or moderate.
Water quality, quantity, and distribution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trails construction would not occur in or near any water. As such no significant adverse impacts to water quality, quantity, and distribution would be expected because of the proposed project. The proposed project would not require the use of any additional new water resources, nor would it affect the distribution of any existing water resources.
Geology	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact to geology would be expected because of the proposed project. The proposed project would not affect any geologic features in the project area; therefore, no impacts to geology are expected because of the proposed project.

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	
Soil quality, stability, and moisture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to soil quality, stability, and moisture would be expected because of the proposed project. Construction of the project could result in long-term, minor and adverse impacts to soil compaction in the areas where parking lots are established. Soil in the trail bed would be compacted for stability. Decommissioning of user built and duplicative trails would reduce erosion. Any impacts would be long-term, minor, and consistent with current site use as a trailhead and trail.
Vegetation cover, quantity, and quality	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trails are vectors for noxious weeds and the construction of new trails could introduce weeds into new areas. Given that trails construction would occur in synchrony with weed management, revegetation and decommissioning of other trails, a net reduction in weeds and increase in native vegetation is most likely. No significant adverse impacts to vegetation cover, quantity, and quality would be expected because of the proposed project. Any impacts associated with noxious weeds would be long-term and minor.
Aesthetics	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the aesthetic nature of the affected area would be expected because of the proposed project. Short-term and minor adverse aesthetic impacts may result from construction due to increased levels of noise, fugitive dust, and

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures	
	Resource	None	Short Term	Long Term	None	Negligible	Minor	Moderate		Major
										the presence of equipment and staged construction materials. Long-term and minor adverse impacts may also result from development of currently open land to support the proposed project. Any long-term aesthetic impacts would be consistent with the area’s current use.
Air quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to air quality would be expected because of the proposed project. Minor and temporary fugitive dust and vehicle emissions would be created by equipment during construction but would end after completion. There would be no additional new air quality disturbance in the affected area and no significant point-sources of air pollution exist in the area affected by the proposed project. Any impacts to air quality would be short-term, consistent with existing impacts, and negligible.
Unique, endangered, fragile, or limited environmental resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to any unique, endangered, fragile, or limited environmental resources would be expected because of the proposed project. Bull trout and white bark pine trees are both within 5 miles of the project area and would not be impacted by trails development or signage. It is unknown if other threatened, endangered or species of concern are in the project area. Given the industrial history of the area it is not likely that breeding populations of those species are present as such any impacts to those species

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures	
	Resource	None	Short Term	Long Term	None	Negligible	Minor	Moderate		Major
										would be short- and long-term, consistent with existing impacts, and negligible.
Historical and archaeological sites	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to historic and archaeological sites would be expected because of the proposed project. As appropriate, the Trustees will work with project managers during the permitting process to ensure that they consult with the State Historical Preservation Office and Tribal Historic Preservation offices to confirm that there are no known archeological and cultural sites that would be disturbed. If cultural resources within or near the project areas are recorded and eligible for the National Register of Historic Places, the Trustees would work with the project manager to redesign projects to minimize or not adversely affect any known archeological sites or sites of cultural significance, or a similar project in a different location in the watershed would be substituted. If cultural resources are unexpectedly discovered during project implementation, NRDP will cease implementation and contact FWP’s Heritage Program for further evaluation.
Demands on environmental resources of land, water, air, and energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to demands on the environmental resources of land, water, air, and energy would be expected because of the proposed project. Fuel would be required to operate equipment and vehicles used for the proposed project. No other

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures	
	Resource	None	Short Term	Long Term	None	Negligible	Minor	Moderate		Major
										demands on the environmental resources of land, water, air, and energy would be expected because of the proposed projects. Therefore, any impacts to such resources would be short-term, negligible, and limited to energy resources in the form of fuel.

Table 3 - Potential Impacts of Alternative 2: Proposed Project on the Human Population

HUMAN POPULATION	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	Resource	None	Short Term	Long Term	None	Negligible	Minor	Moderate	
Social structures and mores	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to social structures and mores in the affected area would be expected because of the proposed projects. Recreation areas, including trailheads and trails, support the existing social structure, customs, values, and conventions in and around the City of Anaconda. Trail decommissioning and construction are consistent with the communities' long-term interest in sustainable recreational use of lands in the county. Any impacts would be long-term, consistent with existing impacts, beneficial, and minor.
Cultural uniqueness and diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to cultural uniqueness and diversity in the affected area would be expected because of the proposed project. Project is not expected to result in any relocation of people into or out of the affected area.

<p>Access to and quality of recreational and wilderness activities</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>No significant adverse impacts to access or the quality of recreational and wilderness activities would be expected because of the proposed project. No Wilderness areas currently exist in the affected area; therefore, no impacts to Wilderness recreation activities would occur because of the proposed project. No closures of public lands would occur because of the proposed project. Any impacts would be moderate and beneficial in providing access to public lands and trails. Any impacts to the access and quality of recreational and wilderness activities in the affected area would be long-term, beneficial, and moderate.</p>
<p>Local and state tax base and tax revenues</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>No significant adverse impacts to the local and state tax base and tax revenue would be expected because of the proposed project. The proposed project would be expected to increase state and local tax revenues from the sale of fuel, supplies and/or equipment to complete the project. Any impacts to the local and state tax base and tax revenue would be short -term and negligible, lasting only as long as the proposed project.</p>
<p>Agricultural or Industrial production</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>No significant impacts to agricultural or industrial production in the affected area would be expected because of the proposed project. Because the affected area is not currently used for agricultural and/or industrial production the proposed project would not impact such practices. Therefore, no impacts to agricultural or industrial production would be expected because of the proposed project.</p>
<p>Human health and safety</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>No significant adverse impacts to human health and safety would be expected because</p>

									of the proposed project. Affected government staff and/or contractors hired to conduct the project may realize increased risk to human health and safety; however, affected staff and/or contractors would be required to operate in a safe manner and utilize best management practices, including the use of available and appropriate safety precautions. When complete, recreation projects are expected to lead to safer recreational access to public lands. Therefore, any potential direct impacts to human health and safety would be both short-term and negligible, lasting only as long as the proposed project, and long-term, minor, and beneficial.
Quantity and distribution of employment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the quantity and distribution of employment in the affected area would be expected because of the proposed projects. Short-term and minor impacts to the local quantity and distribution of employment may be realized because existing government staff or contracted services would be required to complete restoration activities. Any impacts the quantity and distribution of employment in the affected area would be short-term and negligible, lasting only as long as the proposed projects.
Distribution and density of population and housing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the distribution and density of population and housing would be expected because of the proposed project. The proposed project would use existing government staff or contractors to accomplish the proposed project and would not otherwise require or result in the movement of existing or new population into

									or out of the affected area. Therefore, no impacts to the distribution and density of population and housing in the affected area would be expected because of the proposed project.
Demands for government services	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the demands for government services in the affected area would be expected because of the proposed project. The proposed project would use existing government staff or hired contractors to complete the work. No additional demands for government services would be expected because of the proposed projects. Any impacts would be short-term and negligible.
Industrial, agricultural, and commercial activity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to industrial, agricultural, and commercial activity would be expected because of the proposed project. The proposed projects would not disturb or otherwise impact any industrial, agricultural, or commercial properties or operations; therefore, no impacts to industrial, agricultural, or commercial activity would be expected because of the proposed projects.
Locally adopted environmental plans and goals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to locally adopted environmental plans and goals would be expected because of the proposed project. NRDP is unaware of any locally adopted environmental plans or goals that may be adversely impacted by the proposed project. Therefore, no significant adverse impacts to locally adopted environmental plans and goals would be expected because of the proposed project.
Other appropriate social and economic	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to any other appropriate social and economic circumstances would be expected because of

economic circumstances									the proposed project. NRDP is unaware of any other appropriate social and economic circumstances that may be impacted by the proposed project. Therefore, no significant adverse impacts to other appropriate social and economic circumstances would be expected because of the proposed project.
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Table 4: Determining the Significance of Impacts on the Quality of the Human Environment

<p>If the EA identifies impacts associated with the proposed project, NRDP must determine the significance of the impacts. This determination forms the basis for NRDP’s decision as to whether it is necessary to prepare an environmental impact statement.</p> <p>According to the applicable requirements of ARM 12.1.431, NRDP considers the criteria identified in this table to determine the significance of each impact on the quality of the human environment. The significance determination is made by giving weight to these criteria in their totality. For example, impacts identified as moderate or major in severity may not be significant if the duration is short-term. However, moderate or major impacts of short-term duration may be significant if the quantity and quality of the resource is limited and/or the resource is unique or fragile. Further, moderate or major impacts to a resource may not be significant if the quantity of that resource is high or the quality of the resource is not unique or fragile.</p>	
Criteria Used to Determine Significance	
1	<p>The severity, duration, geographic extent, and frequency of the occurrence of the impact</p> <p>“Severity” describes the density of the potential impact, while “extent” describes the area where the impact will likely occur, e.g., a project may propagate ten noxious weeds on a surface area of 1 square foot. Here, the impact may be high in severity, but over a low extent. In contrast, if ten noxious weeds were distributed over ten acres, there may be low severity over a larger extent.</p> <p>“Duration” describes the time period during which an impact may occur, while “frequency” describes how often the impact may occur, e.g., an operation that uses lights to mine at night may have frequent lighting impacts during one season (duration).</p>
2	The probability that the impact will occur if the proposed project occurs; or conversely, reasonable assurance in keeping with the potential severity of an impact that the impact will not occur
3	Growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts
4	The quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources and values
5	The importance to the state and to society of each environmental resource or value that would be affected
6	Any precedent that would be set as a result of an impact of the proposed project that would commit FWP to future actions with significant impacts or a decision in principle about such future actions
7	Potential conflict with local, state, or federal laws, requirements, or formal plans

IV. Private Property Impact Analysis (Takings)

The 54th Montana Legislature enacted the Private Property Assessment Act, now found at § 2-10-101, MCA. The intent was to establish an orderly and consistent process by which state agencies evaluate their proposed projects under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency projects pertaining to land or water management or to some other environmental matter that, if adopted and enforced without due process of law and just compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agencies to assess the impact of a proposed agency project on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency project has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act.

Table 5: Private Property Assessment (Takings)

	Yes	No	
<i>Is NRDP regulating the use of private property under a regulatory statute adopted pursuant to the police power of the state? (Property management, grants of financial assistance, and the exercise of the power of eminent domain are not within this category.) If not, no further analysis is required</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Does the proposed regulatory action restrict the use of the regulated person's private property? If not, no further analysis is required.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Does NRDP have legal discretion to impose or not impose the proposed restriction or discretion as to how the restriction will be imposed? If not, no further analysis is required</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>If so, NRDP must determine if there are alternatives that would reduce, minimize, or eliminate the restriction on the use of private property, and analyze such alternatives. Have alternatives been considered and/or analyzed? If so, describe below:</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
PRIVATE PROPERTY ASSESMENT ACT (PPAA)			
Does the Proposed Action Have Takings Implications under the PPAA?	Question #	Yes	No
Does the project pertain to land or water management or environmental regulations affecting private property or water rights?	1	<input type="checkbox"/>	<input type="checkbox"/>
Does the action result in either a permanent or an indefinite physical occupation of private property?	2	<input type="checkbox"/>	<input type="checkbox"/>

Does the action deprive the owner of all economically viable uses of the property?	3	<input type="checkbox"/>	<input type="checkbox"/>
Does the action require a property owner to dedicate a portion of property or to grant an easement? (If answer is NO, skip questions 4a and 4b and continue with question 5)	4	<input type="checkbox"/>	<input type="checkbox"/>
Is there a reasonable, specific connection between the government requirement and legitimate state interest?	4a	<input type="checkbox"/>	<input type="checkbox"/>
Is the government requirement roughly proportional to the impact of the proposed use of the property?	4b	<input type="checkbox"/>	<input type="checkbox"/>
Does the action deny a fundamental attribute of ownership?	5	<input type="checkbox"/>	<input type="checkbox"/>
Does the action have a severe impact of the value of the property?	6	<input type="checkbox"/>	<input type="checkbox"/>
Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public general? (If the answer is NO, skip questions 7a-7c.)	7	<input type="checkbox"/>	<input type="checkbox"/>
Is the impact of government action direct, peculiar, and significant?	7a	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?	7b	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?	7c	<input type="checkbox"/>	<input type="checkbox"/>
Does the proposed action result in taking or damaging implications?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Taking or damaging implications exist if YES is checked in response to Question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to question 4a or 4b.			
If taking or damaging implications exist, the agency must comply with § 2-10-105, MCA of the PPAA, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.			
Alternatives: The analysis under the Private Property Assessment Act, §§ 2-10-101 through -112, MCA, indicates no impact. NRDP does not plan to impose conditions that would restrict the regulated person’s use of private property to constitute a taking.			

V. Public Participation

The level of analysis in an EA will vary on the complexity and seriousness of environmental issues associated with the proposed actions. The level of public interest will also vary and affect the appropriateness of public participation. NRDP will adjust public review to match these factors per ARM 12.2.433(1).

Because NRDP determines the proposed action would result in limited environmental impact, and this action was proposed by the public with minimal opposition or concern expressed. NRDP

determines the following public notice strategy will provide an appropriate level of public review.

- This EA is a public document and may be inspected upon request. Any person may obtain a copy of the EA by making a request to NRDP. If the document is out-of-print, a copying charge may be levied. ARM 12.2.433(2).
- Public notice will be served on the Natural Resource Damage Program website at: <https://dojmt.gov/nrdp/public-notices/notices-of-public-comment/>
- NRDP maintains a mailing list of persons interested in a particular action or types of action. NRDP will notify all interested persons and distribute copies of the EA to the persons for review and comment. ARM 12.2.433(3).
- NRDP will issue public notice in the following newspaper periodical(s) during the public comment period:
 - Montana Standard
 - Anaconda Leader
- Public notice will announce the availability of the EA, summarize its content, and solicit public comment.
- Public meeting to provide information about proposed project will be held in Anaconda, Montana at 6:00 pm on January 7, 2024 at the following location:
 - The Montana Hotel, 200 Main Street, Anaconda, Montana.
- **Duration of Public Comment Period:** The public comment period begins after the date of publication of legal notice in area newspapers (see above) and will coincide with the draft Amendment. Written or e-mailed comments will be accepted until 5:00 p.m., MST, on the last day of public comment as listed below:
 - **Length of Public Comment Period:** 50 days
 - **Public Comment Period Begins:** November 26, 2024
 - **Public Comment Period Ends:** January 15, 2024
- **Where to Mail or Email Comments on the Draft EA:**
 - Subject: Anaconda Uplands Restoration Plan Amendment, ADLC Ecological Restoration EA
 - Email: nrdp@mt.gov
 - Mailing Address:
PO Box 201425
Helena, MT 59620

VI. Recommendation for Further Environmental Analysis

NO further analysis is needed for the proposed action	<input checked="" type="checkbox"/>
NRDP must conduct EIS level review for the proposed action	<input type="checkbox"/>

VII. EA Preparation and Review

EA prepared by: Natural Resource Damage Program

**DRAFT
ENVIRONMENTAL ASSESSMENT
CHECKLIST**

Anaconda-Deer Lodge County Lands Wildlife Habitat Restoration Project

November 18, 2024



I. Background and Description of Potential Wildlife Habitat Projects

This Environmental Assessment (EA) was prepared in compliance with the Montana Environmental Policy Act (MEPA). General requirements of the Environmental Review Process are found in § 75-1-201, Montana Code Annotated (MCA) and the Administrative Rules of Montana (ARM) 12.2.430.⁵ As details for specific projects under the scope Anaconda-Deer Lodge County Lands Wildlife Habitat Restoration Projects develop, a supplementary environmental review of that specific project will be performed as appropriate and if the potential duration or severity of the impacts of that specific project are significantly different from impacts discussed and analyzed below.

Name of Project: Anaconda-Deer Lodge County Lands Wildlife Habitat Restoration Projects

Wildlife projects contemplated under the Anaconda Uplands Restoration Plan Amendment (Amendment) are analyzed in this Environmental Analysis (EA) checklist. All projects would occur within the Amendment planning area shown in Figure 1. Additional descriptions of these types of projects can be found in the Amendment.

Briefly, this EA checklist considers two types of wildlife restoration projects on Anaconda-Deer Lodge County Lands (ADLC):

1. Conserve, restore and enhance critical habitats like native bunchgrass communities, riparian habitats, and shrub grasslands that have a disproportionate value to wildlife relative to their extent

Conserve, restore and enhance critical habitats

Restoration funds will be used to complete projects to conserve, restore or enhance critical habitats which have a disproportionate value for wildlife relative to their extent. Examples of these types of projects are improving mule deer winter range by spraying noxious weeds and planting bitterbrush or building beaver dam analogs in Sheep Gulch to restore riparian function and associated habitat for songbirds.

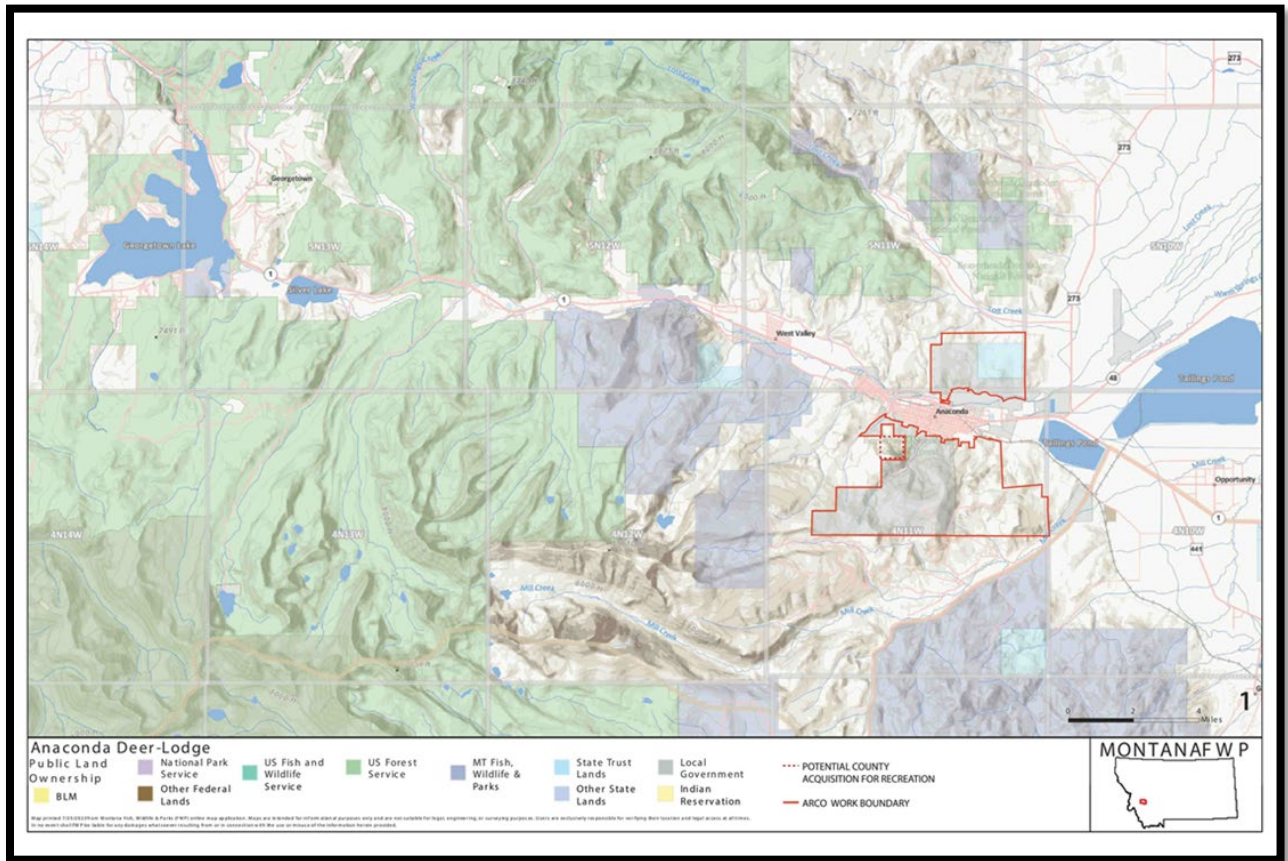
Anticipated Project Schedule: Subject to availability of contractors and other factors, NRDP anticipates that projects will be implemented beginning in 2025—and continuing until 2035.

Legal Description of Location of Affected Area / Location of Proposed Projects: portions of Townships 4 North, 11 West and 5 North, 11 West.

Town/City, County, Montana: Anaconda, Anaconda-Deer Lodge County, Montana

⁵ NRDP has based this EA checklist on one developed by Montana Fish, Wildlife, and Parks (FWP). The regulatory citation to the ARM is for reference only. NRDP has not developed a separate regulatory ARM.

Figure 1. Anaconda Amendment Planning area. Projects may be completed in the area outlined in red.



II. List of Mitigations, Stipulations

Mitigations, stipulations, and other *enforceable* controls required by NRDP, or another agency, may be relied upon to limit potential impacts associated with a proposed Project. The table below lists and evaluates enforceable conditions NRDP may rely on to limit potential impacts associated with the proposed Project.

Table 1: Listing and Evaluation of Enforceable Mitigations Limiting Impacts

<i>Are enforceable controls limiting potential impacts of the proposed action? If not, no further evaluation is needed.</i>		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
<i>If yes, are these controls being relied upon to limit impacts below the level of significance? If yes, list the enforceable control(s) below</i>		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Enforceable Control	Responsible Agency	Authority (Rule, Permit, Stipulation, Other)	Effect of Enforceable Control on Proposed Project

III. Summary of Potential Impacts of the Proposed Project on the Physical Environment and Human Population

The impacts analysis identifies and evaluates **direct, secondary, and cumulative impacts**.

- **Direct impacts** are those that occur at the same time and place as the action that triggers the effect.
- **Secondary impacts** are further impacts to the human environment that may be stimulated or induced by or otherwise result from a direct impact of the action. ARM 12.2.429(18).
- **Cumulative impacts** “means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when these actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures.” ARM 12.2.429(7).

Where impacts are expected to occur, the impact analysis estimates the **extent, duration, frequency, and severity** of the impact. The duration of an impact is quantified as follows:

- **Short-Term:** impacts that would not last longer than the proposed project.
- **Long-Term:** impacts that would remain or occur following the proposed project.

The severity of an impact is measured using the following:

- **No Impact:** there would be no change from current conditions.
- **Negligible:** an adverse or beneficial effect would occur but would be at the lowest levels of detection.
- **Minor:** the effect would be noticeable but would be relatively small and would not affect the function or integrity of the resource.
- **Moderate:** the effect would be easily identifiable and would change the function or integrity of the resource.
- **Major:** the effect would irretrievably alter the resource.

Some impacts may require mitigation. As defined in ARM 12.2.429(14), mitigation means:

- Avoiding an impact by not taking a certain action or parts of a project.
- Minimizing impacts by limiting the degree or magnitude of a project and its implementation.
- Rectifying an impact by repairing, rehabilitating, or restoring the affected environment; or
- Reducing or eliminating an impact over time by preservation and maintenance operations during the life of a project or the time period thereafter that an impact continues.

A list of any mitigation strategies including, but not limited to, design, enforceable controls or stipulations, or both, as applicable to the proposed project is included in **Section II** above. NRDP must analyze impacts to the physical and human environment for each alternative considered.

The proposed project considered the following alternatives:

- **Alternative 1: No Action. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

Under the “No Action” alternative, the proposed project would not occur. Therefore, no additional impacts to the physical environment or human population in the analysis area would occur. The “No Action” alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

- **Alternative 2: Proposed Ecological Projects. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

See Table 2 (Impacts on Physical Environment) and Table 3 (Impacts on Human Population) below.

Table 2 - Potential Impacts of Alternative 2: Proposed Wildlife Projects on the Physical Environment

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	
Terrestrial, avian, and aquatic life and habitats	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No significant adverse impacts to terrestrial, avian, and aquatic life and habitats would be expected because of the proposed projects. Significant beneficial impacts would be expected over the short and long-term. Wildlife habitat would be improved as a result of enhancement and conservation projects prioritized for their positive impact on critical and declining habitats. Planting of bitterbrush and other shrubs for wintering mule deer as well as the construction of beaver dam analogs to improve riparian function are potential projects. Both would benefit wildlife in the long term but may displace animals during construction.
Water quality, quantity, and distribution	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to water quality, quantity, and distribution would be expected because of the proposed project. No additional new water resources would be necessary, nor would the project affect the distribution of any existing water resources. Implementation of projects may result in short-term and minor increases in water turbidity generated by the construction of beaver dam analogs along streambanks. However, any impacts would be consistent with, but likely would not exceed, the level of turbidity generated by high water events experienced during spring runoff. Any adverse impacts to water quality, quantity, and distribution would be short-term,

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	
Resource									consistent with existing natural impacts, and minor.
Geology	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impacts to geology would be expected because of the proposed project. The proposed project would not affect any geologic features in the project area; therefore, no impacts to geology are expected because of the proposed project.
Soil quality, stability, and moisture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to soil quality, stability, and moisture would be expected because of the proposed project.
Vegetation cover, quantity, and quality	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to vegetation cover, quantity, and quality would be expected because of the proposed project—most impacts would be beneficial. Treatment of invasive weeds with herbicides would potentially reduce the diversity and abundance of native forbs. This impact is likely to be minor because on many sites native forbs are already uncommon and herbicides would be applied selectively. Any impacts associated with noxious weeds would be long-term and minor and outweighed by the long-term benefit of improved wildlife habitat condition.
Aesthetics	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the aesthetic nature of the affected area would be expected because of the proposed projects.
Air quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to air quality would be expected because of the proposed project. Any impacts to air quality would be

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	
Resource									short-term, consistent with existing impacts, and negligible.
Unique, endangered, fragile, or limited environmental resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to any unique, endangered, fragile, or limited environmental resources would be expected because of the proposed project— environmental resources would benefit from the conservation and enhancement of critical habitat. White bark pine trees and bull trout (both threatened species) are present within 5 miles of the project area. Neither are onsite. It is unlikely that other threatened or endangered species are in the project area if they were present any impacts would be beneficial.
Historical and archaeological sites	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to historic and archaeological sites would be expected because of the proposed project. As appropriate, the Trustees will work with project managers during the permitting process to ensure that they consult with the State Historical Preservation Office and Tribal Historic Preservation offices to confirm that there are no known archeological and cultural sites that would be disturbed. If cultural resources within or near the project areas are recorded and eligible for the National Register of Historic Places, the Trustees would work with the project manager to redesign projects so as to minimize or not adversely affect any known archaeological sites or sites of cultural

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	
									significance, or a similar project in a different location in the watershed would be substituted. If cultural resources are unexpectedly discovered during project implementation, NRDP will cease implementation and contact FWP’s Heritage Program for further evaluation.
Demands on environmental resources of land, water, air, and energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to demands on the environmental resources of land, water, air, and energy would be expected because of the proposed project. Fuel may be required to operate equipment and vehicles used for the proposed project. No other demands on the environmental resources of land, water, air, and energy would be expected because of the proposed project. Therefore, any impacts to such resources would be short-term, negligible, and limited to energy resources in the form of fuel.

Table 3 - Potential Impacts of Alternative 2: Proposed Wildlife Projects on the Human Population

HUMAN POPULATION	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short Term	Long Term	None	Negligible	Minor	Moderate	Major	
Social structures and mores	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to social structures and mores in the affected area would be expected because of the proposed projects. Healthy wildlife habitats and conserved spaces support the existing social structure, customs, values, and conventions in and around the City of Anaconda. Any impacts would be long-term, consistent with existing impacts, beneficial, and minor.
Cultural uniqueness and diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to cultural uniqueness and diversity in the affected area would be expected because of the proposed project. Project is not expected to result in any relocation of people into or out of the affected area.
Access to and quality of recreational and wilderness activities	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to access or the quality of recreational and wilderness activities would be expected because of the proposed project. No Wilderness areas currently exist in the affected area; therefore, no impacts to Wilderness recreation activities would occur because of the proposed project. No closures of public lands would occur because of the proposed project. Any impacts would be moderate and beneficial in providing access to public lands and trails. Any impacts to the access and quality of recreational and wilderness activities in the affected area would be long-term, beneficial, and moderate.

Local and state tax base and tax revenues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the local and state tax base and tax revenue would be expected because of the proposed project. Any impacts to the local and state tax base and tax revenue would be short -term and negligible, lasting only as long as the proposed project.
Agricultural or Industrial production	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to agricultural or industrial production in the affected area would be expected because of the proposed project. Because the affected area is not currently used for agricultural and/or industrial production the proposed project would not impact such practices. Therefore, no impacts to agricultural or industrial production would be expected because of the proposed project.
Human health and safety	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to human health and safety would be expected because of the proposed project. Affected government staff and/or contractors hired to conduct the project may realize increased risk to human health and safety; however, affected staff and/or contractors would be required to operate in a safe manner and utilize best management practices, including the use of available and appropriate safety precautions. Therefore, any potential direct impacts to human health and safety would be both short-term and negligible, lasting only as long as the proposed project, and long-term, minor, and beneficial.
Quantity and distribution of employment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the quantity and distribution of employment in the affected area would be expected because of the proposed projects. Short-term and minor impacts to the local quantity and

									distribution of employment may be realized because existing government staff or contracted services would be required to complete restoration activities. Any impacts the quantity and distribution of employment in the affected area would be short-term and negligible, lasting only as long as the proposed projects.
Distribution and density of population and housing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the distribution and density of population and housing would be expected because of the proposed project. The proposed project would use existing government staff or contractors to accomplish the proposed project and would not otherwise require or result in the movement of existing or new population into or out of the affected area. Therefore, no impacts to the distribution and density of population and housing in the affected area would be expected because of the proposed project.
Demands for government services	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the demands for government services in the affected area would be expected because of the proposed project. The proposed project would use existing government staff or hired contractors to complete the work. No additional demand for government services would be expected because of the proposed projects. Any impacts would be short-term and negligible.
Industrial, agricultural, and commercial activity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to industrial, agricultural, and commercial activity would be expected because of the proposed project. The proposed projects would not disturb or otherwise impact any industrial, agricultural, or commercial properties or operations;

									therefore, no impacts to industrial, agricultural, or commercial activity would be expected because of the proposed projects.
Locally adopted environmental plans and goals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to locally adopted environmental plans and goals would be expected because of the proposed project. NRDP is unaware of any locally adopted environmental plans or goals that may be adversely impacted by the proposed project. Therefore, no significant adverse impacts to locally adopted environmental plans and goals would be expected because of the proposed project.
Other appropriate social and economic circumstances	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to any other appropriate social and economic circumstances would be expected because of the proposed project. NRDP is unaware of any other appropriate social and economic circumstances that may be impacted by the proposed project. Therefore, no significant adverse impacts to other appropriate social and economic circumstances would be expected because of the proposed project.

Table 4: Determining the Significance of Impacts on the Quality of the Human Environment

<p>If the EA identifies impacts associated with the proposed project, NRDP must determine the significance of the impacts. This determination forms the basis for NRDP’s decision as to whether it is necessary to prepare an environmental impact statement.</p> <p>According to the applicable requirements of ARM 12.1.431, NRDP considers the criteria identified in this table to determine the significance of each impact on the quality of the human environment. The significance determination is made by giving weight to these criteria in their totality. For example, impacts identified as moderate or major in severity may not be significant if the duration is short-term. However, moderate or major impacts of short-term duration may be significant if the quantity and quality of the resource is limited and/or the resource is unique or fragile. Further, moderate or major impacts to a resource may not be significant if the quantity of that resource is high or the quality of the resource is not unique or fragile.</p>	
Criteria Used to Determine Significance	
1	<p>The severity, duration, geographic extent, and frequency of the occurrence of the impact</p> <p>“Severity” describes the density of the potential impact, while “extent” describes the area where the impact will likely occur, e.g., a project may propagate ten noxious weeds on a surface area of 1 square foot. Here, the impact may be high in severity, but over a low extent. In contrast, if ten noxious weeds were distributed over ten acres, there may be low severity over a larger extent.</p> <p>“Duration” describes the time period during which an impact may occur, while “frequency” describes how often the impact may occur, e.g., an operation that uses lights to mine at night may have frequent lighting impacts during one season (duration).</p>
2	The probability that the impact will occur if the proposed project occurs; or conversely, reasonable assurance in keeping with the potential severity of an impact that the impact will not occur
3	Growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts
4	The quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources and values
5	The importance to the state and to society of each environmental resource or value that would be affected
6	Any precedent that would be set as a result of an impact of the proposed project that would commit FWP to future actions with significant impacts or a decision in principle about such future actions
7	Potential conflict with local, state, or federal laws, requirements, or formal plans

IV. Private Property Impact Analysis (Takings)

The 54th Montana Legislature enacted the Private Property Assessment Act, now found at § 2-10-101, MCA. The intent was to establish an orderly and consistent process by which state agencies evaluate their proposed projects under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency projects pertaining to land or water management or to some other environmental matter that, if adopted and enforced without due process of law and just compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agencies to assess the impact of a proposed agency project on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency project has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act.

Table 5: Private Property Assessment (Takings)

	Yes	No	
<i>Is NRDP regulating the use of private property under a regulatory statute adopted pursuant to the police power of the state? (Property management, grants of financial assistance, and the exercise of the power of eminent domain are not within this category.) If not, no further analysis is required</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Does the proposed regulatory action restrict the use of the regulated person's private property? If not, no further analysis is required.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Does NRDP have legal discretion to impose or not impose the proposed restriction or discretion as to how the restriction will be imposed? If not, no further analysis is required</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>If so, NRDP must determine if there are alternatives that would reduce, minimize, or eliminate the restriction on the use of private property, and analyze such alternatives. Have alternatives been considered and/or analyzed? If so, describe below:</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
PRIVATE PROPERTY ASSESMENT ACT (PPAA)			
Does the Proposed Action Have Takings Implications under the PPAA?	Question #	Yes	No
Does the project pertain to land or water management or environmental regulations affecting private property or water rights?	1	<input type="checkbox"/>	<input type="checkbox"/>

Does the action result in either a permanent or an indefinite physical occupation of private property?	2	<input type="checkbox"/>	<input type="checkbox"/>
Does the action deprive the owner of all economically viable uses of the property?	3	<input type="checkbox"/>	<input type="checkbox"/>
Does the action require a property owner to dedicate a portion of property or to grant an easement? (If answer is NO, skip questions 4a and 4b and continue with question 5)	4	<input type="checkbox"/>	<input type="checkbox"/>
Is there a reasonable, specific connection between the government requirement and legitimate state interest?	4a	<input type="checkbox"/>	<input type="checkbox"/>
Is the government requirement roughly proportional to the impact of the proposed use of the property?	4b	<input type="checkbox"/>	<input type="checkbox"/>
Does the action deny a fundamental attribute of ownership?	5	<input type="checkbox"/>	<input type="checkbox"/>
Does the action have a severe impact of the value of the property?	6	<input type="checkbox"/>	<input type="checkbox"/>
Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public general? (If the answer is NO, skip questions 7a-7c.)	7	<input type="checkbox"/>	<input type="checkbox"/>
Is the impact of government action direct, peculiar, and significant?	7a	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?	7b	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?	7c	<input type="checkbox"/>	<input type="checkbox"/>
Does the proposed action result in taking or damaging implications?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Taking or damaging implications exist if YES is checked in response to Question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to question 4a or 4b.			
If taking or damaging implications exist, the agency must comply with § 2-10-105, MCA of the PPAA, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.			
Alternatives: The analysis under the Private Property Assessment Act, §§ 2-10-101 through -112, MCA, indicates no impact. NRDP does not plan to impose conditions that would restrict the regulated person’s use of private property to constitute a taking.			

V. Public Participation

The level of analysis in an EA will vary on the complexity and seriousness of environmental issues associated with the proposed actions. The level of public interest will also vary and affect the appropriateness of public participation. NRDP will adjust public review to match these factors per ARM 12.2.433(1).

Because NRDP determines the proposed action would result in limited environmental impact, and this action was proposed by the public with minimal opposition or concern expressed. NRDP determines the following public notice strategy will provide an appropriate level of public review.

- This EA is a public document and may be inspected upon request. Any person may obtain a copy of the EA by making a request to NRDP. If the document is out-of-print, a copying charge may be levied. ARM 12.2.433(2).
- Public notice will be served on the Natural Resource Damage Program website at: [Notices of Public Comment – Montana Department of Justice \(dojmt.gov\)](https://www.dojmt.gov/Notices-of-Public-Comment)
- NRDP maintains a mailing list of persons interested in a particular action or types of action. NRDP will notify all interested persons and distribute copies of the EA to the persons for review and comment. ARM 12.2.433(3).
- NRDP will issue public notice in the following newspaper periodical(s) during the public comment period:
 - Montana Standard
 - Anaconda Leader
- Public notice will announce the availability of the EA, summarize its content, and solicit public comment.
- Public meeting to provide information about proposed project will be held in Anaconda, Montana at 6:00 pm on January 7, 2024 at the following location:
 - the Montana Hotel, 200 Main Street, Anaconda, Montana
- **Duration of Public Comment Period:** The public comment period begins after the date of publication of legal notice in area newspapers (see above) and will coincide with the draft Amendment. Written or e-mailed comments will be accepted until 5:00 p.m., MST, on the last day of public comment as listed below:
 - **Length of Public Comment Period:** 50 days
 - **Public Comment Period Begins:** November 26, 2024
 - **Public Comment Period Ends:** January 15, 2024
- **Where to Mail or Email Comments on the Draft EA:**
 - Subject: Anaconda Uplands Restoration Plan Amendment, ADLC Ecological Restoration EA
 - Email: nrdp@mt.gov
 - Mailing Address:
PO Box 201425
Helena, MT 59620

VI. Recommendation for Further Environmental Analysis

NO further analysis is needed for the proposed action	<input checked="" type="checkbox"/>
NRDP must conduct EIS level review for the proposed action	<input type="checkbox"/>

VII. EA Preparation and Review

EA prepared by: Natural Resource Damage Program