

NRDP's Role in Butte

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

NRDP's Implementation of its Role in Butte

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