

**BUTTE AREA ONE
FINAL RESTORATION PROCESS PLANNING DOCUMENT**

PREPARED BY:

**THE BUTTE NATURAL RESOURCE DAMAGE RESTORATION
COUNCIL (BNRC)
AND THE STATE OF MONTANA
NATURAL RESOURCE DAMAGE PROGRAM (NRDP)**

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I hereby approve of this final document, along with the associated response to public comment on the draft document.


Governor Brian Schweitzer

3-20-2012
Date

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List of Acronyms

ARCO	Atlantic Richfield Company
BAO	Butte Area One
BNRC	Butte Natural Resource Damage Restoration Council
B-SB	Butte-Silver Bow City-County Government
CD	Consent Decree
CERCLA	Comprehensive Environmental Response Compensation and Liability Act
DCRP	Draft Conceptual Restoration Plan
DEQ	Montana Department of Environmental Quality
DOI	U.S. Department of Interior
EPA	U.S. Environmental Protection Agency
FWP	Montana Fish, Wildlife and Parks
LAO	Lower Area One
MBMG	Montana Bureau of Mines and Geology
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MSD	Metro Storm Drain ¹
NRDP	Natural Resource Damage Program
ROD	Record of Decision
RPPC	UCFRB Restoration Plan Procedures and Criteria
TRC	Trustee Restoration Council
Tribes	Confederated Salish and Kootenai Tribes
UCFRB	Upper Clark Fork River Basin

¹Metro Storm Drain (MSD) is a term used to describe the realigned and reconstructed channel of Silver Bow Creek from Texas Avenue to its confluence with Blacktail Creek.

SECTION 1. INTRODUCTION AND BACKGROUND

In 1983, the State of Montana filed a lawsuit against the Atlantic Richfield Co. (ARCO) for injuries to the natural resources in the Upper Clark Fork River Basin (UCFRB), which extends from Butte to Milltown. The lawsuit, brought under federal and state Superfund laws, sought damages from ARCO, contending that decades of mining and smelting in the Butte and Anaconda areas had greatly harmed natural resources in the basin and deprived Montanans of their use. In 1989, the Environmental Protection Agency (EPA) filed another lawsuit to establish ARCO's liability for remedial cleanup in the UCFRB.

The Montana Department of Justice Natural Resource Damage Program (NRDP) pursued the natural resource damage litigation against ARCO on behalf of the State. The State has settled this lawsuit through a series of settlement agreements completed in 1999, 2005 and 2008. These settlements are summarized on the NRDP's website.² The NRDP is now directing the restoration work being conducted with the proceeds of these settlements.

This document describes the process the State of Montana will use to make decisions regarding the expenditure of damages recovered by the State as a result of the 2008 settlement of its natural resource damage lawsuit against ARCO specific to the Butte Area One (BAO) site. The Butte Natural Resource Damage Restoration Council (BNRC), with assistance from the NRDP, developed a draft of this document for public consideration in spring 2011. Following consideration of public comment, this Council proposed a final document in January 2012 for consideration by the Trustee Restoration Council (TRC) and approval of the Governor. The Governor approved of the BNRC's proposed final document in March 2012. Any significant subsequent revisions to this document would also be subject to public notice and comment prior to consideration by the Governor.

This document is organized as follows:

- Section 1 provides an introduction to this document and background on the BAO site and the 2008 settlement specific to that site.
- Section 2 describes the restoration planning entities, process and timeframe the State will follow in developing a final restoration plan for the BAO site.
- Section 3 identifies the criteria that will be used to evaluate restoration alternatives in deciding on the final restoration plan for the BAO site.
- Section 4 describes budgeting and administrative procedures.

² <http://www.doj.mt.gov/lands/naturalresource/lawsuithistory.asp>

1.1 Butte Area One (BAO) Site Background and Injury Overview³

The deposition of wastes in the city of Butte from mining and mineral-processing operations has resulted in injury to groundwater resources and the surface water of Silver Bow Creek. Figure 1 depicts the Silver Bow Creek watershed in the headwaters area of the UCFRB. The injured alluvial groundwater and surface water in Butte is located in the south central portion of the Butte Priority Soils Operable Unit (BPSOU) referred to as “Area One.” Area One is depicted in the red-outlined area on Figure 2. Many of the wastes in Area One are associated with five facilities – the Parrot Smelter, the Metro Storm Drain (MSD),⁴ the Butte Reduction Works, the Colorado Smelter, and the Berkeley Pit.

Injury to groundwater in Area One has been demonstrated by the occurrence of concentrations of heavy metals (including cadmium, zinc, iron, lead, and copper), arsenic, and sulfate that exceed drinking water standards in the alluvial aquifer. The areal extent of the known contamination above drinking water standards of the alluvial aquifer is about a square mile and extends from the Parrot Tailings area downgradient along the historic Silver Bow Creek channel. The highest known concentrations of dissolved constituents in groundwater coincide with wastes from the Parrot mill and smelter. These leachable wastes have a volume of approximately 590,000 cubic yards.⁵ Other areas known as the Diggings East and Northside Tailings also contain contaminants that are most likely leaching metals into the groundwater and potentially to surface waters. In Lower Area One (LAO), west of Montana Street, most of the tailings were previously removed by ARCO; however, some slag and tailings from the Butte Reduction Works and Colorado Smelter remain in place and have the potential to leach metals to ground and/or surface water.

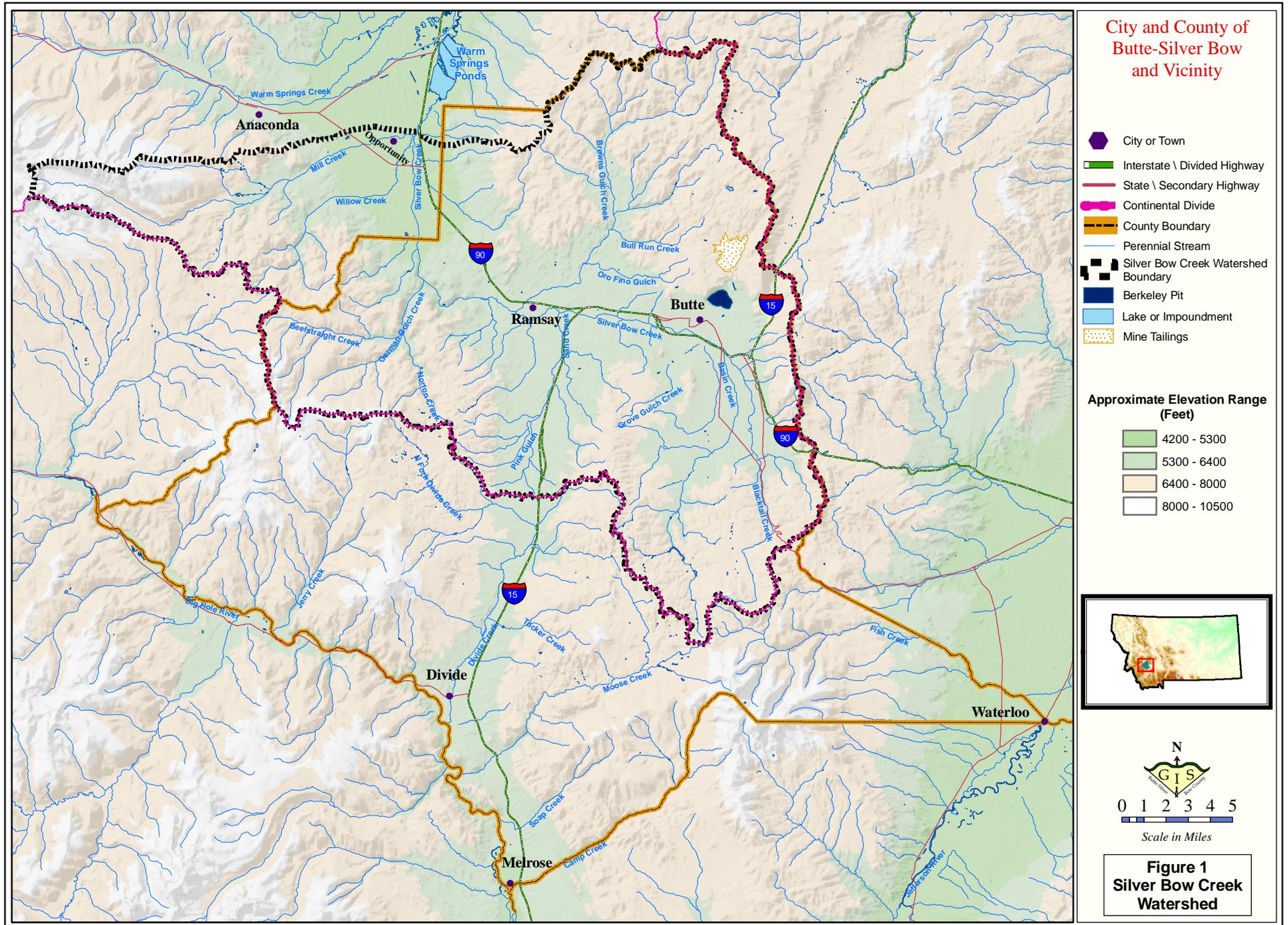
The discharge of contaminated groundwater and contaminated surface runoff to Silver Bow Creek in Butte Area One results in surface water and streambed contamination. The contaminated alluvial aquifer potentially discharges groundwater to Silver Bow Creek and Blacktail Creek. Surface runoff from storms and snowmelt can carry hazardous substances from hundreds of dispersed waste sources to Silver Bow Creek through surface drainages and the Butte stormwater collection system.

³ This description of the BAO site is provided in the NRDP’s February 2008 “Summary of 2008 Settlement of Clark Fork River Remediation and Natural Resource Damage Claims and Related Restoration Plans,” available from the NRDP website at : <http://doj.mt.gov/lands/naturalresource/resources/claims/settlementfactsheet2008.pdf>.

⁴ Metro Storm Drain (MSD) is a term used to describe the realigned and reconstructed channel of Silver Bow Creek from Texas Avenue to its confluence with Blacktail Creek.

⁵ Parrot Tailings Volume Study, Montana Bureau of Mines and Geology, Open File Report #590, February 2010.

Figure 1. Map of Butte Area One



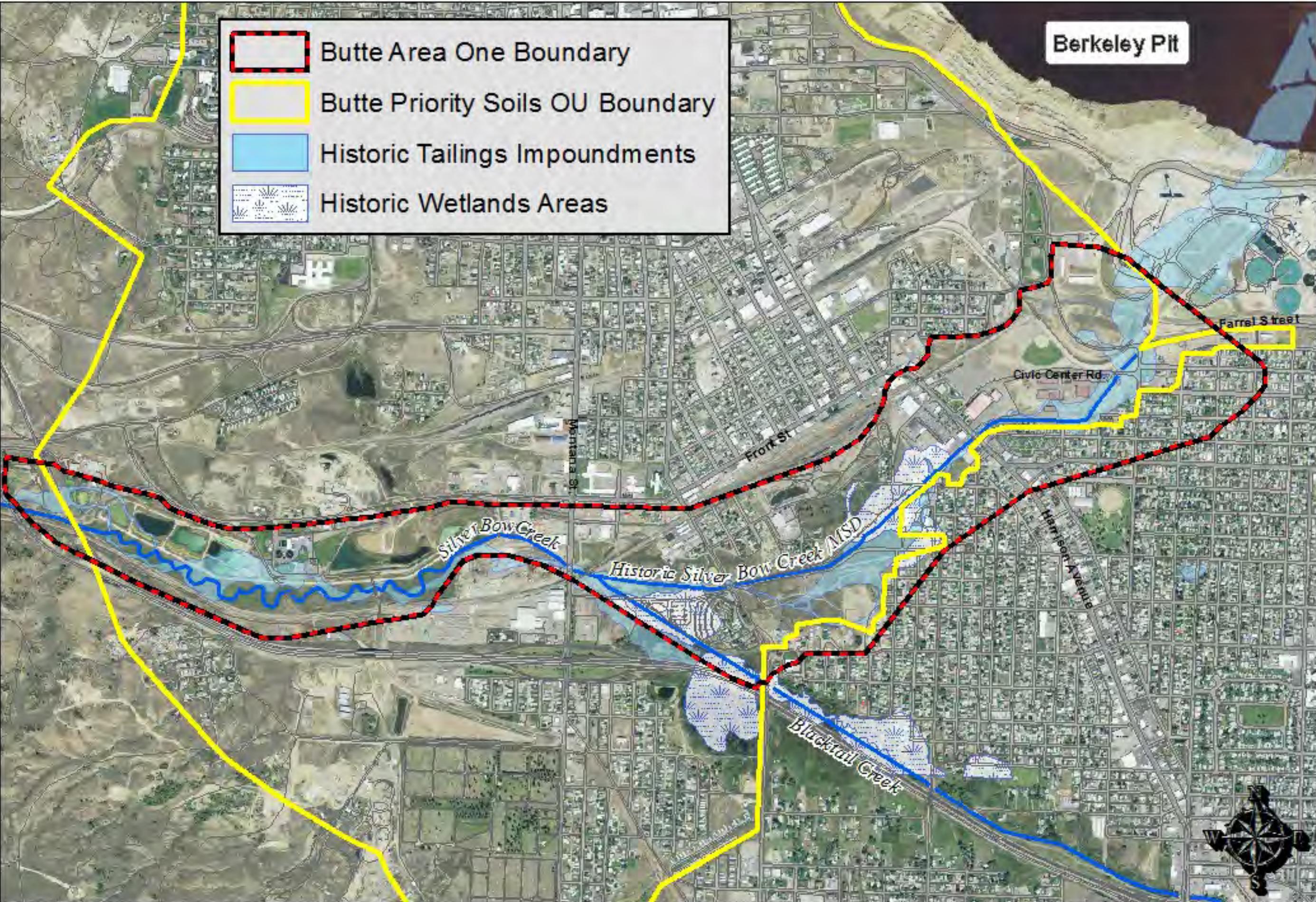


Figure 2. Butte Area One

1.2 Remediation and Restoration

The state and federal Superfund laws provide a two-pronged approach for dealing with areas contaminated by hazardous substances:

- remediation – cleaning hazardous substances for protection of human health and the environment and compliance with environmental standards; and
- restoration – returning the injured resources to their uncontaminated or “baseline” condition: the condition of the resource had the hazardous substance not been released.

Remediation actions address the hazardous substance contamination in a manner that addresses threats to human health and the environment and meets legal requirements, such as water quality standards or mine reclamation laws. Restoration actions address natural resources, taking into consideration and augmenting the improvements to natural resources that result from remediation actions. Thus, in planning restoration, it is important to understand what will and will not be accomplished under remediation. Restoration funds should not be used to conduct remedial actions, nor should restoration funds be used to fix inadequate remedial actions. Under the federal Superfund law, remedial actions are periodically evaluated and if those actions are not adequately protective of public health and the environment, they should be fixed as part of the remediation. This preference that restoration not be considered as a substitute for effective remedy does not preclude the use of restoration funds to enhance remediation in those situations where to do so would restore natural resources, or hasten the restoration of natural resources.

1.2.1 Remediation of Butte Priority Soils Operable Unit (BPSOU)

The EPA is the lead regulatory agency in determining the remedial actions for the BPSOU that will be required to be implemented by ARCO and other potentially responsible parties at this site. The Montana Department of Environmental Quality (DEQ) is the support agency. In 2006, the EPA issued a Record of Decision (ROD) specifying the remediation actions planned for the BPSOU. These remediation actions primarily involve collection of contaminated groundwater, storm water management, and removal of contaminated soils in residential yards. Previous to issuance of the 2006 ROD, ARCO conducted several interim/expedited actions aimed at reducing immediate risks to public health and the environment. Those interim actions primarily involved removal of tailings and contaminated soils in some areas of the BPSOU and construction of soil caps over some mine waste areas.

The EPA and DEQ are currently negotiating the terms of a Consent Decree (CD) that will address the remedial design and remedial action work for BPSOU that will be required of ARCO and other settling defendants in implementing the BPSOU ROD. In 2011 EPA issued an Explanation of Significant Differences, which modified the 2006 ROD, and issued a Unilateral Administrative Order for some remedial design, remedial action, and operation and maintenance activities. This order addresses work for residential cleanup, cap protection, and some storm water controls but does not address the final cleanup plan for surface water and groundwater at

BPSOU. At this point in time, it is expected that the following remedial actions, among others, will be implemented at the BPSOU based on the ROD for the site:

- Collection of contaminated groundwater via the MSD sub-drain and the Hydraulic Control Channel (HCC) in LAO will continue and be improved. This groundwater is routed to the existing Butte Treatment Lagoons system for lime treatment to reduce metal concentrations. A conventional lime treatment facility will be built or some other remedial action will be taken if the lagoon system cannot adequately treat the contaminated groundwater.
- A storm water management program will be implemented to prevent contaminated storm water runoff from affecting surface water quality in Silver Bow Creek. Source controls such as re-routing or retention of storm flows and maintaining soil covers on the 450 acres of previously reclaimed areas has been or will be implemented. Also, storm/sewer replacement of 40 miles of pipe is underway or planned. If these controls are not effective in achieving surface water quality goals in Silver Bow Creek, then storm water will be treated with lime to remove contaminants. Contaminated sediments along Blacktail and Silver Bow Creeks will be removed. Monitoring of groundwater and surface water will continue to occur.
- Removal of contaminated soils (with elevated lead and arsenic levels) in residential yards will also continue.

1.2.2 Restoration of Butte Area One (BAO)

The 2008 final Montana v. ARCO Consent Decree specifically allocated \$28.1 million in natural resource damages, plus interest, to restore, replace, or acquire the equivalent of injured natural resources at the BAO site, as provided for in the 2007 “*Butte Ground and Surface Water Restoration Planning Process and Draft Conceptual Restoration Plan.*” This document, hereafter referred to as the *BAO DCRP*, along with the Consent Decree, is available on the NRDP’s website.⁶ The requirements of the Consent Decree are consistent with the natural resource damage provisions of the federal Superfund law and associated regulations which specify that any damages recovered from natural resource damage lawsuits may only be used to restore, replace, or acquire the equivalent of the injured natural resources that were the subject of the lawsuit (42 U.S.C. 9607). Following are the general definitions and examples of these terms, with additional relevant definitions also provided in Attachment A.

- Restoration refers to actions taken, in addition to remediation, to return the injured resources and services to their baseline condition. For example, planting additional grasses, forbs, shrubs and trees in the Silver Bow Creek floodplain that would not be planted under remediation and would help restore the area to its pre-mining state.

⁶ Link to *DCRP*: <http://www.doj.mt.gov/lands/naturalresource/resources/claims/butteareonerestorationplan2008.pdf>;
Link to 2008 Consent Decree: <http://doj.mt.gov/lands/naturalresource/resources/claims/consentdecree2008.pdf>

- Replacement actions create or improve resources and services that are the same as or substantially similar to the ones that have been injured or lost. For example, improving a streambank and aquatic habitat in a tributary stream to Silver Bow Creek constitutes replacement of the aquatic resources of Silver Bow Creek that were injured or lost.
- Acquiring equivalent resources involves obtaining unimpaired resources in another location that are the same or almost the same as those resources that were injured or lost. For example, acquiring well vegetated, uncontaminated land to replace contaminated, unvegetated land constitutes acquiring an equivalent resource.

The *BAO DCRP*, which is “conceptual” in nature, generally sets forth a restoration planning process to determine how the \$28.1 million settlement, plus interest, will be expended to restore or replace the injured resources. Under this process:

1. A final restoration plan will be developed based, in large part, on local input, subject to requirements of the law. This plan would allocate the entire \$28.1 million, plus interest, for Butte restoration projects;
2. A Butte Natural Resource Damage Restoration Council (BNRC) would be created for purposes of developing and recommending for approval the final restoration plan; and
3. The Governor, as trustee of the settlement money, after considering the recommendations of the Trustee Restoration Council (TRC), BNRC, and NRDP, would approve the final restoration plan.

The make-up and responsibilities of the BNRC and TRC are described in Section 2-1.

The *BAO DCRP* developed some draft conceptual restoration alternatives as recommended alternatives to be considered in the development of the final restoration plan. Some of the draft alternatives identified in the *DCRP* center on direct restoration of resources by removing or mitigating wastes that are most likely injuring groundwater and surface water resources. Other restoration alternatives address injuries to BAO with resource replacement type projects, such as drinking water system improvement projects. The BNRC will consider these draft alternatives, along with any new alternatives identified through this planning process, in developing the BAO restoration plan.

Section 5.0 of the *DCRP* also indicates that a specific planning process will be developed to determine how the \$28.1 million settlement, plus interest, may be used to restore or replace the injured natural resources. The BNRC developed a draft of this process document, with assistance from the NRDP, to fulfill this requirement. It was subject to public comment in spring 2011 and revised by the BNRC in January 2012 based on public comment. In March 2012, the revised document was recommended for approval by the Trustee Restoration Council and approved by the Governor.

SECTION 2. RESTORATION PLANNING PROCESS

This section describes the procedures that will be followed in developing and obtaining approval of a final BAO restoration plan. The chapter is divided into three parts. Section 2.1 describes the entities that will participate in the decision-making process and identifies the role they will play. Section 2.2 describes the steps and timeframe of the decision-making process to be followed in developing a final BAO restoration plan. Section 2.3 discusses the role of the public.

2.1 Planning Entities

Governor

The federal Superfund law provides that the “Governor of each state shall designate state officials who may act on behalf of the public as trustees for natural resources.” In 1990, Governor Stephens designated the Governor as “Trustee.” Since that time the Governor of the State of Montana has been the ultimate decision maker on all aspects of Montana’s lawsuit to recover natural resource damages. In addition the Governor, as Trustee, has had and continues to have ultimate authority over restoration planning and the expenditure of the recovered natural resource damages on restoration projects. Accordingly, this document is prepared on behalf, and under the authority, of the Governor in his/her role as Trustee.

Butte Natural Resource Damage Restoration Council (BNRC)

The 2008 CD and associated *BAO DCRP* provided for the creation of the BNRC to develop and recommend a final restoration plan for approval by the Governor that would specify how the \$28.1 million in natural resource damage settlement funds, plus interest, earmarked to the BAO site would be spent on restoration projects. The BNRC consists of six individuals appointed by the Butte-Silver Bow Chief Executive and three members appointed by the Governor. Attachment B provides the voting and meeting procedures of the BNRC; decisions of the BNRC are made by majority vote. Attachment B also provides the guiding principles the BNRC developed to reflect the values and goals important to the BNRC’s decision-making. Attachment C provides a list of the current BNRC members. The BNRC and its members have the following specific roles and responsibilities:

- Serves as the voice of the citizens of Butte and Montana on matters related to the restoration of the injured natural resources of BAO.
- Facilitates public dialogue on and promotes public understanding of the restoration and remediation issues of BAO.
- Works with the NRDP to develop the planning process to determine how the NRD settlement funds earmarked to BAO will be utilized.

- Works with the NRDP to develop a proposed final BAO Restoration Plan, while considering restoration alternatives proposed in the *BAO DCRP*. In doing so, the BNRC will:
 - Consider and offer input on various alternatives that will restore, replace, or acquire the equivalent of the injured natural resources and/or lost services to be evaluated.
 - Recommend a draft BAO Restoration Plan to the Trustee Restoration Council that would be the subject of public comment.
 - Recommend a final BAO Restoration Plan for approval by the Governor based on public input.

Trustee Restoration Council

Following its partial settlement of Montana v. ARCO in 1999, and associated with the development of the *UCFRB Restoration Plan Procedures and Criteria (RPPC)*,⁷ the Governor created the UCFRB Remediation and Restoration Advisory Council (UCFRB Advisory Council) and the UCFRB “Trustee Restoration Council” (TRC). The TRC makes recommendations on expenditures of natural resource damage settlement funds. The TRC consists of six members: the Governor’s Chief of Staff, the directors of the Departments of Environmental Quality, Fish, Wildlife and Parks, and Natural Resources and Conservation, the Attorney General (who is non-voting member), and the Chairman of the UCFRB Advisory Council.

The *BAO DCRP* provides that the TRC will consider the BNRC’s recommended restoration plan for the Butte Area One site and make a recommendation to the Governor about this plan. Through this document, the State proposes that the Chairman of the BNRC serve on the TRC rather than the Chairman of the UCFRB Advisory Council, whenever the TRC considers matters that are within the purview of the BNRC as provided in the *BAO DCRP* or in this document.

Natural Resource Damage Program

Since 1990, the Natural Resource Damage Program (NRDP), within the Montana Department of Justice, has been responsible for performing the necessary natural resource damage assessments and pursuing the lawsuit against ARCO. Since the first partial settlement of Montana v. ARCO in 1999, the NRDP began administering a restoration grants program and managing and overseeing restoration work at certain injured areas in the UCFRB under the guidance of the TRC.

In 2009, the NRDP created and hired a new environmental specialist position that was assigned to its Butte Office to coordinate the development of the final BAO restoration plan. The position is the primary staff person to the BNRC, but other NRDP staff also serve the BNRC

⁷ *Upper Clark Fork River Basin Restoration Plan Procedures and Criteria*, prepared by the NRDP in February 2001 and subsequently revised in March 2002, January 2006, and January 2007.

and will assist with the development of the final plan. Once a final plan is approved by the Governor, this position will be responsible for overseeing the implementation of that plan, including design and construction oversight and ensuring proper accounting of all expended restoration funds.

2.2. Planning Phases and Timeframe

The development of the final BAO restoration plan will be a phased process.

Phase 1 – Education/Investigation (April 2010 –Fall 2011)

To arrive at the best decision on how the BAO settlement funds are to be expended, the BNRC is focusing its initial efforts on becoming knowledgeable about the BAO site characteristics, the 2008 *BAO DCRP*, and the BPSOU remedy process and remedial actions that are connected to restoration decisions. Since its first meeting in April 2010, the BNRC has learned about these topics and conducted site visits. Table 1 provides a summary of these educational efforts.

Table 1. Summary of BNRC Meetings to Date

Date	Major Topics Covered
4-8-10	Orientation session on NRD basics and BAO site
5-10-10	Summary presentations on BPSOU ROD and remedy status
6-10-10	Summary presentations on Butte mine caps and remedy vegetation evaluation system
7-12-10	Tour of area mine cap sites
7-15-10	BAO sites updates (remedy updates, pump test, mine cap, and BNRC meeting procedures)
8-5-10	Summary presentation on B-SB/ARCO Allocation Agreement
8-26-10	Tour of BAO
9-30-10	Presentation on MBMG Aquifer Test
11-8-10	Briefing on UCFRB Advisory Council’s Long Range Guidance Plan and Update on MBMG Fingerprint study
12-9-10	Working session on draft BAO process plan and presentation on MBMG Blacktail Creek Groundwater/Surface Water Characterization Study
1-13-11	Working session on draft BAO Process Plan
2-10-11	Working session on draft BAO Process Plan
3-10-11	Presentation on Silver Bow Creek fisheries
4-14-11	BNRC action on draft BAO Process Plan
6-16-11	Field trip to areas being evaluated under MT Tech’s native plant diversity grant project
8-11-11	Presentation on DEQ’s Use Attainability Analysis for Silver Bow Creek and the Clark Fork Coalition’s Aquatic Restoration Strategy for the Upper Clark Fork Basin
9-8-11	Presentation on updated Parrot tailings cost removal estimate
10-6-11	Presentation from EPA on Parrot tailings remedial decisions
11-3-11	Consideration of column study and proposed final BAO Process Plan
11-15-11	Working session on proposed final BAO Process Plan
12-8-11	Presentation from Butte-Silver Bow representatives on restoration project ideas and priorities
1-12-12	Final review and approval of proposed final BAO Process Plan

Also in this Phase 1, the NRDP has advised the BNRC about the need for additional investigations aimed at obtaining adequate information about the nature, extent, and impacts of contamination in BAO and possible restoration alternatives. Table 2 summarizes these additional studies. The NRDP believes additional investigations may be needed beyond those listed in Table 2.

Table 2. Summary of additional investigations conducted at BAO site since 2008 settlement

Description of Work	Cost	Status
Parrot Tailings Volume Study by MBMG	\$50,000	Completed Open File 590 Report in 2-2010
February 2010 Aquifer Test Evaluation by MBMG	\$40,000	Report Complete, presented to BNRC on 9-30-10
April 2010 Fingerprint Study by MBMG	\$19,500	Winter/Spring 2012
Parrot Tailings Removal Cost Update	\$8,500	Report complete, presented to BNRC on 9-8-11
Blacktail Creek Groundwater/Surface Water Characterization Study	\$53,000	Winter/Spring 2012
Column Study	\$50,000	To be determined ⁸

Phase 2 – Development of BAO Process Document (Winter through Spring 2011)

This phase involves the development of this document that provides the decision-making framework and schedule the BNRC will follow in proposing a final BAO restoration plan. A 45-day public comment period was held on the draft document May 15 through July 1, 2011. The BNRC has revised this draft document based on public comment and proposed a final process document for consideration by the TRC and approval by the Governor. During the public comment period, the BNRC presented the draft BAO process document to the Butte-Silver Bow Council of Commissioners and Chief Executive.

Phase 3 – Scoping and Development of Restoration Alternatives (Fall 2011 through Spring 2012)

The BNRC will first develop a broad range of conceptual restoration alternatives to be further evaluated. The BNRC will next develop a detailed analysis of alternatives using the criteria in Section 3 of this document.

Before developing the broad range of alternatives, the BNRC will solicit ideas from the public on proposed restoration project alternatives to be considered for expenditure of BAO settlement funds. The BNRC will specify the time period for submittal of these project ideas and will also hold an educational workshop about the types of restoration projects that could be funded with BAO settlement funds. The BNRC will also conduct public outreach about this solicitation process and workshop. The NRDP, in consultation with the BNRC, will first screen the possible restoration alternatives to determine whether they meet the legal threshold of

⁸Although the BNRC approved this study proposed on 11-3-11, a decision to go ahead has been deferred pending determination of adequate sampling media and results of other investigations.

restoring or replacing the injured natural resources of the Butte Area One site that were the subject of the \$28.1M claim recovered from ARCO, namely groundwater and the aquatic resources of Silver Bow Creek. As part of this scoping process, the BNRC will consider the applicable restoration needs/projects that would meet this legal threshold and are identified in other relevant documents, including but not limited to those listed in Attachment D.

Phases 4 – Draft Restoration Plan (Spring and Summer 2012)

The BNRC will prepare and develop a draft restoration plan to be considered for public comment after approval by the Trustee Restoration Council. The BNRC will present the draft document to the Butte-Silver Bow Council of Commissioners and Chief Executive. After consideration of public comment, the BNRC will prepare a proposed final restoration plan for consideration by the TRC and approval by the Governor. The NRDP will assist the BNRC in developing the plan and a responsiveness summary to public comment.

Phase 5 – Proposed Final Restoration Plan to Governor (by December 2012)

The Governor will consider the final recommendation of the BNRC, TRC, NRDP and associated public input in considering his approval of the final restoration plan for BAO.

Phase 6 – Restoration Plan Implementation – (TBD by selected alternative)

The *BAO DCRP* assumed that Butte-Silver Bow would take the lead in implementing the Butte restoration plan pursuant to a memorandum of understanding (MOU) with the State providing for oversight and funding from the \$28.1 million, plus interest, BAO Restoration Fund held by the Board of Investments. Under this approach, the county would be responsible for procuring or hiring any needed employees, contractors and consultants for implementation of the plan and associated work. Other approaches to implementation of the final restoration plan can be considered as part of the development of the final restoration plan.

The entities involved in decision-making and steps to be taken to complete a final restoration plan are summarized in the following flow chart (Table 3). The BNRC recognizes that the schedule indicated in this section and shown on Table 3 may need to be modified for various reasons.

Exception for Important, Time Critical Projects

Funding important, time-critical BAO restoration projects may, in limited circumstances, be appropriate prior to the approval of the BAO restoration plan. For example, a significant opportunity to integrate a BAO restoration project with a planned remedial action for BPSOU may develop that would allow for large cost savings and greater benefits, including ecosystem benefits, which would not otherwise occur if the restoration project was implemented separately from the remedial action. The BNRC will consider the funding of such restoration projects and may choose to advance them for the Trustee's consideration and approval through an expedited decision-making process involving the same review process summarized above and shown in Table 3, including a review using the evaluation criteria in Section 3. In light of the BNRC's desire to keep these exceptions to a minimum, the BNRC would advance only projects, if any,

that can be shown to be time-critical and of extraordinary importance. In addition, such projects may only be funded from the balance of BAO settlement fund above the initial \$28.1 million principal of that fund, except such projects whose costs would exceed that balance may be funded if approved by a two-thirds vote of the BNRC.

Table 3. Butte Area One Restoration Planning Process*	
February/March 2010	BNRC appointed by <ul style="list-style-type: none"> • Butte Silver Bow Chief Executive (6) • Governor (3)
Spring 2010 – Fall 2011	Phase 1 – Education/Investigation <ul style="list-style-type: none"> • BNRC meetings/site tours • MBMG investigations directed by BNRC and NRDP
Winter 2011 –Spring 2012	Phase 2 – Butte Area One Process Plan <ul style="list-style-type: none"> • Drafted by BNRC, with NRDP assistance • Subject of public comment (mid-May to July 2, 2011) • Presented to B-SB Council of Commissioners and Chief Executive (June 15, 2011) • Revised by BNRC, with NRDP assistance in Fall 2011 • Considered by Trustee Restoration Council • Approved by Governor
Fall 2011 through Spring 2012	Phase 3 – Scoping and Development of Alternatives <ul style="list-style-type: none"> • Jointly conducted by BNRC and NRDP • Scoping of ideas from the public • Initial alternatives development and screening • Detailed alternatives analyses
	•
Drafting effort in Spring and Summer 2012; draft to go out for public comment no later than September 2012	Phase 4 – Draft Restoration Plan <ul style="list-style-type: none"> • Developed by BNRC, with NRDP assistance • Considered by Trustee Restoration Council - August • Subject of public comment based on direction of Trustee Restoration Council • Revised by BNRC, with NRDP assistance - October
Trustee approval by December 2012	Phase 5 – Final Restoration Plan <ul style="list-style-type: none"> • Proposed by BNRC, with NRDP assistance • Considered by Trustee Restoration Council • Approved by Governor
2012 – 20? (TBD)	Phase 6 – Implementation of Final Restoration Plan

*This schedule may be subject to modification. TBD – to be determined.

2.3 Public Participation

The process described for restoration planning and decision making has been designed with numerous opportunities for public comment to ensure that all viewpoints are considered to the fullest possible extent and to promote reasoned, measured deliberation on the part of the State. It is believed that establishing a sound decision-making process goes a long way toward ensuring reliable decisions.

The State of Montana and the BNRC recognize the importance of public input and participation in the restoration planning process. Not only does involving the public in restoration planning promote better decision making, it should be remembered that it was an injury to the public's natural resources for which the State, and Governor serving as Trustee, recovered natural resource damages.

There will be multiple opportunities for meaningful public participation at all points in the BAO restoration planning process:

1. Opportunity for public comment at every BNRC meeting and at every TRC meeting at which the BAO plan is considered;
2. Public comments periods of at least 30 days will be held on the following documents, pursuant to the proposed schedule in Table 3:
 - this draft process document;
 - a draft proposed restoration plan developed by the BNRC for TRC consideration.

In addition to the documents identified above that will be subject to public comment, the BNRC may choose to solicit informal public comment on interim products associated with developing the final plans. The public will have access to information pertaining to this restoration planning and the overall restoration effort via the NRDP Internet site at www.doj.mt.gov (under "Montana Lands"). Included on the web site will be draft and final documents, status reports, and information related to BNRC meetings. The State has established an electronic mailing address (nrdp@mt.gov) to enhance the public's ability to communicate with the State and NRDP, in particular.

Finally, the BNRC would like to emphasize the public participation role provided by the BNRC. As noted in section 2.1, the BNRC serves as the voice of the citizens of Butte and Montana on matters related to the restoration of injured natural resources of BAO. The Council facilitates public dialogue on and promotes public understanding of, restoration and remediation issues of BAO. In accomplishing its mission, the BNRC's decisions can be viewed as part of the meaningful public participation in the BAO restoration planning process.

SECTION 3. CRITERIA FOR DECISION-MAKING

This section identifies and discusses the criteria that will be used to analyze restoration alternatives and to decide on the preferred alternative(s). The criteria are grouped into two sets reflecting their derivation from two different sources: legal and policy. The “Stage 1 Legal Criteria” are derived primarily from the criteria set forth in the Department of the Interior’s (DOI) natural resource damage assessment regulations, which trustees are to use when selecting restoration projects. The Stage 1 Criteria also include a criterion reflecting the additional factors the State is to consider under the MOA with the Confederated Salish and Kootenai Tribes and DOI. The “Stage 2 Policy Criteria” have been developed by the BNRC to promote the goals important to them.

In applying these criteria to evaluate proposed restoration projects, the criteria will be evaluated qualitatively rather than quantitatively. The importance of each criterion as applied to individual projects will vary in its importance depending upon the nature of the project and the unique issues it raises. Given the widespread injury to Butte Area One natural resources and the wide array of potential restoration projects, the State and BNRC must not be unduly constrained in their ability to evaluate what is best for the injured resources. A non-quantitative process in which the criteria and the proposed projects are balanced and ranked against each other allows greater flexibility to address natural resource injuries and impaired services.

3.1 Stage 1 Legal Criteria

The Stage 1 Legal Criteria that the BNRC, with assistance from the NRDP, will use to evaluate restoration alternatives are as follows:

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

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

Cost-effectiveness: This criterion evaluates whether a particular project accomplishes its goal in the least costly way possible. To apply this criterion in a meaningful fashion, all of the

benefits a project would produce must be considered, not just cost; otherwise the focus would be too narrow. Take the example of a project that would fully restore a given resource in a short period of time compared to another project that would restore the same resource at less cost but over a longer period of time. Considering only that the second project is less expensive than the first project ignores the benefits resulting from a relatively shorter recovery period. In this example, since an accelerated recovery time is a benefit, it would need to be factored into a determination of cost-effectiveness.

Results of Response Actions: This criterion considers the results or anticipated results of response actions underway, or anticipated, in the Upper Clark Fork River Basin. Numerous response actions are ongoing and additional response actions are scheduled to begin in the next several years, continuing for many years into the future. Application of this criterion will require assessment of response actions at an adequate level of detail, given the inherent uncertainties associated with this task, in order to make projections as to their effects on resources and services. Consideration of response actions will occur in two principal contexts:

- Evaluating what is necessary in the way of restoration of resources and services in light of the ongoing and planned response actions.
- Evaluating the degree of consistency between a project and a response action looking at whether a project builds on a response action or, at the other end of the spectrum, seeks to undo a response action. Those projects that do the former as opposed to the latter will generally be favored.

Adverse Environmental Impacts: This criterion weighs whether, and to what degree, a project will result in adverse environmental impacts. Specifically, there will be an evaluation of significant adverse impacts, which could arise from a project, short term or long term, direct or indirect, including those that involve resources that are not the focus of the project. To do so, the dynamics of a project and how that project will interact with the environment must be understood.

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

Human Health and Safety: This criterion evaluates the potential for a project to have adverse effects on human health and safety. Such a review will be undertaken not only to judge a particular project but also to determine if protective measures should be added to the project to ensure safety.

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

Resources of Special Interest to the Tribes and DOI: This criterion considers whether an alternative is consistent with the provisions of the State's Memorandum of Agreement (MOA) with the Department of Interior and Confederated Salish and Kootenai Tribes.⁹ Pursuant to the MOA, the State is to pay particular attention to natural resources of special interest to the Tribes and/or DOI, including attention to natural resources of special environmental, recreational, commercial, cultural, historic, or religious significance to either the Tribes or the United States. The MOA also provides for the State to pay particular attention to "Tribal Cultural Resources" or "Tribal Religious Sites," as those terms are defined in the MOA.

3.2 Stage 2 Policy Criteria

In addition to the legal criteria, the BNRC has selected the following policy criteria that will be applied when considering prospective restoration projects for Butte Area One. Prospective projects need not meet all of these criteria to be recommended for implementation; however, generally (all else being equal), projects that address these criteria will be ranked higher than those that do not. These policy criteria are reflective of the BNRC's goals (see Attachment B) and listed in order of importance to the BNRC.

Restoration of Injured Resources: This criterion will examine whether and to what extent a project directly restores injured resources. Preference will be given to restoration over replacement of injured resources and to restoration activities that integrate with remediation activities.

Public Support: This criterion will assess the level of public support for a project. Preference will be given to those projects with demonstrated public support over those without such demonstrated support.

Benefits to Butte Area One: This criterion will examine the benefits that will occur specifically to the injured groundwater and surface water resources of Butte Area One. Preference will be given to projects that offer benefits to these injured natural resources and the services they provide over projects that benefit resources and associated services outside of Butte Area One.

⁹ Memorandum of Agreement among the State of Montana, Confederated Salish and Kootenai Tribes and United States Department of Interior Regarding Restoration, Replacement, or Acquisition of Natural Resources in the Clark Fork River Basin, dated November 1998. This agreement is available from the NRDP website at <http://doj.mt.gov/lands/naturalresource/grantapplications.asp#guidance>.

Silver Bow Creek Ecosystem Health: This criterion examines the relationship between a particular project and overall resource conditions in the Silver Bow Creek Watershed. Preference will be given to projects that fit within a broad ecosystem concept in that they improve a resource problem(s) when viewed on a watershed scale (including how it helps protect the downstream areas of Silver Bow Creek from further releases of hazardous substances), are sequenced properly from a watershed management approach, and are likely to address multiple resource problems in the Silver Bow Creek watershed. As part of the evaluation of this criterion, priorities and projects that meet the legal threshold identified through other relevant documents, including but not limited to those listed in Attachment D, will be considered.

Long-Term Effectiveness: The long-term effectiveness of a project will be evaluated. Preference will be given to projects that offer benefits in the long-term over those that offer short-term benefits.

Matching Funds and Cost Sharing: This criterion examines whether and to what degree a project, or the selected portion of a project proposed for restoration funding, has funding from another source. Leveraging the recovered natural resource damages produces obvious efficiencies.

Coordination and Integration: The degree to which a restoration project is coordinated or integrated with other ongoing or planned actions in Butte and the surrounding area of the Silver Bow Creek watershed will be examined. This is in addition to the coordination with EPA response actions, which is separately addressed under the “Results of Response Actions” criterion. Projects that can be efficiently coordinated with other actions may achieve additional cost savings.

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

SECTION 4. BUDGETING AND ADMINISTRATION

In October 2008, the State received the funds awarded in the 2008 CD. This included the \$28,050,000, plus interest, earmarked to restore or replace the BAO injured natural resources. This sum was deposited into the BAO Restoration Fund account. This recovery was deposited with the State Board of Investments in a newly established BAO Restoration Fund, which the Board manages and which is primarily invested in the State's Trust Fund Bond pool. All costs of the development and implementation of the BAO Restoration Plan, including administrative costs, would come from the BAO Restoration Fund, including the interest earnings thereon.

The NRDP charges any administration costs that are specific to the BAO site to the BAO Restoration Fund account. This includes personnel, contracted services, travel, BNRC meeting expenses, materials and supplies, communications, and other direct costs specific to BAO. The NRDP will provide a quarterly report of expenditures and revenues for the BAO Restoration Account to the BNRC. Attachment E provides the fund status report for the fourth quarter of fiscal year 2011. The report indicates the fund balance as of 12/31/2011 to be \$32,200,949.

In addition to quarterly reporting, the NRDP will consult with and obtain BNRC input on any significant contracted service expenses in advance of the NRDP approval of that contracted service, when timing allows for such advance consultation. In the unusual situation where consultation with the BNRC about such an expense occurs in advance of a regularly scheduled meeting, the NRDP will notify the BNRC members of this situation and the BNRC Chairperson may choose to schedule a special meeting to allow for the BNRC's input on the proposed expenditure. For administrative purposes, the BNRC serves in a consultative role, but not approval role, with regards to expenditures of the BAO Restoration Fund for administrative purposes, including, in appropriate instances: obtaining independent scientific review; contracting and project oversight; assuring that restoration funds are not spent for remedy; overseeing and evaluating monitoring results; restoration research and planning; financial audits; and providing for the participation of the BNRC and other public involvement. The administrative expenses that will be incurred by the State are necessary in order for the State to fulfill its responsibilities with respect to the expenditure of recovered natural resource damages. The State will endeavor to minimize these expenses. The NRDP will fully consider BNRC input on proposed contracted services and work to resolve any differences of opinions between the BNRC and NRDP on these planned expenditures. If the BNRC disagrees with a planned expenditure, the BNRC has the option of bringing the matter to the TRC for resolution.

ATTACHMENT A. DEFINITIONS

The short definitions that follow are intended to help applicants identify the types of projects that will restore, rehabilitate, replace, and/or acquire the equivalent of injured natural resources and/or lost services.

Natural Resources: “Natural resources” that may be addressed through UCFRB Restoration Fund projects include the land, fish, wildlife, biota, air, surface water, groundwater, and other resources that: 1) are owned, held in trust, managed or controlled by the State of Montana; 2) have been injured from exposure to and/or contact with hazardous substances generated by mining and mineral processing in the UCFRB conducted by ARCO and its predecessor, the Anaconda Company; and 3) were the subject of the Montana v. ARCO lawsuit. A description of the injured natural resources at the BAO site is provided the 2007 DCRP.¹⁰

Services: “Services” are the physical and biological functions, including the human use of those functions, performed by the natural resource, or that would have been performed by the natural resource had it not been injured by the release of hazardous substances. A service provided by an injured natural resource, or that would have been provided absent the injury to the natural resource, may also be addressed through UCFRB Restoration Fund projects. Services include ecological services such as flood control and erosion control, habitat, and food chains, as well as human services such as recreation and drinking water consumption.

Injury: “Injury” to a natural resource is the measurable adverse change in the chemical, physical, or biological quality or the viability of a natural resource resulting from exposure to a release of a hazardous substance.

Baseline: “Baseline” refers to the condition of a natural resource and the services it provided that would have existed had the discharge of the hazardous substance not occurred.

No Action-Natural Recovery Period: “No Action-Natural Recovery Period” refers to the time needed for recovery of an injured resource to baseline conditions if no restoration efforts are undertaken beyond response actions. This time period depends on many factors, including the extent of the injury, the persistence in the environment of the hazardous substance to which the natural resource is exposed, and the extent of response actions or other human intervention.

Remedial Actions/Remediation: “Remedial actions,” also referred to as response actions, are those measures undertaken by the U.S. EPA or the State of Montana at contaminated sites that are deemed necessary to protect public health or the environment and comply with environmental standards. Although response actions are not designed to restore injured natural resources or services, they may have this effect to some extent. They may reduce or eliminate the length of time for natural recovery of an injured natural resource. Generally and collectively, remedial, removal, or response actions are also commonly referred to as “remediation.”

¹⁰*Butte Ground and Surface Water Restoration Planning Process and Draft Conceptual Restoration Plan (DCRP), prepared by the NRDP, Nov. 2007, pp. 2-6.*

Restoration: The term “restoration” is used in both a general sense and specific sense in this document. Used in a general sense, “restoration” generally refers to the four types of actions authorized under federal law to address injuries to natural resources (i.e., restoration, rehabilitation, replacement, and acquisition of the equivalent natural resources). Used in the specific sense, “restoration” refers to actions that operate directly on the injured resources and services to return them to baseline conditions or to accelerate the recovery process. For example, in a situation where numerous sources are contaminating groundwater, removing the most significant sources would lessen the injury and result in the groundwater’s recovery, or “restoration,” to baseline sooner than would otherwise occur.

Rehabilitation: Actions constituting “rehabilitation” attempt to return the injured resources and services to a state different than their baseline condition, but still beneficial to the environment and the public. For example, where injury to a conifer forest resulted in a loss of upland big game habitat, planting grasses and shrubs would create upland bird habitat while only beginning the process of restoring upland big game habitat.

Replacement: Actions constituting “replacement” seek to create or enhance resources and services equivalent or very similar to those that have been injured, but away from the immediate site of the injury. For example, where an injury to a trout fishery has occurred, improvements to a nearby stream would enhance its trout fishery and would, in effect, constitute “replacement” of the injured fishery.

Acquisition of Equivalent Resources: Actions constituting “acquisition of equivalent resources” involve acquiring unimpaired resources comparable to those that are injured. Acquisition of equivalent resources can hasten recovery or protect the injured natural resources. For example, acquiring healthy land adjacent to injured land can relieve pressure on the injured land and hasten its recovery. Or acquisition of equivalent resources may compensate the public for its diminished ability to use the injured resources. For example, although acquiring unimpaired land for public use does not restore the land that has been injured, it does make other land available for public use.

ATTACHMENT B. BNRC Voting and Meeting Procedures and Guiding Principles

Council Voting Procedures

There are 9 members on the Council. Of those, 6 are appointed by the Butte-Silver Bow Chief Executive and 3 are appointed by the Governor.

A quorum requires the presence of 5 voting members of the Council.

A simple majority of the Council members present and voting determines motions.

All members are voting members. A member can abstain from voting.

There are no provisions for proxy votes or alternates for the members of the Council; however, members can vote via teleconferencing, provided they have had the opportunity to consider the public input and participate in the BNRC deliberations occurring at the meeting at which the vote is taken.

Any Council member who will miss a vote can provide his/her input to the Council Chairperson or another Council member, who can then share this input during meeting discussions.

If a tie vote occurs on a motion, the motion fails.

The meeting procedures are otherwise to be governed by “Robert’s Rules of Order.”

Conflict of Interest Disclosure: The BNRC will follow the general conflict of interest standards that are reflected in Montana Code of Ethics (2-2-101 et. seq. MCA). In short, the statute establishes that public officers cannot benefit personally or financially from their position. Any BNRC member who may have a potential personal or financial gain, real or perceived, associated with a proposed decision/action of the BNRC is expected to disclose this potential conflict of interest to the BNRC.

Council Meeting Procedures

Listed below are the basic procedures that will be routinely followed at Council meetings, unless otherwise directed by the BNRC Chairperson (Chair).

- BNRC members and staff will seek recognition by the Chair before speaking.
- Council questions/comments on presentations will be handled first and then the Chair opens the questions to audience members.
- Public comments will be allowed prior to the BNRC's vote on all matters of a substantive, non-procedural nature. Public comments from the audience will be indicated on the agenda tied to specific topics. Additional public comment may be allowed at the end of the meeting on topics that were not previously covered at the discretion of the Chairperson.
- Requests to be on the agenda of the BNRC can be made directly to a BNRC member or NRDP staff. An item can be placed on the agenda of an upcoming meeting by a majority vote of the council. The Chair will review and approve the final agenda prior to each meeting.
- Members of audience will ask questions/comments during designated times only and seek recognition by the Chair prior to speaking. Questions should be related to the topics being discussed.
- No generic time limit on public comment will be set. The need to limit public comment by any individual to a set amount will be determined by the Chair as the agenda topic/meeting timeframe dictates.

GUIDING PRINCIPLES FOR RESTORATION OF BUTTE AREA ONE

Developed by the Butte Natural Resource Damage Restoration Council (BNRC)¹¹

- The BNRC is charged with recommending a plan to the Governor for restoring the groundwater and surface water resources of Butte Area One that were injured due to the releases of hazardous substances from more than 100 years of mining and mining related activities in the Butte area. The Council recognizes that restoration of the injured resources of Butte Area One is an enormous task that must be accomplished with limited funds and resources.
- The BNRC greatly values the inalienable right to a “clean and healthful environment” as provided in Article II, Section 3 of the Constitution of the State of Montana, which also recognizes that “in enjoying these rights, all persons recognize corresponding responsibility.” In executing its responsibilities, the BNRC will seek solutions that will best provide for a clean and healthful environment, including safe and reliable public drinking water supply.
- The BNRC understands the goal of remediation is to clean up hazardous substances to levels that are protective of human health and the environment, whereas the goal of restoration is to pick up where remediation leaves off, in an effort to return the injured resources to their baseline conditions. The Council promotes opportunities to coordinate restoration work with remediation to maximize cost savings and benefits. However, the Council discourages the use of restoration funds to conduct actions that should be conducted to accomplish an effective remedy.
- The BNRC will strive to make informed decisions that will produce long term, tangible benefits to injured natural resources in Butte Area One. The Council favors projects that directly restore resources in the injured area over projects that replace the injured natural resources and lost services.
- The BNRC will conduct a transparent decision-making process, seeking suggestions from the public on restoration projects and encouraging public involvement in the restoration decision-making process in order that area citizens will have a strong voice in the development of the restoration plan.
- The BNRC will proceed with due diligence and draft a timely plan that will help to remove the stigma associated with Superfund sites and restore Butte Area One so that current and future generations of Montanans can enjoy a healthy, restored Silver Bow Creek, the headwaters of the Clark Fork and Columbia Rivers.

¹¹ The BNRC adopted these guiding principles at their April 14, 2011 meeting. These principles were initially included as part of the cover letter for the May 2011 draft of this process plan. They were added to Attachment B in the March 2012 final version of this document.

ATTACHMENT C. BNRC Membership

The BNRC consists of:

Elizabeth Erickson, Chairperson, appointed by B-SB Chief Executive Paul Babb

Mark Gollinger, appointed by B-SB Chief Executive Paul Babb

Ruth Lee, appointed by B-SB Chief Executive Paul Babb

John McKee, appointed by B-SB Chief Executive Paul Babb

Chad Okrusch, appointed by B-SB Chief Executive Paul Babb

Emmett Riordan, appointed by B-SB Chief Executive Paul Babb

Larry Curran, appointed by Governor Schweitzer

Steve Gallus, appointed by Governor Schweitzer

Helen O'Connor Joyce, appointed by Governor Schweitzer

ATTACHMENT D
Relevant Restoration Planning Documents

The following documents provide information that may be relevant to consider in developing the Butte Area One Restoration Plan. This list is not exclusive; the BNRC and NRDP may become aware of other relevant documents in the process of developing the restoration plan.

Butte-Silver Bow (2001). A Look Forward to Butte-Silver Bow's Project Priorities for the Natural Resource Damage Program, prepared by Butte-Silver Bow as a supplement to its NRDP grant applications, draft dated March 2001.

Butte Hill and Headwaters Restoration Coalition (2006). An Action Plan for Restoration Efforts in Butte, drafted by the Butte Hill and Headwaters Restoration Coalition in September 2006.

NRDP (2005). Silver Bow Creek Watershed Restoration Plan (Final), prepared by the NRDP, with assistance from Confluence Consulting and DTM Consulting, Inc., December 2005.

NRDP (2007). Butte Area One Restoration Process and Draft Conceptual Restoration Plan, Prepared by the NRDP, with assistance from Robert Peccia and Associates, Bighorn Environmental Sciences, and Montana Bureau of Mines and Geology, November 2007.

Butte-Silver Bow (2008). Final Water System Master Plan, prepared for Butte-Silver Bow Public Works Water Utility Division by Robert Peccia & Associates. July 2008. Note: Butte-Silver Bow is working on an update to this document.

Butte USA Café for Butte Restoration and Redevelopment (2008): Ideas, Priorities, Barriers and Resolution

MBMG (2010). "The Parrot Complex: A Drilling Investigation of Historic Mine Waste Left In Place: Tailings and Overburden Volumes, Leachability and Economic Feasibility for Recovery, and Water Quality Along the Upper Metro Storm Drain in Butte, Montana – Open File Report 590."

MBMG (2010). "Aquifer Test Evaluation Conducted on the Middle Gravel Unit of the Alluvial Aquifer in Upper Metro Storm Drain Area, Butte, MT. – Open File Report 592."

NRDP (2011). 2011 Cost Estimate for the Removal of the Parrott Tailings, prepared by Dr. Butch Gerbrant, Montana Tech of the University of Montana, dated September 2011.

FWP and NRDP (2011). "Prioritization of Area in the Upper Clark Fork River Basin for Fishery Enhancement," Final, prepared by FWP and NRDP, December 2011 and "Upper Clark Fork River Basin Terrestrial Wildlife Resource Prioritization," Final, prepared by FWP and NRDP, December 2011.

NPDP (2011). Final UCFRB Long Range Priorities and Fund Allocation Guidance Plan, December 2011.

Butte-Silver Bow (2011). Silver Lake Water System: Capital Inventory and Replacement Plan and supporting documents

**ATTACHMENT E. Example Quarterly Financial Quarterly Financial Status Report –
2nd Quarter Fiscal Year 2012**

Org	Acct Lvl 1	Fiscal Year	Revenues	Expenditures	Rev less Exp
10220	Butte Area One Restoration		32,547,267.60	346,318.49	32,200,949.11
	<u>510000 Taxes</u>		6.72	0.00	6.72
		2010	6.72	0.00	6.72
	<u>530000 BOI Investment Earnings Class</u>		4,349,452.70	0.00	4,349,452.70
		2009	757,545.89	0.00	757,545.89
		2010	2,070,008.87	0.00	2,070,008.87
		2011	1,140,791.27	0.00	1,140,791.27
		2012	381,106.67	0.00	381,106.67
	<u>540000 Fines/Forfeits</u>		28,050,000.00	0.00	28,050,000.00
		2009	28,050,000.00	0.00	28,050,000.00
	<u>580000 Grants/Transfers/Misc</u>		147,808.18	0.00	147,808.18
		2011	147,771.25	0.00	147,771.25
		2012	36.93	0.00	36.93
	<u>61000 Personal Services</u>		0.00	158,950.98	(158,950.98)
		2009	0.00	6,030.71	(6,030.71)
		2010	0.00	45,638.51	(45,638.51)
		2011	0.00	78,084.26	(78,084.26)
		2012	0.00	29,197.50	(29,197.50)
	<u>62000 Operating Expenses</u>		0.00	187,367.51	(187,367.51)
		2009	0.00	11,210.37	(11,210.37)
		2010	0.00	83,702.33	(83,702.33)
		2011	0.00	79,618.14	(79,618.14)
		2012	0.00	12,836.67	(12,836.67)
Grand Total			32,547,267.60	346,318.49	32,200,949.11