

Attachment D: Response to Comments

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

November 2019

Prepared By:

**STATE OF MONTANA
NATURAL RESOURCE DAMAGE PROGRAM
1720 9TH AVE.
P. O. Box 201425
Helena, MT 59620-1425**

Response to Comments - Table of Contents

Section I. Introduction.....	D3
Section II. Comment Summary and Response by Comments.....	D4
Topic A: Comments in support of the Draft Restoration Plan	D4
Topic B: Comments in Support of the Greenway	D4
Topic C: Comments Supporting the Preferred Alternative 3	D4
Topic D: Comments Supporting Alternative 2	D4
Topic E: Comments on the Trail Design/Weeds.....	D4
Topic F: Comments on Cost-Effectiveness of Alternatives	D5
Topic G: Comments on Services Lost/ Injured Resources.....	D5
Topic H: Comments Opposing Components of Alternatives	D6
Topic I: Comments about Infrastructure.....	D7
Topic J: Comments about Land Transfer.....	D7
Topic K: Comments Supporting Structural Diversity.....	D8
Topic L: Comments Supporting Prickly Pear Creek Flow Project	D8
Agency: METG Comments.....	D9
Agency: EPA Comments	D17
Agency: USFWS Comments.....	D25
Section III. Summary of Changes to Document.....	D27
Section IV. Comments Received and Comment Topics.....	D30

Section I. Introduction

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

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

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

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

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

Section II. Comment Summary and Response by Comments

Topic A: Comments in support of the Draft Restoration Plan

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

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

Topic B: Comments in Support of the Greenway

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

Response: The State acknowledges these comments.

Topic C: Comments Supporting the Preferred Alternative 3

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

Response: The State acknowledges these comments.

Topic D: Comments Supporting Alternative 2

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

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

Topic E: Comments on the Trail Design/Weeds

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

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

Topic F: Comments on Cost-Effectiveness of Alternatives

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

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

Topic G: Comments on Services Lost/ Injured Resources

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

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

Topic H: Comments Opposing Components of Alternatives

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

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

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

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

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

Topic I: Comments about Infrastructure

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

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

Topic J: Comments about Land Transfer

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

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

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

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

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

Topic K: Comments Supporting Structural Diversity

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

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

Topic L: Comments Supporting Prickly Pear Creek Flow Project

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

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

Agency: METG Comments (#54)

Comment 54-1:

1. East Helena Funding from Asarco Bankruptcy Settlement

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

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

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

Reference: EHRP Page ES1 and Page 1

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

Comment 54-2:

2. Slag Pile Re-Grading and Capping

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

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

Response: This editorial correction has been made.

Comment 54-3:

3. East Helena Smelter Facility Institutional Controls

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

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

Reference: EHRP Page 9 (Section 5).

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

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

Reference: EHRP Page 11 (First Full Paragraph)

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

Comment 54-5:

4. Custodial Trust Land Holdings in East Helena

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

Reference: EHRP Page 7 (First Paragraph)

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

Comment 54-6:

5. Future Use of State-Option Property

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

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

Reference: EHRP Page 16 (Section 1.2.5)

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

Comment 54-7:

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

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

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

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

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

Reference EHRP Page 33 and Page 40

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

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

Response: This editorial correction has been made.

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

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

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

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

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

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

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

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

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

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

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

2,000 acres of former Asarco land.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Custodial Trust offers the following comments and recommendations:

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

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

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

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

Comment 54-29:

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

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

Agency: EPA Comments (#55)

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

Response: The State acknowledges this comment.

Comment 55-2:

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

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

Comment 55-3:

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

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

Comment 55-4:

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

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

Comment 55-5:

4. Figure 1 is repeated twice in the document.

Response: The figure number has been corrected.

Comment 55-6:

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

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

Comment 55-7:

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

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

Comment 55-8:

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

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

Comment 55-9:

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

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

Comment 55-10:

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

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

Comment 55-11:

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

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

Comment 55-12:

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

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

Comment 55-13:

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

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

Comment 55-14:

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

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

Comment 55-15:

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

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

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

Comment 55-16:

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

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

Comment 55-17:

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

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

Comment 55-18:

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

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

Comment 55-19:

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

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

Comment 55-20:

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

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

Comment 55-21:

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

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

Comment 55-22:

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

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

Comment 55-23:

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

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

Comment 55-24:

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

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

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

Comment 55-25:

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

Response: Please see response to Comment 23.

Comment 55-26:

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

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

Comment 55-27:

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

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

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

Agency: USFWS Comments (#56)

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

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

Response: The State acknowledges this comment.

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

Response: This editorial correction has been made.

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

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

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

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

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

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

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

Response: This editorial correction has been made.

Section III. Summary of Changes to Document

Executive Summary

The text was modified to reflect changes listed below.

Chapter 1

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

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

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

Chapter 2

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

Chapter 3

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

Chapter 4

Chapter 4 changes include a number of technical clarifications:

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

Chapter 5

Chapter 5 changes include the following technical clarifications:

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

Figures

No changes to figures.

Attachment A:

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

Attachment C:

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

Section IV. Comments Received and Comment Topics

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

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

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

Comment Category Key:

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

Attachment E: Copies of Comment Letters

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

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

A

Thank you!

B

Kris Stockton
East Helena

Sent from my iPhone

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

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

C

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

406.449.5000 x5
www.lccd.mtnacdnet.org

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

To whom it may concern,

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

C

Thanks for your time,

Nora Harper
Helena, MT

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

Hello!

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

C

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

Thank you,

Darla Fitzpatrick
1355 Charlie Russell Dr
Helena

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

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

D
I

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

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

Greetings!

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

C

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

Best regards,

Bill H. Shropshire
President, CEO
American Chemet Corp

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

COMMENT #7

To whom it may concern,

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

B

Dick Johnson

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

COMMENT #8

To Whom It May Concern,

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

Dennis Milburn

C

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

COMMENT #9

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

C

C

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

B

C

B

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

E

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

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

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

Sincerely,
Connie Cole

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

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

COMMENT #10

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

C
B

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

Clint Pullman
16 Arrowhead Lane
MT City, MT 59634

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

COMMENT #11

To whom it may concern,

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

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

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

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

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

DRAFT EAST HELENA ASARCO SMELTER RESTORATION PLAN COMMENT FORM

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

Your Name and Contact Information:

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

Comments:

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

D

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

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

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

I

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

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

RECEIVED

FEB 06 2019

NATURAL RESOURCE
DAMAGE PROGRAM

City of East Helena

www.easthelenamt.us



Mayor
James Schell

Council Members
Don Dahl
Kit Johnson
Judy Leland
Mike Misowic

City Attorney
Peter K. Elverum

City Clerk/Treasurer
Amy Thomgren

Deputy Clerk
Julia Shannon

Public Works Director
Scott St. Clair

Acting Chief of Police
William Harrington

Fire Chief
Troy Maness

City Judge
Dennis Loveless

P.O. Box 1170
East Helena
Montana 59635

City Offices
406-227-5321

City Fax
406-227-5456

Police Admin.
406-227-8686

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

February 5, 2019

RECEIVED
Feb. 6, 2019
Natural Resource
Damage Program

RE: Response to East Helena ASARCO Smelter Draft Restoration Plan

To Whom It May Concern,

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

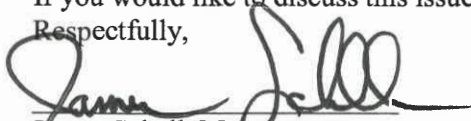
The four proposed alternatives are primarily distinguishable by the amount of funding dedicated to either Groundwater Action or Recreation Action. The Groundwater Actions highlighted in the proposed plan are the product of the City of East Helena's efforts to move itself and the ASARCO lands forward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

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

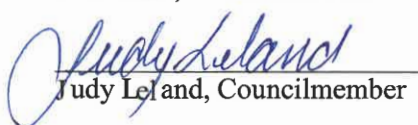
The City of East Helena respectfully requests that the NRD Trustee Restoration Council and Governor adopt a final version of the Plan that shifts funding to Groundwater Actions (Alternative 2). This alternative directly benefits the injured natural resources which are entirely encompassed within the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

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

Respectfully,


James Schell, Mayor


Don Dahl, Councilmember


Judy Leland, Councilmember


Kit Johnson, Councilmember


Mike Misowic, Councilmember

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

COMMENT #14

CAUTION: This email message may contain an unsafe attachment.

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

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

A

Crystal Eckerson
AVP/Branch Manager NMLS 400351

[Apply Online](#)



[Opportunity Bank of Montana](#) | Prospect Branch
1400 Prospect Ave., Helena, MT 59601
Direct: (406) 457-4062 | Fax: (406) 403-0232

ceckerson@oppbank.com



This communication, including attachments, is for the exclusive use of addressee and may contain proprietary, confidential and/or privileged information. If you are not the intended recipient, any use, copying, disclosure, dissemination or distribution is strictly prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail, and delete this communication and destroy all copies. CONFIDENTIALITY NOTICE: This electronic mail transmission may contain legally privileged, confidential information belonging to the sender. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking any action based on the contents of this electronic mail is strictly prohibited. If you have received this electronic mail in error, please contact sender and delete all copies.

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

COMMENT #15

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

C
B

Sent from my Verizon, Samsung Galaxy smartphone

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

COMMENT #16

February 6, 2019

Dear Mr. Martin,

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

The restoration plan goals are:

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

The alternatives considered are:

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

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

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

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

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

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

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

Sincerely,

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

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

COMMENT #17

I support the prickly pear Creek Greenway preferred alternative plan

C

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

COMMENT #18

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

H

I
Bob Bugni
3865 Remington Street
East Helena

[Sent from Yahoo Mail for iPad](#)

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

COMMENT #19

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

C

A

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

COMMENT #20

Good afternoon,

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

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

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

Sincerely,

Adam Strainer

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

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



THE **OUTSIDE** IS IN US ALL.

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

COMMENT #21

Hello,

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

C

B

Thank you for your consideration.

Sincerely,
John Kilgour

1758 N Cooke St. #2
Helena, MT 59601

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

COMMENT #22

To whom it may concern,

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

B

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

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

COMMENT #23

Hello NRDP!

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

B

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

COMMENT #24

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

D

Sent from my iPhone

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

COMMENT #25

Good Day:

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

C

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

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

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

- Kristin Drees
Helena, MT

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

COMMENT #26

Dear NRDP Staff,

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

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

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

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

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

Thank you for your consideration for our concerns and comments.

Sincerely,

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

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

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

COMMENT #27

To Whom It May Concern,

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

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

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

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

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

D
I

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

Respectfully,
Cheryl Verbanac
East Helena, MT

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

COMMENT #28

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

C
E

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

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

COMMENT #29

Hello,

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

Thank you for your consideration.

Sincerely,
Annie Kilgour

1758 N Cooke St. #2
Helena, MT 59601

C

B

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

COMMENT #30

To the Natural Resources Damage Program:

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

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

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

Sincerely,

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

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

COMMENT #31

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

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

C

RECEIVED
Feb. 11, 2019
Natural Resource
Damage Program

February 11, 2019

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

RE: Response to the Draft East Helena Smelter Restoration Plan

To whom it may concern,

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

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

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

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

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

G

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

I

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

H

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

J

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

J

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

H

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

K

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

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

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

Thank You for allowing my comments.

Scott A. St. Clair

EAST HELENA RESTORATION PLAN COMMENTS

COMMENT #33

To whom it may concern;

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

D

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

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

J

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

Blaine Verbanac, East Helena citizen.

Flugge, Meranda

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

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: East Helena

We support the preferred alternative!

C

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

Flugge, Meranda

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

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: East Helena

Good afternoon,

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

Thank you for your consideration!

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



Montana Owned & Operated since 1957

As an independent member of a national alliance of CPA firms, we have national firm resources while maintaining our Montana roots.

This email message and its attachments (if any) may contain confidential or other protected information. This email and its contents are intended solely for the use of the intended individual or entity recipient. The disclosure of the contents of this email to any individual or entity, other than the intended party, is strictly prohibited. If you are not the intended recipient and have received this communication in error, please notify the sender by immediately replying to this message and then deleting it from your system.

Flugge, Meranda

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

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: East Helena

I support the preferred alternative!

C

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

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

COMMENT #37

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

C

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

Raymond James Financial Services, Inc. Member FINRA/SIPC
Raymond James Financial Services, Inc. **does not accept orders and/or instructions regarding your account by e-mail, voice mail, fax or any alternative method.** Transactional details do not supersede normal trade confirmations or statements. E-mail sent through the internet is not secure or confidential. Raymond James Financial Services reserves the right to monitor all e-mail. Any information provided in this e-mail has been prepared from sources believed to be reliable, but is not guaranteed by Raymond James Financial Services and is not a complete summary or statement of all available data necessary for making an investment decision. Any information provided is for informational purposes only and does not constitute a recommendation. Raymond James Financial Services and its employees may own options, rights or warrants to purchase any of the securities mentioned in e-mail. This e-mail is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this message in error, please contact the sender immediately and delete the material from your computer.

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

COMMENT #38

Hello-

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

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

Sincerely,

John Beaver

WESTECH Environmental Services, Inc.

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

Office 406.442.0950 | Cell 406.459.4150

WESTECH-ENV.COM



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

COMMENT #39

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

C

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

Thank you!
Nicole Merrill
406-202-1370

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

COMMENT #40

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

Thank You
Edward Santos
ed@mt.net

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

COMMENT #41

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

C

Thank you!

Erin Woodrow

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

COMMENT #42

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

C

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

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

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

Sue McNicol

Sent from my Verizon, Samsung Galaxy smartphone



RECEIVED
Feb. 11, 2019
Natural Resource
Damage Program

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



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

COMMENT #43

February 11, 2019

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

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

Greetings;

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

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

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

On behalf of the WQPD Board,

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

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

COMMENT #44

Dear NRDP and State of Montana Personnel,

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

C

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

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

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

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

COMMENT #45

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

Lyn Stimpson
10 Wildflower Ln.
Montana City, MT 59634

C

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

COMMENT #46

Dear NRDP,

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

C

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

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

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

--

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

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

COMMENT #47

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

Dear Ms. Stickney:

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

C

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

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

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

Respectfully,

JOHN DORAN

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

HCSC Company Disclaimer

The information contained in this communication is confidential, private, proprietary, or otherwise privileged and is intended only for the use of the addressee. Unauthorized use, disclosure, distribution or copying is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately at (312) 653-6000 in Illinois; (800) 447-7828 in Montana; (800)835-8699 in New Mexico; (918)560-3500 in Oklahoma; or (972)766-6900 in Texas.

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

COMMENT #48

Dear NRDP and State of Montana,

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

C

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

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

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

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

Sincerely,
Breena Buettner

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

COMMENT #49

Dear Alicia Stickney,

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

B

C

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



CONFIDENTIALITY NOTICE:

This email message and any accompanying data or files is confidential and may contain privileged information intended only for the named recipient(s). If you are not the intended recipient(s), you are hereby notified that the dissemination, distribution, and or copying of this message is strictly prohibited. If you receive this message in error, or are not the named recipient(s), please notify the sender at the email address above, delete this email from your computer, and destroy any copies in any form immediately. Receipt by anyone other than the named recipient(s) is not a waiver of any attorney-client, work product, or other applicable privilege.

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

COMMENT #50

Good afternoon,

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

C

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

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

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

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

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

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

Respectfully submitted,
Mary Hollow

--

Mary Hollow -- Prickly Pear Land Trust -- 406.240.4907



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

COMMENT #51

Dear NRDP and State of Montana Personnel,

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

C

Thank you so much for this opportunity to comment.

Sincerely,
Andrea Silverman

Andrea Silverman
3830 Kitt Dr.
Helena, MT 59602

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

COMMENT #52

To whom it may concern:

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

C

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

L

Thank you for considering my comments.

Barbara Chillcott
707 12th Ave.
Helena, MT 59601

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

CAUTION: This email message may contain an unsafe attachment.

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

To whom it may concern:

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

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

Thanks for allowing me to comment.

Dick Anderson
Dick Anderson Construction



DICK ANDERSON

Chairman

DICK ANDERSON CONSTRUCTION

DAC - *Always* part of the solution

O: 406-443-3225

www.daconstruction.com

C



RECEIVED
 Feb. 7, 2019
 Natural Resource
 Damage Program

Memorandum To: Harley Harris
 Natural Resource Damage Program

COMMENT #54

From: Cindy Brooks
 Montana Environmental Custodial Trust

Subject: Custodial Trust Comments on Draft East Helena Restoration Plan

Date: February 7, 2019

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

1. East Helena Funding From Asarco Bankruptcy Settlement

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

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

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

Reference: EHRP Page ES1 and Page 1

2. Slag Pile Re-Grading and Capping

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

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

3. East Helena Smelter Facility Institutional Controls

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

Reference: EHRP Page 9 (Section 5)

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

Reference: EHRP Page 11 (First Full Paragraph)

4. Custodial Trust Land Holdings in East Helena

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

Reference: EHRP Page 7 (First Paragraph)

5. Future Use of State-Option Property

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

Reference: EHRP Page 16 (Section 1.2.5)

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

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

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

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

Reference EHRP Page 33 and Page 40

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

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

Attachment

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

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

Page 1—Third sentence in second paragraph

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

Page 5—Last Sentence in third paragraph

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

Page 6—Section 1.2 – Site Background

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

Page 7

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

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

Page 10

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

Page 11

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

Page 14 and Page 16

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

Page 16

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

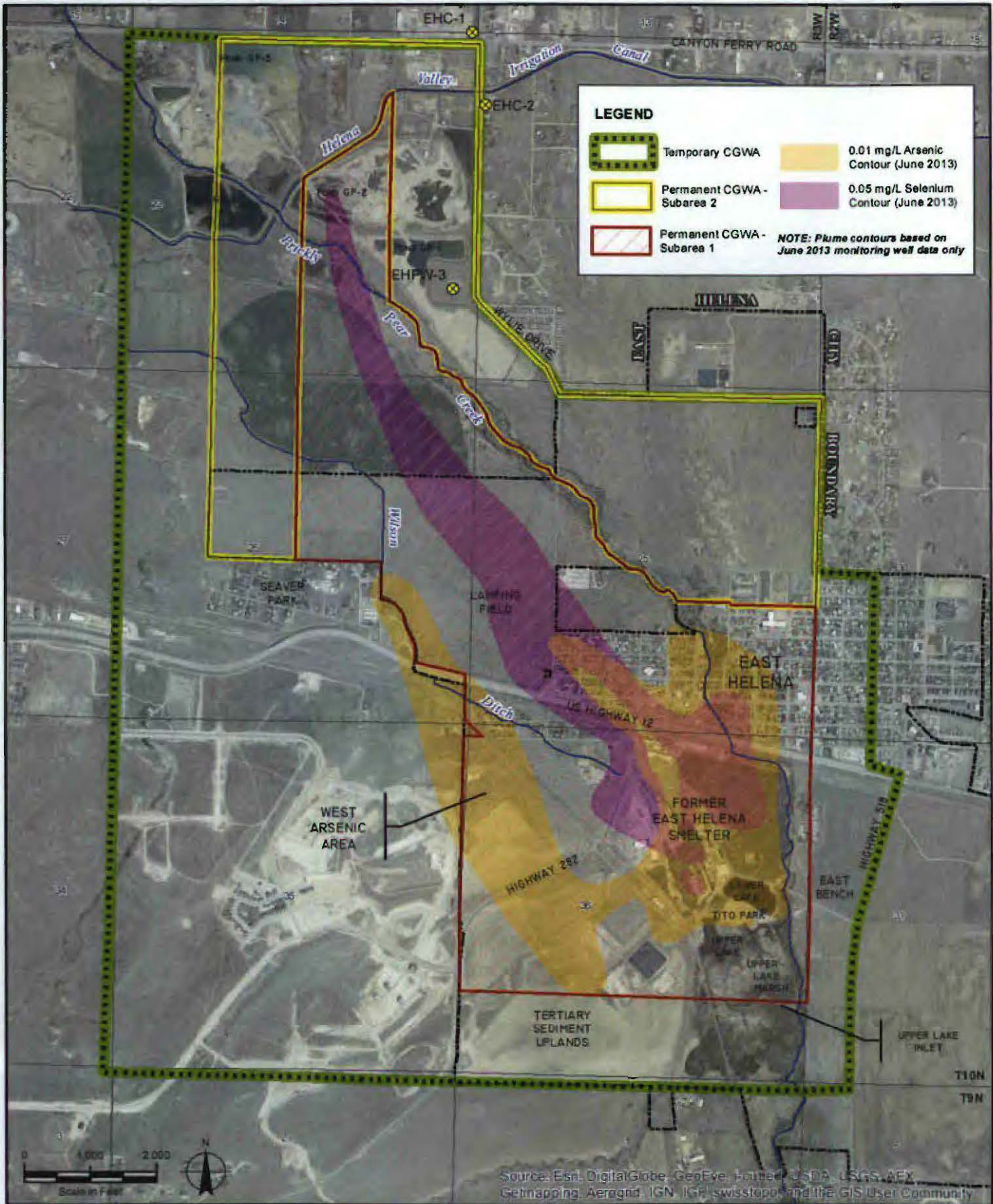
Page 19—Third bullet under the third paragraph

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

Page 33, Page 40 and Page 46

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

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





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8, MONTANA OFFICE

FEDERAL BUILDING, 10 West 15TH Street, Suite 3200

Helena, MT 59626-0096

Phone 866-457-2690

www.epa.gov/region8

RECEIVED

Feb. 7, 2019

Natural Resource
Damage Program

COMMENT #55

Ref: 8EPR-D

VIA E-Mail

February 7, 2019

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

Dear Greg and Alicia:

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

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

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

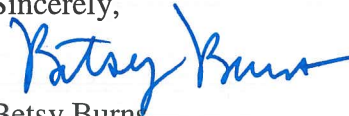
5. Introduction and Background (Figure 2 is the Geographic Boundary of the CMS) - EPA can provide a more accurate figure to define the CERCLA response area, and/or provide an explanation of the RCRA CMS at this point.
6. Introduction and Background (Page 1) - See comments above regarding monetary distribution.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

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

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

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

Sincerely,



Betsy Burns
EPA Project Manager

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

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

COMMENT #56

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

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

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

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

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

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

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

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

Karen Nelson

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

www.fws.gov/montanafieldoffice

Phone 406.449.5225 X210
Fax 406.449.5339
Mobile 406.439.7307

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

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

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

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

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

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

Thank you.

Mark Runkle

Sent from my Verizon, Samsung Galaxy smartphone

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

Late Comment #L58

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

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

Best Regards,

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

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

Late Comment #L59

NRDP,

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

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

Jeff Herbert, President
Helena Valley Gun Dog Club

From: [Judy Merickel](#)
To: [Natural Resource Damage Program](#)
Subject: East Helena Restoration Plan
Date: Thursday, February 14, 2019 11:09:00 AM

Late Comment #L60

Hello Those Working on Restoration:

Yes, yes, yes! My comments are late, but I am in full support of #3. I have tried to run and bike, with my husband and now with my kids to East Helena from Mt City and it is so dangerous on those two lane roads with little shoulders. Expanding our trail systems in this beautiful part of our state would be such a treasure for years to come. I also love that it would go through a wetland environment. So many of our trails are in the mountainous and hilly environment that young children don't use them because of the terrain and difficulty. A flatter, wetland environment would be great. I fully support and would help organization or fundraising efforts for a greenway trail connection between Montana City and East Helena and to restored creek and wetlands areas of old Smelter site.

Thank you for all you are doing,

Judy Merickel Rawlings
406-465-8091 cell

Rawlings Concrete & Construction

High quality concrete flat work including slabs, sidewalks, driveways, patios, custom stamped and stained jobs, residential and commercial. Every November through March we take on remodel projects. Call today for a free estimate.