

BUTTE NATURAL RESOURCE DAMAGE RESTORATION COUNCIL (BNRC)

BNRC Members:

**Elizabeth Erickson,
Chair**

Bill Callaghan

**Thursday April 3, 2025
5:00 to 8:00 pm
Butte-Silver Bow Archives
17 West Quartz Street
Butte, Montana**

AGENDA

Mary Jo McDonald

Introduction – Meeting Overview, NRDP Update – (5:00 to 5:20)
– Elizabeth Erickson, Chair, Doug Martin, NRDP

John McKee

Blacktail Creek Riparian Actions Update – (5:20 to 5:45)
– Katie Garcin-Forba, MDEQ

- Questions/Comments from the Council then the Public

Suzzann Nordwick

\$5 million SSTOU Funding Status – (5:45 to 6:15)
– Katie Garcin-Forba, MDEQ

Emmett Riordan

- Questions/Comments from the Council then the Public

Jon Sesso

BSB Water Meter Proposal Presentation – (6:15 to 6:45)

- Zane Gleason, BSB Public Works Project Manager/Compliance Inspector
- Questions/Comments from the Council then the Public

Courtney Young

BSB Basin Creek Park Restoration Project Presentation – (6:45 to 7:15)

- Shawn Fredrickson, BSB Parks and Recreation Director
- Questions/Comments from the Council then the Public

BAO Restoration Fund Update – (7:15 to 7:45)

- Meranda Flugge and Doug Martin, NRDP
- Questions/Comments from the Council then the Public

BAO NRDP Meeting Wrap-up/Next Steps – (7:45 to 8:15)

- Doug Martin, NRDP
- Questions/Comments from the Council then the Public

Opportunity for public comments and questions will be provided at appropriate points throughout the meeting.

Remote/Hybrid Meeting Procedures:

* This meeting is open to the public via in-person, telephone or the Microsoft Teams meeting app or webapp.

Procedures NRDP staff, and public shall follow to make this meeting a success:

NRDP staff will be the meeting host/moderator and assist in running this meeting.

This meeting will be recorded for the purpose of public record, the meeting recording will be posted publicly to NRDP's website. As such, **all meeting participants shall announce their name before speaking every time they speak** for continuity purposes. If participants do not announce their name, the moderator will need to interject and ask the speaker to give their name. This is especially important for those participants who are joining by telephone, as we will only be able to see a telephone number.

Public Procedures to Participate:

Members of the public may observe/listen to the meeting and attend for purposes of public comment either in person, by using the Teams link or by telephone. Meeting agenda and backup materials, including the slideshow presentation, can be found at: <https://dojmt.gov/nrdp/butte-natural-resource-council/>

All public comments and questions will be held upon conclusion of presentations.

Members of the public participating via Teams may raise their hand (for directions see links at the end of this document) and wait to be addressed by the moderator or politely interject and wait for acknowledgement by the moderator, to provide comment or ask a question, **please do not talk over others**. Comments/questions will first be taken from the public attending the meeting in-person and then those participating remotely via Teams or telephone. If your question is asked or addressed before you are acknowledged, please lower your hand. Everyone will get a chance to speak if they wish to do so.

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Thursday, April 3rd, 2025 , BNRC Meeting Access information:

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BNRC Meeting

April 3, 2025

Butte Archives

17 West Quartz Street

Butte, Montana

Meeting Overview

Hybrid Meeting, meeting is being recorded.

All council members or members of the public making a comment must be recognized by the Chair.

All participants shall announce their names before speaking, every time.

Meeting Agenda

Introduction – Meeting Overview, NRDP Update (5:00 to 5:20)

Blacktail Creek Riparian Actions Update (5:20 to 5:45)

SSTOU Funding Status (5:45 to 6:15)

BSB Water Meter Proposal Presentation (6:15 to 6:45)

BSB Basin Creek Park Restoration Project Presentation (6:45 to 7:15)

BAO Restoration Fund Update (7:15 to 7:45)

BAO NRDP Proposals Recap Meeting Wrap-up/Next Steps (7:45 to 8:15)

Can you provide a comparison of general admin/overhead expenses charged to BAO versus the other NRDP funds?

Question asked by Council Member Sesso

NRDP Admin Charges to Each Fund FY24

Fiscal Year	Fund	Amount	% of Total
2024		920,049.52	100.00%
	08012 2011 Yellowstone Exxon Sttemnt	46,289.69	5.03%
	08033 Parrot Tailings Removal Fund	152,755.56	16.60%
	08044 Carpenter-Snow Creek-NRD Stlmt	0.00	0.00%
	08070 Education Fund	(0.00)	0.00%
	08102 UCFRB Restoration Fund	334,266.74	36.33%
	08132 NRDP Libby Settlement	31,171.39	3.39%
	08139 NRD Yellowstone River	17,716.44	1.93%
	08219 Butte Area One Restoration	105,369.75	11.45%
	08221 Clark Fork River Restoration	115,624.11	12.57%
	08222 Smelter Hill Up Restorative	38,564.29	4.19%
	08227 Upper Blackfoot Mining Complex	4,593.53	0.50%
	08231 East Helena Compensatory NRD	71,400.28	7.76%
	08331 NRDP BNSF Livingston	2,297.74	0.25%

NRDP Admin Charges Types FY24

Org	Acct Lvl	Acct Lvl 2	Expenditures	Amount	Description
10001	NRD	All Admin	817,938.52	88.90%	
	61000	Personal Services	566,216.40	61.54%	
		61100 Salaries	422,384.97	45.91%	
		61400 Employee Benefits	143,831.43	15.63%	
	62000	Operating Expenses	118,722.12	12.90%	
		62100 Other Services	20,538.21	2.23%	(HR, Insurance, SABHRS, Records, IT)
		62200 Supplies & Materials	17,604.05	1.91%	
		62300 Communications	27,439.97	2.98%	(mail, email, phones, internet, network)
		62400 Travel	9,370.91	1.02%	(meals, lodging, gas, misc.)
		62500 Rent	8,079.25	0.88%	(Office equipment, part of Butte office Rent)
		62700 Repair & Maintenance	2,223.89	0.24%	(Vehicle)
		62800 Other Expenses	33,465.84	3.64%	(Dues, subscriptions, training, mtg./conf., State indirects)
	63000	Equipment & Intangible Assets	55,000.00	5.98%	
		63100 Equipment	55,000.00	5.98%	(Vehicle)
	69000	Debt Service	78,000.00	8.48%	
		69500 Lease Liability	78,000.00	8.48%	(Rent Helena and part of Butte)
10109	NRD	- CSD Time	102,111.00	11.10%	
	61000	Personal Services	102,111.00	11.10%	(HR, IT, Accounting payroll because administratively attached)
		61100 Salaries	73,630.36	8.00%	
		61400 Employee Benefits	28,480.64	3.10%	
Grand Total All NRDP Admin FY24			920,049.52	100.00%	

NRDP Administrative/Overhead (10001) Cost Pool Allocation % per Fund by Fiscal Year

Fund Name	Fund	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Yellowstone	08012	0.00%	9.00%	10.00%	10.00%	6.00%	6.00%	5.50%	4.50%	2.00%
Parrot Tailings	08033	0.00%	0.00%	5.00%	10.00%	7.00%	7.00%	19.75%	13.00%	10.00%
Carpenter Snow Creek	08044	0.00%	0.00%	0.50%	0.50%	0.25%	0.25%	0.00%	0.00%	0.00%
Education	08070	2.00%	2.00%	0.50%	0.50%	0.25%	0.25%	0.00%	0.00%	0.00%
UCFRB	08102	58.00%	31.00%	35.00%	35.00%	42.00%	42.00%	36.50%	36.00%	39.25%
East Helena Maint	08118	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.25%
Libby	08132	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	2.00%	5.00%	10.00%
2015 Oil Spill	08139	0.00%	7.00%	2.00%	1.00%	1.00%	1.00%	1.00%	3.00%	1.00%
BAO	08219	32.00%	31.00%	27.00%	21.00%	21.00%	21.00%	11.00%	12.00%	12.50%
Clark Fork	08221	5.00%	5.00%	7.00%	9.00%	6.50%	6.50%	12.00%	13.25%	13.00%
Smelter Hill	08222	1.00%	5.00%	3.00%	3.00%	4.50%	4.50%	3.50%	5.00%	6.00%
UBMC	08227	2.00%	5.00%	3.00%	3.00%	3.50%	3.50%	0.50%	0.50%	0.50%
East Helena	08231	0.00%	5.00%	7.00%	7.00%	8.00%	8.00%	8.00%	7.50%	5.50%
BNSF Livingston	08331	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.25%	0.25%	0.00%

Note: Prior to FY17 UCFRB fund covered all admin expenses.

Admin Split Calculation

At the start of every fiscal year, general/admin expense distribution is calculated by:

$$\frac{\text{Prior FY Personal Services per Fund}}{\text{Total NRDP Prior FY Personal Services}} = \text{\% fund is responsible for NRDP admin expenses}$$

Background

- Starting FY18 (7/1/17), NRDP updated its shared cost pool ORG 10001. Expenses such as rent, phones, internet, supplies, maintenance, training, admin staff payroll/benefits, Accounting, IT, HR, etc. are allocated to this. The shared cost pool was split between the various NRDP funds based on the personal service costs incurred. Projections of the amount of time employees would be working from each fund in the upcoming year were also factored in.
- Expenses that hit the shared cost pool are reviewed like all other expenses and are approved only by those with established signature authority: Program Administrator, Environmental Program Manager, and Administrative Specialist. Expenses allocated to the shared cost pool are essential to the operations of NRDP and cannot be clearly tied to any one fund or project. Rather, they are expenses for goods or services that meet the needs of the entire Program.

BAO Restoration Fund Update



FY25 7/1/24 through 6/30/25

	Restoration Categories						Total Butte Area One Fund 6
	Restoration of Silver Bow Creek Corridor 10 10292	Mine Waste Area Restoration and Reveg 10293	Stream Restoration 10294	Municipal Water System Improvements 10295	Recreation 10296	Small Projects 10297	
FY 2025 Beginning Balance	\$ -	\$ 1,759,162.98	\$ 1,708,719.17	\$ 756,942.83	\$ 1,139,178.30	\$ 198,543.61	\$ 5,562,546.89
First Quarter FY25 (7/1/24 - 9/30/24)	\$ -	\$ 8,149.03	\$ -	\$ 1,854.55	\$ 163.04	\$ -	\$ (10,166.62)
10220 BAO Gen							\$ (15,402.33)
Administrative (10001)							\$ (12,149.23)
Interest							\$ 39,238.97
Q1 Subtotal							\$ 1,520.79
Second Quarter FY25 (10/1/24 - 12/31/24)	\$ -	\$ 69,657.00	\$ 434.80	\$ 720,489.22	\$ 108.69	\$ -	\$ (790,689.71)
10220 BAO Gen							\$ (30,250.98)
Administrative (10001)							\$ (22,550.85)
Interest							\$ 68,552.55
Q2 Subtotal							\$ (774,938.99)
Third Quarter FY25 (1/1/25 - 2/28/25)	\$ -	\$ 48,385.52	\$ -	\$ -	\$ -	\$ -	\$ (48,385.52)
10220 BAO Gen							\$ (16,799.43)
Administrative (10001)							\$ (21,789.61)
Interest							\$ 45,559.04
Parrot Transfer							\$ 842,946.78
Q3 Subtotal							\$ 801,531.26
Estimated Fund Balance							\$ 5,590,659.95

Admin Difference Between Q1 and Qs2/3

Quarter 1 (07/01/2025 to 09/30/2025): Credit to Admin costs in Q1 because FY24 accrual for our vehicle was determined we do not have to pay and was reverted in FY25 Q1. In BAO alone the credit was \$6,600.

Quarters 2/3 (10/01/2025 to 02/28/2025): Significant difference: Increased Admin payroll including sick, holiday, and vacation pay higher in Q2 and Q3 than Q1.

Can you provide the amount of direct staff expenses charged to BAO and description of tasks/work?

Question asked by Council Member Sesso

Org	Acct Lvl 1	Acct Lvl 2	Amount
10001	NRD All Admin		49,267.12
	61000 Personal Services		49,267.12
	61100 Salaries		36,549.92
	61400 Employee Benefits		12,717.20
10220	Butte Area One Restoration		65,228.15
	61000 Personal Services		65,228.15
	61100 Salaries		49,653.78
	61400 Employee Benefits		15,574.37
10293	Mine Waste Area		7,625.26
	61000 Personal Services		7,625.26
	61100 Salaries		5,685.85
	61400 Employee Benefits		1,939.41
10294	Stream Restoration		434.80
	61000 Personal Services		434.80
	61100 Salaries		324.89
	61400 Employee Benefits		109.91
10295	Municipal Water System Improve		2,343.77
	61000 Personal Services		2,343.77
	61100 Salaries		1,746.38
	61400 Employee Benefits		597.39
10296	Recreation		271.73
	61000 Personal Services		271.73
	61100 Salaries		203.06
	61400 Employee Benefits		68.67
Grand Total			125,170.83

BAO Personal Services Expenses – FY25

Payroll Detail per Staff

FY25 (7/1/24 through 2/21/2025)

Title	Name	Org	Sum of Hours	Sum of Earnings	Work Description
Accounting Procurement	Ricci, Erin	10220	2	\$54	Website & BNRC Meeting Assistance
Admin and Records	Unruh, Jody	10220	6.5	\$149	Review documents & BNRC Meetings prep
Admin Specialist	Flugge, Meranda	10220	27.5	\$936	Review documents, BNRC Meetings prep & participation, and BAO financials
Admin Staff Total			36	\$1,140	

Payroll Detail per Staff Continued

FY25 (7/1/24 through 2/21/2025)

Title	Name	Org	Sum of Hours	Sum of Earnings	Work Description
Attorney	Ward, Aspen	10220	29.5	\$1,404	Legal Support
Supervising Attorney	Hausrath, Katherine	10220	110.5	\$6,283	Legal support re 1) BNRC support; 2) Parrot and Butte CD liability; 3) Butte Basin Creek Dam project; 4) Remedy Coordination.
Program Administrator	Martin, Doug	10220	102.75	\$6,255	1) BNRC support; 2) Remedy coordination with DEQ/EPA, doc review; 3) Contract/Task Order support.
Legal & Administrator Total			242.75	\$13,942	

Payroll Detail per Staff Continued

FY25 (7/1/24 through 2/21/2025)

Title	Name	Org	Sum of Hours	Sum of Earnings	Work Description
Environmental Scientist	Cunneen, Pat	10220	568	\$23,069	Project Development & Oversight, BNRC Meetings (Project Memo)
		10293	140	\$5,685	
		10294	8	\$324	
		10295	43	\$1,746	
		10296	5	\$203	
	Pat Total		764	\$31,029	
					Review CD materials, attend CD meetings, assess CD liability, coordinate BTC Remediation with DEQ, coordinated with the WSSOU, generate NRDP comment letters, develop restoration project concepts and projects
Environmental Scientist	Ford, Jim	10220	254	\$11,070	
Environmental Scientist	Stewart, Sydney	10220	6	\$249	
Environmental Scientist Total			1024	\$42,349	
Grand Total			1303	\$57,431	

Can you provide information regarding an “audit” that may be currently underway? Can you confirm whether an audit is occurring, who is undertaking that effort, and when can results of the audit be expected?

Question asked by Council Member McKee

NRDP Audit Status

Status: Legislative Audit Division to conduct performance audit. We do not know question(s) yet.

Results will not be available until Dec or later. Legislative Auditors said not to stop what we are doing.

Additional information on the estimate for "Oversee and Coordinate Remedy". What is that estimate based on? Please provide a full cost estimate with all the background information for that line item. Could we also get a scaled back cost estimate for the BAO Alluvial Aquifer Project?

Question asked by Chair Erickson

NRDP'S Role in Butte (see packet for more complete description)

1. Implement the final restorations plans and amendments
 - a) Because restoration settlements were agreed to prior to final remedy decisions, NRDP is charged with “assuring that restoration funds are not spent on remedy”.
2. Coordinates with EPA on enforcement and response actions (required by the NCP)
3. Coordination with DEQ ensures BPSOU CD is implemented as executed
4. Overseeing Blacktail Creek Riparian Action is being implemented as protectively and cost-effectively as possible
 - a) This interest stems from the fact that all the remaining funds from that project (except for \$1M), are intended to be available for restoration actions.
5. Safeguard the State’s significant investments in BPSOU in connection with decisions pertaining to contaminated groundwater impacts to Blacktail or Silver Bow Creeks.

Estimated Cost to Coordinate Restoration with Remedy

The \$100,000 annual estimate is based on our current level of effort the last year or so.

Includes:

- **Selected BPSOU CD Document & Involvement**– E.g., FRESOW CD compliance as it impacts groundwater, surface water and instream sediments. Limited meetings on same. NRDP does not review most BPSOU documents or attend most meetings.
- **West Side Soils OU - Remedial Investigation Report West Side Soils Operable Unit** (Volume 1 of 13) – In effect the RI says Blacktail Creek is not contaminated, and the creek's exceedances are “background.” Upstream sources could impact the cost and schedule of the State's BTC Project downstream.
- **Note: DEQ's BTC 30% Design** – Review for CD compliance and cost-effectiveness charged to UCFRB Restoration Fund.

Butte Priority Soils OU CD Remedy Coordination

- [NRDP Comments on BPSOU CD Draft Materials Management Plan \(01-16-2025\)](#)
- [NRDP Comments on BP-ARs 60% Design for Diggings East \(06/26/24\)](#)
- [NRDP Grove Gulch 100% Design Comments \(05-31-2024\)](#)
- [BTC Groundwater Control Comments to EPA \(01-05-2024\)](#)
- [NRDP's Presentation to BSB Council on EPA's Proposal to Use High Concentration Fill \(11-08-2023\)](#)
- [Grove Gulch Comments on EPA \(10-11-2023\)](#)
- [Comments on EPA's Proposal to Use Onsite Material as General Fill \(09-08-2023\)](#)
- [Comments on EPA's March 1, 2023, Proposal to Modify the BPSOU CD SOW \(03-10-2023\)](#)
- [NRDP's role in BPSOU Provided to EPA, DEQ, BSB, and BP-AR \(11-10-2022\)](#)
- [NRDP Request to EPA for Coordination \(09-02-2022\)](#)
- [NRDP Request to EPA to Coordinate \(12-16-2021\)](#)
- [NRDP Comments to EPA on BPSOU Sequencing and Scheduling of Remedial Projects \(12-08-2021\)](#)
- [Parrot Project Materials Screening Methods Technical Memorandum \(09-22-2021\)](#)

West Side Soils OU Remedy Coordination

- [Comments on EPA's Blacktail Creek Risk Assessment \(05-05-2022\)](#)

Coordination with DEQ's Blacktail Creek Remedial Action

- [NRDP Comments on DEQs BTC Work Plan \(08-04-2023\)](#)
- [EPA BTC design comments \(03-21-2023\)](#)
- [NRDP BTC design comments to DEQ \(08-31-2022\)](#)
- [NRDP Comments to EPA on BPSOU Sequencing and Scheduling of Remedial Projects \(12-08-2021\)](#)
- [Tetra Techs BTC data gap investigation \(07-21-2016\)](#)

Coordinate
Restoration
with Remedy – NRDP
comments on BP-AR's
compliance with the
CD and impacts on
restoration activities



<https://dojmt.gov/NRDP-sites/butte-area-one/>

Proposed Project	Cost Estimate	Dependent On
Oversee and Coordinate with Remedy	\$300K	Assumes 3 years for remedial designs to be completed.
BAO Alluvial Aquifer Restoration Project	\$2.0M	Agreements with BSB for site access and with MR to take the contaminated water.
Blacktail Creek Contamination investigation	\$250K	
Waste Area Improvements/Revegetation Projects		
<i>MT Tech</i>	\$375K	BSB Reveg project continuation.
<i>BSB</i>	\$918K	BSB willingness to implement.
Moulton Reservoir Recreation Project	\$250K	BSB willingness to implement.
Blacktail Creek Fish Passage Project	\$100K	
Parrot Smelter/City Corral Memorial	\$20K	BSB access agreement.
Approximate Total	\$4.2M	

NRDP BAO Restoration Project Proposal Recap

Next Steps

Go or No Go?

- If No Go:
 - Honor MT tech Native Plant Project Contract (\$325K): Yes or No?
 - Honor BSB Tree Project Contract (\$918K): Yes or No?
 - Continue coordination with BPSOU Remedy
 - No new projects
 - Restart when DEQ finishes Blacktail, releases unspent funds
- If Go:
 - Discuss and rank restoration proposals
 - Implement selected project(s)

Recommendation to Governor



Draft BAO Restoration Plan Amendment



Public Comment



Respond to Public Comments



Recommendation by BNRC and TRC



Trustee Review/Consideration



Implement Amendment (if approved)

NRDP's Role in Butte

1. NRDP represents the Trustee (Governor) for all restoration and natural resource damage obligations in BPSOU and Butte.
2. NRDP continues to implement the final restorations plans and amendments on behalf of the Trustee. Because restoration settlements were agreed to prior to final remedy decisions, NRDP is charged with “assuring that restoration funds are not spent on remedy” (Butte Area One Final Restoration Plan (2012), p. 44) and that remedy is in compliance with CERCLA and the consent decrees and does not leave excess and unnecessary injury for the State to deal with in restoration.
3. As required by the NCP, NRDP coordinates with EPA, as the lead agency, at every stage of enforcement and response actions. This includes ensuring that any restoration actions implemented by the State do not interfere with the remedy and are not otherwise inconsistent with the remedy. NRDP also shares data that can be used for response. In turn, EPA is required by the NCP to coordinate all assessments, evaluations, investigations, and planning with NRDP. This includes sharing documents throughout the process and providing NRDP with the opportunity to participate in all stages of the CERCLA process. See [PRESENTATION ON CERCLA/OPA NOTIFICATION AND COORDINATION FOR NATURAL RESOURCE DAMAGES \(epa.gov\)](#)
4. NRDP has a shared responsibility with DEQ to ensure that the BPSOU CD is being implemented as executed and that the State's interests, and liabilities (see #1, 2, and 3), are protected and adequately addressed.
5. NRDP has an interest in seeing that the Blacktail Creek (BTC) Riparian Actions are being implemented as protectively and cost-effectively as possible. This interest stems from the fact that all the remaining funds from that project (except for the \$1 million commitment to Butte-Silver Bow, per Memorandum of Understanding 2020-260, dated October 8, 2020), are intended to be available for restoration actions, as is specifically provided in Paragraph 21 of the BPSOU CD. The Trustee committed to providing a cost-effective and fully protective remedy with the settlement funds and NRDP is fully committed to a protective cleanup at BTC.
6. NRDP has a responsibility to safeguard the State's significant investments in BPSOU in connection with decisions pertaining to contaminated groundwater impacts to Blacktail or Silver Bow Creeks. Specifically, the Trustee committed over \$36.0 M to protecting Blacktail and Silver Bow Creeks from contaminated groundwater discharge with the Parrot Tailings Waste Removal Project alone. The Surface Water Management Plan (SWMP) Sediment Performance Monitoring (SPM, Exhibit 1 to Attachment A to Appendix D to the CD, Section 5) is the BPSOU CD document that quantifies the effectiveness of BP-AR's efforts to that end. This sediment monitoring will evaluate the effectiveness of British Petroleum-Atlantic Richfield's (BP-AR's) groundwater capture systems at the BTC Site and the BRW Site to protect Silver Bow Creek and Blacktail Creek instream sediments and surface water from the existing contaminated groundwater discharge.

NRDP's Implementation of its Role in Butte

1. NRDP implements its role described above by performing restoration actions within Butte; providing NRDP-collected data to EPA, DEQ, and BP-AR; participating in meetings; commenting to EPA and DEQ on CERCLA and consent decree documents; and responding to citizen comments and concerns. NRDP interacts regularly with members of the public in and out of Butte, CTEC, Butte-Silver Bow, the Upper Clark Fork River Basin Advisory Council (the AC, a citizen council that is involved in the non-BAO Butte restoration actions and the Parrot Tailings Waste Removal Project), and others. NRDP regularly interacts with and receives direction from the Butte Natural Resource Damage Restoration Council (BNRC), the Governor's policy committee, the Trustee Restoration Council, and the Governor's office.
2. NRDP's focus is on the following CERCLA and consent decree documents and meetings: BPSOU design documents and groundwater remedy, including the groundwater/surface water interactions in the creeks, and all documents and meetings related to the West Side Soils RI/FS, risk assessments, water quality monitoring, and other response actions.
3. Just like NRDP comments on draft EPA and BP-AR documents related to #2, NRDP plans to comment on DEQ's draft work plans, scopes of work, budgets, and other documents required to be submitted to EPA under Appendix H and *the Site Specific Memorandum Of Agreement Between The State Of Montana, Through The Department Of Environmental Quality, The State Of Montana, Through The Montana Department Of Justice Natural Resource Damage Program And United States Environmental Protection Agency For The Butte Priority Soils Operable Unit Response Actions And General Coordination With The Butte Area One Restoration Plan* (SMOA), both in order to coordinate restoration and remedy and to work with DEQ to ensure that the Blacktail Creek remedy is protectively and cost-effectively implemented. We also plan to review the quarterly progress reports that DEQ is required to provide EPA.

STATE OF MONTANA, NATURAL RESOURCE DAMAGE PROGRAM



To: BNRC Members

From: NRDP Staff

Date: January 24, 2025 (updated March 29, 2025)

Subject: Butte Area One Restoration Project Recommendations for 2025

Background:

The BNRC has expressed concern that administrative costs and expenses for Butte Area One (BAO) Restoration Fund are being incurred at a rate that was outpacing the interest earned for the BAO account. Additionally, the council expressed their frustration with the pace of the Butte Priority Soils Operable Unit Consent Decree (BPSOU CD) remedial efforts. Seven years after publicly releasing the remedial plans and starting design (i.e., BPSOU CD, Appendix D, Attachment C) and more than four years after entering the BPSOU CD, remedy projects have not progressed as substantively as the council had hoped, and therefore, there are limited opportunities for implementing restoration in areas where remedy is yet to occur.

The BNRC requested that NRDP staff develop various conceptual restoration actions that:

1. have the highest restoration values (Stage 1 Legal and Stage 2 BNRC Policy criteria),
2. are “shovel-ready,” which is defined as can be initiated within two years,
3. would minimize BAO expenses, and
4. that will not conflict with or implement BPSOU CD remedy actions.

The range of potential restoration actions ranges from implementing projects now to “hitting pause” by significantly reducing all BAO restoration work until remedy work is completed.

Whatever outcome, the revisions to the BAO will likely have to be captured in an amendment to the BAO Restoration Plan. Once crafted, the revised plan would go out for public comment before going to the BNRC and Trustee’s Restoration Council for their recommendation, which will be conveyed to the Governor who will make the final decision on any BAO Restoration Plan revisions.

BAO Fund Status:

At the October 17, 2024, BNRC meeting, NRDP staff presented an update on the balances of the BAO Restoration Fund and provided the council with a short list of potential shovel-ready restoration projects for discussion. NRDP estimates that approximately \$5.6 million is available as of the end of 2024.

There are three additional funding sources excluding the existing BAO Restoration funds (see Table 1 below), they are:

1. Parrot Tailings Waste Removal Project (Parrot Project) remainders
2. BPSOU CD Butte Settlement Fund
3. SSTOU \$2.5 million transfer (BAO portion of \$5.0M transfer)

1. Parrot Project Remainders:

Per the 2019 BAO Restoration Plan amendment, the current BAO balance includes the \$842,945 reimbursement from the Parrot Project. More money may be available when ET Cover O&M is agreed to with BSB and a final round of sampling is completed following completion of the BPSOU CD Par. 96 5-year time frame.

2. BPSOU Settlement Funds:

With the execution of the BPSOU CD, the State of Montana was provided a \$20.5M settlement by BP-Atlantic Richfield (BP-AR) for implementation of remedy work, with leftovers to go to restoration to reimburse the State for costs incurred by NRDP investigating BPSOU CD contaminant source areas and for implementing the Parrot Project. The State, through the Montana Department of Environmental Quality (DEQ), will implement the Blacktail Creek (BTC) part of the BPSOU CD remedy (Attachment C, Section 5). BTC implementation is at a minimum several years off.

When DEQ has finished their defined remediation of BTC, the first \$1.0M of remaining settlement funds will be provided to Butte-Silver Bow (BSB) for a future project in the Silver Bow Creek corridor, subject to the terms in the BPSOU CD, Appendix D, Attachment C, Addendum 1. The remaining Butte Site account settlement funds will be divided among three restoration plans as described in the 2019 Restoration Plan amendment:

- 51% to the Upper Clark Fork River Basin Aquatic and Terrestrial Restoration Plan;
- 35% to the Butte Area One Restoration Plan; and
- 14% to the Butte-Silver Bow Groundwater Restoration Plan.

The schedule for DEQ to complete this project is unknown at this time. It is anticipated that \$7.0-\$12.0M will remain for restoration projects after DEQ completes its BTC Project.

3. Status of the Streamside Tailings Operable Unit (SSTOU) \$5.0 Million Transfer:

The Governor allocated additional restoration funds to pay for the Parrot Project in 2019 (BAO Amendments, 2019). In addition, as part of the funding package for the Parrot, the Governor proposed in this amendment to allocate the first \$2.5 million of the Streamside Tailings Operable Unit Consent Decree leftover funds to the BAO Restoration Plan. Subsequent to this 2019 commitment, DEQ has indicated to NRDP that DEQ will not be able to re-submit a transfer funding request to EPA from the SSTOU account for the UCFRB (\$2.5M) or the BAO Restoration Funds (\$2.5M) to meet the 2019 amendment.

Table 1 - BAO Restoration Fund Status Summary

Fund Sources	Expected	Current
Existing Funds	n/a	\$4,775,000
Parrot Project	Undetermined	\$843,000
SSTOU Remainders	\$2,500,000	\$0
BPSOU CD Settlement	\$?~ \$2,450,000 - \$4,200,000	\$0
Approximate Total		\$5,618,000

NRDP BAO Restoration Project Alternatives:

NRDP does not recommend allocating funding per the existing categories within the BAO Restoration Plan at this time; instead NRDP is recommending allocating funding to projects where implementation can be started within two years. The BNRC requested that BSB develop a short list of other shovel-ready water restoration projects for the council's consideration. The BSB ideas will be presented to the BNRC in a separate memo when received.

Below are two alternatives NRDP can further develop to seek public comment, for the council to consider, and be presented to the Governor for consideration and approval. The following recommendations by the NRDP are made with the highest restoration value and the ability to start implementation of projects within two years. Implementation is defined as the establishment of a contract with NRDP for a project or initiation of project development, design or construction activities. If project implementation does not start within two years, funding allocated to this project will remain in the BAO Restoration Fund for future allocation by the Governor.

Alternative 1: Shovel Ready Project Implementation

At the November 7, 2024, BNRC meeting, NRDP staff presented the council with a short list of viable restoration projects that would meet the four (4) criteria previously listed and could be implemented with approximately \$5.6M currently available in the BAO Restoration Fund (Table 1). In order of priority:

Oversee and Coordinate with Remedy

NRDP will ensure that the remedial activities within the Silver Bow Creek corridor do not impact restoration actions (current or future), meet the BPSOU CD requirements related to remedy, and ensure that restoration funds are not spent on remedy per Section 6 of the Restoration Plan. This is estimated to cost \$100,000/yr.

BAO Alluvial Aquifer Restoration Project (contingent on BSB access agreements)

This project proposes pumping contaminated groundwater from the area where the Parrot project was completed. The BAO natural resource damage settlement was for injuries to the alluvial aquifer and the surface waters of Silver Bow and Blacktail Creeks within the Upper Silver Bow Creek Corridor caused by the release of hazardous substances by BP-AR. The largest source of alluvial groundwater contamination was the Parrot Project waste. When NRDP first contemplated the removal of the Parrot Project waste, EPA and BP-AR questioned how long it would take to substantially reduce alluvial aquifer groundwater contaminant concentrations once the primary

waste sources had been removed. At the request of NRDP, the Montana Bureau of Mines and Geology (MBMG) conducted column tests on the alluvium to quantify the estimated time frame. MBMG concluded that the aquifer could substantially improve relatively quickly noting that as little as three volumes of clean water passing through the alluvium could greatly reduce groundwater contamination. Although the alluvial aquifer in Butte is rather prolific, it would still take decades to pass three volumes through this aquifer. However, actively removing the highly contaminated groundwater that currently exists below where the Parrot Project was completed would:

1. greatly accelerate the recovery of the aquifer closer to baseline conditions, and
2. add another layer of protection from the existing contaminated groundwater discharge to Blacktail and Silver Bow Creeks.

During the Parrot Project, the waste removal area was dewatered to keep the work area dry so groundwater saturated waste could be excavated. During Phase IIC, about 32.5 million gallons of highly acidic and contaminated groundwater from the upper alluvial unit was collected by a series of horizontal drains and was conveyed to the Montana Resources (MR) dredge pond for use in their mining and milling processes. This effort removed approximately 35,000 pounds of copper and 37,000 pounds of zinc, along with several hundred pounds of other contaminants. MBMG estimated it would likely have taken decades for this amount of contamination to have been removed from the upper alluvial groundwater under natural conditions. These results justify additional efforts to capture and remove highly contaminated groundwater from the alluvial aquifer.

To accelerate the recovery of the alluvial aquifer and to protect the creeks from contaminated groundwater discharge, NRDP would implement the BAO Alluvial Aquifer Restoration Project that was previously proposed to the BNRC in 2021. This would include drilling three or four 6- inch extraction wells, installing stainless-steel pumps into each well, possibly utilizing the horizontal trenches installed as part of the Phase IIC Parrot Project (although these are not currently being used), manifolded into a single collection point, and installing a below-grade discharge line to the MR dredge pond. Every effort would be made to place these wells in areas where they will not disturb the recently completed Civic Center parking lot or interfere with other existing or future infrastructure. The discharge pipeline would be buried below the frost line to prevent freezing during winter operation.

Water quality samples would be periodically collected at the discharge end of the line. The analytical results from these samples would be used to determine the effectiveness and duration of the project. At some point in the future, the cost of pumping would exceed the benefit of contaminant removal as the contaminant concentrations decrease. It is likely that the wells would be pumped for two to ten years with the benefits exceeding the costs.

Prior to starting any field work, NRDP would need to execute an agreement with the landowner, BSB, for installation of the system and MR, who would receive the water. This project would likely require additional permitting.

An engineering proposal prepared in October 2021 estimated construction costs for the BAO Alluvial Aquifer Restoration Project would be about \$2.0M. Operating and maintenance costs for this system would likely be ~\$50,000/year.

Blacktail Creek Contamination Investigation

In 2016, NRDP conducted the waste investigation of the Silver Bow Creek and Blacktail Creek corridors to quantify the nature and extent of the contamination within the floodplains of these streams within BAO. The results of this investigation were used for conceptually designing waste removal projects at the Blacktail Creek and Butte Reduction Works Smelter Remediation Projects and ultimately incorporated in the 2020 BPSOU Consent Decree. Floodplain soil, surface water, groundwater, pore water, and in-stream sediment samples were collected and analyzed for contaminants and other parameters, including “background” samples from Blacktail Creek between Lexington Avenue to Harrison Avenue. Although not as highly contaminated as those samples collected in the study area, these upstream “background” samples from Lexington to Harrison, contained surface water, groundwater, sediment, sediment pore-water, and floodplain soils contaminant concentrations above State standards and/or risk-based screening criteria.

It is known that the Bell Smelter was located slightly north of Blacktail Creek, just west of Harrison Avenue. Although short-lived, this operation produced wastes that were never quantified nor characterized and much of which were discharged directly into Blacktail Creek. Historical aerial photos of this area indicate a lack of vegetation in the area, indicating waste spread downstream from the source area. Also, these wastes were possibly used to construct roadbeds in this area. Data collected by Montana Fish, Wildlife and Parks for Blacktail Creek in this area indicates that fish numbers are much lower than fish numbers upstream.

The goal of this investigation would be to quantify the nature and extent of contamination in this area. This information could be used by EPA to coordinate remedy with restoration and for NRDP to design a restoration project(s) for this reach of Blacktail Creek. Funds to implement future stream restoration project could come from the BAO portion of the Butte Site Funds once DEQ has completed their Blacktail Creek remedial clean-up downstream of Lexington Avenue.

NRDP proposes a thorough investigation of the Blacktail Creek floodplain from Lexington Avenue upstream through Father Sheehan Park west of Harrison Avenue. Based on NRDP’s previous investigations this effort would cost approximately \$250,000 and would be conducted in 2025/26.

Waste Area Improvements/Revegetation Projects

The 2020 BAO Plan Amendment dedicated \$1,978,575 to the Waste Area Improvements / Revegetation category and called for 15% of the unspent Parrot Project funds to go back to this category. As of June 30, 2024, the balance in the Waste Area improvements/Revegetation category of the BAO Plan was approximately \$1,759,163. The value of the upcoming 15% of the reimbursement from the Parrot Project will be approximately \$124,000. The two sponsors of the BAO restoration revegetation projects are the Montana Tech Native Plant Program and the BSB Department of Reclamation and Environmental Services.

Montana Tech: The Montana Tech Native Plant Program was provided with \$914,000 in the 2020 BAO Restoration Plan Amendment. Montana Tech Native Plant Program is currently working under a 5-year contract, valid from July 1, 2024, through June 30, 2028, to work in conjunction with the BSB Tree Program to improve the diversity and sustainability of the revegetation on the caps over mine waste areas. Montana Tech currently has a balance of about \$361,000 remaining on this contract and is spending approximately \$125,000 per year. NRDP recommends increasing the total amount available to Montana Tech to \$375,000 by adding \$14,000 to this contract and continuing this current

arrangement until the money is expended and their contract expires on June 30, 2028. Montana Tech would continue to submit yearly work plans and budgets for review/approval by NRDP.

BSB (contingent on BSB willingness to implement): The 2020 BAO Restoration Plan Amendment dedicated \$1,024,559 to BSB Tree and Shrub Planting Project. BSB and NRDP have a contract for this project that is valid from July 1, 2023, through June 30, 2028. Since 2020, BSB has spent about \$107,000 on the tree/shrub planting project, leaving a remaining balance of approximately \$918,000. BSB's annual BAO restoration budget has been approximately \$100,000/yr, but their actual spend rate has been closer to \$26,000/yr because they have been using matching remedy funding to complete much of the work on the waste area improvements.

The BNRC has expressed interest in BSB and Montana Tech collaborating on a few large revegetation projects on the Butte Hill that will not be addressed under BPSOU CD or in the West Side Soils OU. NRDP concurs and recommends that BSB and MT Tech work together on one large scale tree//shrub/native plant project per year for the next three years. BSB will have the authority to spend up to \$306,000/year on supplies/materials/labor and Montana Tech will provide native plants as needed per their existing contract discussed above. BSB has identified a few sites where much work could be done in the near-term: the Walkerville playground on the southeast corner of the Alice Mine site, the Little Minah and the Belle of Butte. NRDP also recommends that BSB and Montana Tech work with one local grade school each fall to plant native species at one of the three selected sites or other suitable waste area such as the evapotranspiration covers on the Parrot Smelter site behind the Civic Center.

Moulton Reservoir Recreation Project (contingent on BSB willingness to implement)

BSB was allocated \$100,000 in BAO funding from the small project category in May of 2015 to construct recreational amenities at the Moulton Reservoir. BSB did not want the construction and/or use of the recreational facilities to interfere with the construction of the new spillway and dam improvements at the Moulton Reservoir. The dam infrastructure improvement project was completed in Fall of 2024. If BSB is interested, then the recreational project could be implemented at this time. NRDP proposes to allocate \$250,000 to BSB to implement this recreation project. The extra funds beyond the 2015 small project funding would provide for the increased costs of construction over the last decade and the expansion of the project to the upper reservoir and a connection to the Continental Divide Trail. It is recognized that most of this property around the Moulton Reservoir is owned by the U.S. Forest Service, and BSB would have to collaborate with their local representatives on the recreation project.

Blacktail Creek Restoration Project

NRDP has a restoration project ready to bid, and planned for 2025, on Blacktail Creek once full funding has been secured. This project calls for building step pools over a concrete-encased municipal sewer line that passes through the stream just south of the Butte Country Club golf course and screening off the diversion to the Butte Country Club irrigation pond. This project would improve fish passage for native west slope cutthroat trout as they migrate to spawning grounds in the upper limits of Blacktail Creek and would also eliminate/minimize brook trout habitat. When coupled with the other road infrastructure, remedy, and restoration projects slated for Blacktail Creek, this passage-elimination project would contribute to the holistic vision to make the entirety of Blacktail Creek a healthier trout stream.

Total costs for this fish passage project are estimated at nearly \$1.2M. Over \$300,000 has already been invested in designing and permitting this project. The primary funding source for this project is the UCFRB Aquatics account allocated to Blacktail Creek watershed, which has a current balance of about \$550,000. This project has a funding shortfall of about \$350,000. NRDP is seeking grant funds from other sources and has secured \$30,000 so far. NRDP proposes to dedicate \$100,000 from the BAO Restoration Fund toward the completion of this project.

Parrot Smelter/City Corral Memorial (contingent on access agreement)

The Parrot Smelter operated from 1881 to 1899, and the City Corral/BSB Maintenance Shops also operated for decades in this area. To properly recognize these historical landmarks, NRDP proposes to work with BSB/Butte Archives to construct a memorial for these facilities at a site behind the Butte Civic Center, including a description of the evapotranspiration (ET) cover and protective uses of the ET cover. Projected costs for this endeavor should be about \$20,000.

Alternative 1 Summary

The total value of the restoration projects identified by the NRDP is about \$4,713,000, see Table 2 below. NRDP will implement projects per Section 6 of the BAO Restoration Plan.

Table 2 – Alternative 1 Estimated Project Costs

Proposed Project	Cost Estimate	Dependent On
Oversee and Coordinate with Remedy	\$300,000	Assumes 3 years for remedial designs to be completed.
BAO Alluvial Aquifer Restoration Project	\$2,000,000 (updated)	Agreements with BSB for site access and with MR to take the contaminated water.
Blacktail Creek Contamination Investigation	\$250,000	
Waste Area Improvements/Revegetation Projects		
<i>MT Tech</i>	\$375,000	
<i>BSB</i>	\$918,000	BSB willingness to implement.
Moulton Reservoir Recreation Project	\$250,000	BSB willingness to implement.
Blacktail Creek Restoration Project	\$100,000	
Parrot Smelter/City Corral Memorial	\$20,000	BSB access agreement.
Approximate Total	\$4,213,000	

Alternative 2: Place the BAO Restoration Efforts On-Hold

The BAO Restoration Plan was signed by the Governor in January 2013. The BPSOU CD was entered in 2020. To date, there have been very limited opportunities for restoration to work in conjunction with remedy. NRDP understands the BNRC's desire to see restoration pick up where remedy leaves off, or for the two programs to work together. If the Governor decides that it would be better for restoration to pick up where remedy leaves off, then NRDP would work towards placing the BAO restoration efforts on hold. After the Butte Site Fund reimburses the BAO Fund (i.e., after DEQ completes the Blacktail Creek remedial action), the BNRC could reconvene and assist the Governor to determine how best to allocate and spend the available funding. Factors to consider in deciding whether to pause the BAO restoration efforts include:

- Design and construction costs will likely continue to increase.
- Interest earned on the BAO fund investments might not keep pace with inflation.
- The historical knowledge of the council and the staff might be lost by the time restoration efforts are reconvened.

Under this alternative, NRDP and the BNRC would reduce Butte efforts to a minimum until BPSOU remedial activities are completed and the Butte Site Fund reimburses the BAO Restoration Fund. NRDP would reduce its costs to include ensuring that the remedial activities within the Silver Bow Creek corridor do not impact restoration actions (current or future), meet the BPSOU CD requirements, and ensure that restoration funds are not spent on remedy per Section 6 of the BAO Restoration Plan. This alternative would allow interest to accrue and once the Butte Site Fund reimburses the BAO Restoration Fund, the Governor, with BNRC input, would determine how best to allocate and spend the available funding. The BNRC would not meet during this time but could reconvene if determined necessary by the Governor once funding is reimbursed. Upon the approval of the Governor, if necessary, NRDP would hold public meetings to inform the public of current project and fund status. See cost estimates in Table 3 below.

Table 3 – Alternative 2 Estimated Costs

Proposed Project	Cost Estimate/yr	Dependent On
Oversee and Coordinate with Remedy	\$100,000	
Approximate accrued interest (assumes 4% on \$5.6M)	+\$224,000	
Approximate Total	+\$100,000	