

LIBBY ASBESTOS OU3 INTERIM RESTORATION PLAN

SOLICITING EARLY RESTORATION PROJECT IDEAS AND SCOPING IMPACTS

6:00 PM on Thursday, November 2, 2023
Ponderosa Room, Libby City Hall
952 E Spruce



LIBBY ASBESTOS OU3 INTERIM RESTORATION PLAN SCOPING

HYBRID MEETING PROCEDURES



THIS MEETING IS BEING
RECORDED



ALL PARTICIPANTS, PLEASE
ANNOUNCE YOUR NAME
BEFORE SPEAKING

AGENDA

- Introduction
- Settlement Agreement
- Natural Resource Damages
- Libby Operable Unit 3 (OU3)
- Natural Resource Restoration
- Initial Funding Available
- Project Eligibility Requirements
- Preliminary Projects
- Project Selection Criteria
- How You Can Participate

Who We Are

- Montana Natural Resource Damage Program (NRDP)
 - Doug Martin, Program Manager
 - Katherine Hausrath, Chief Legal Counsel
 - Sydney Stewart, Project Manager

PURPOSE OF MEETING

Natural Resource Damage Funds

- 2023 Settlement Agreement provided the State with \$18.5 million in natural resource damages over the next 10 years
- Approximately \$4.5 million will be available in spring 2024

Public Input

- NRDP is developing an Interim Restoration Plan to spend a portion of these funds until the final remedy for OU3 is known.
- We are soliciting input on:
 - Early restoration project ideas
 - Concerns about potential impacts to the environment

MONTANA NATURAL RESOURCE DAMAGE PROGRAM

- Established in 1990 to pursue natural resource damage claims in MT v ARCO
- 12 Full time employees
 - 7 scientists
 - 2 attorneys
 - 3 admin
- Work on behalf of Governor (Trustee for natural resources in the State of Montana)
- Work under “natural resource damage” provisions in CERCLA (federal Superfund), CECRA (State Superfund), and OPA (Oil Pollution Act)



MONTANA NATURAL RESOURCE DAMAGE PROGRAM



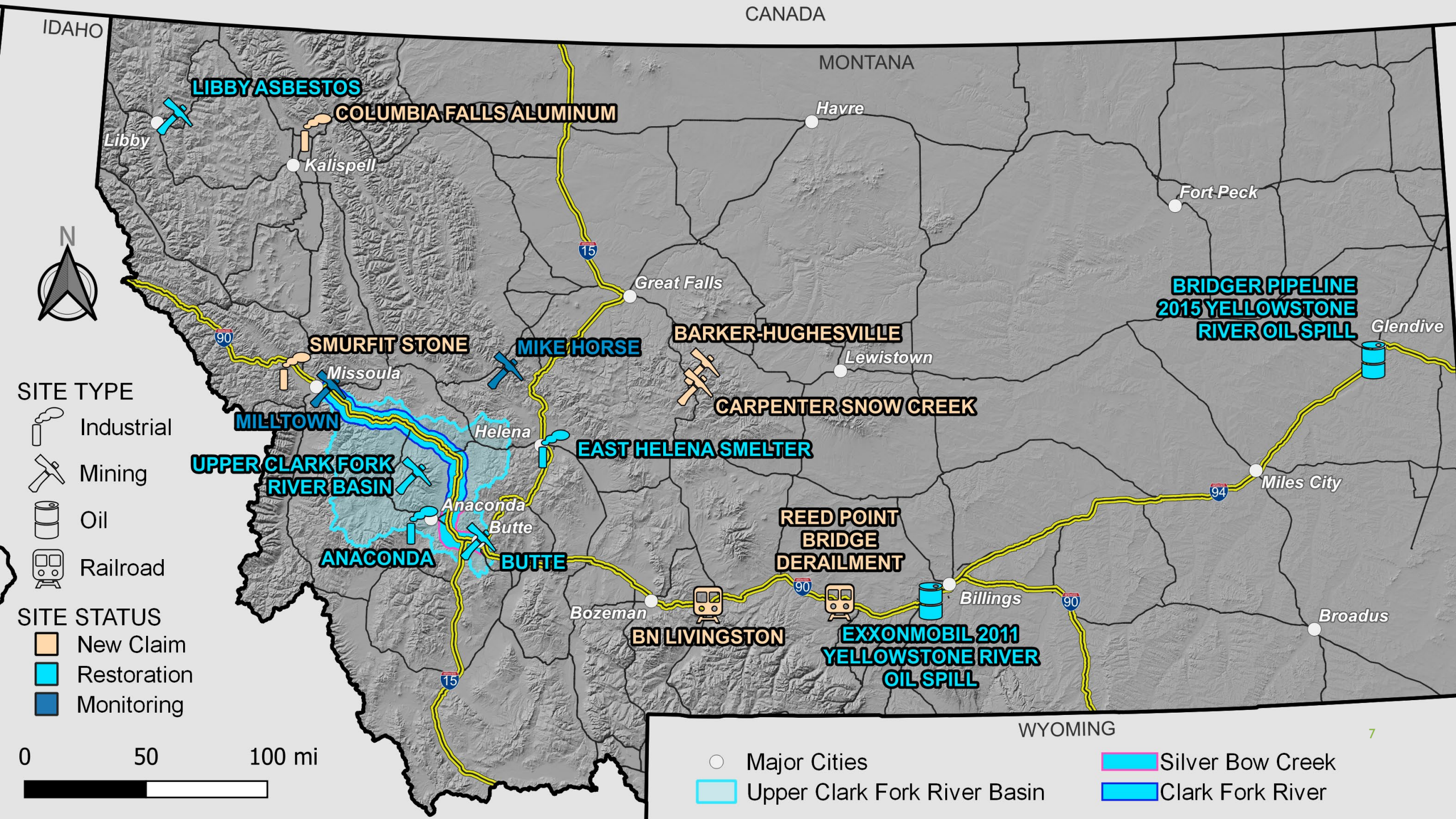
Recovery

- Assessment/evaluation of injury
- Recovery of damages in settlements



Restoration

- Spend settlement funds on natural resource restoration



COMMON TERMS IN NATURAL RESOURCE DAMAGE LAW

Injury

- An observable or measurable adverse change in a natural resource or impairment of a natural resource service

Damages

- A sum of money claimed or awarded in compensation for a natural resource loss or an injury

Natural Resources

- Public resources held in trust by the Governor for the people of the State of Montana
- **Examples:** Land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources

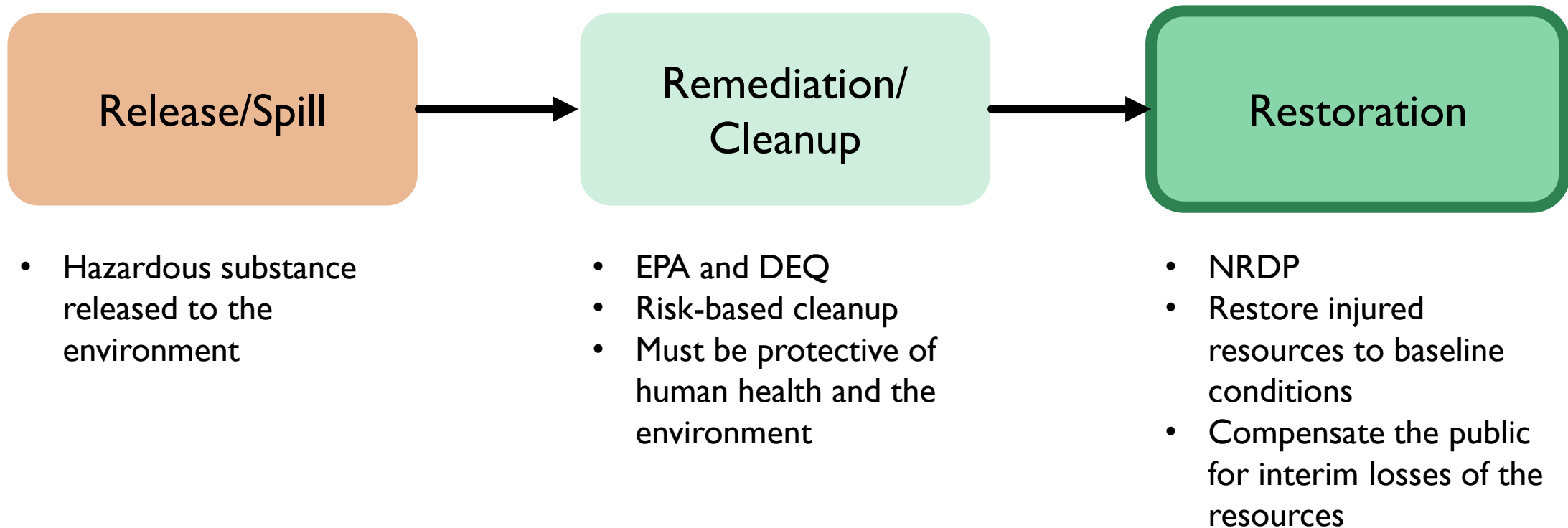
Natural Resource Services

- Physical and biological functions performed by the resource, including human use of those functions and services to other resources.
- **Examples:** recreation, habitat, food

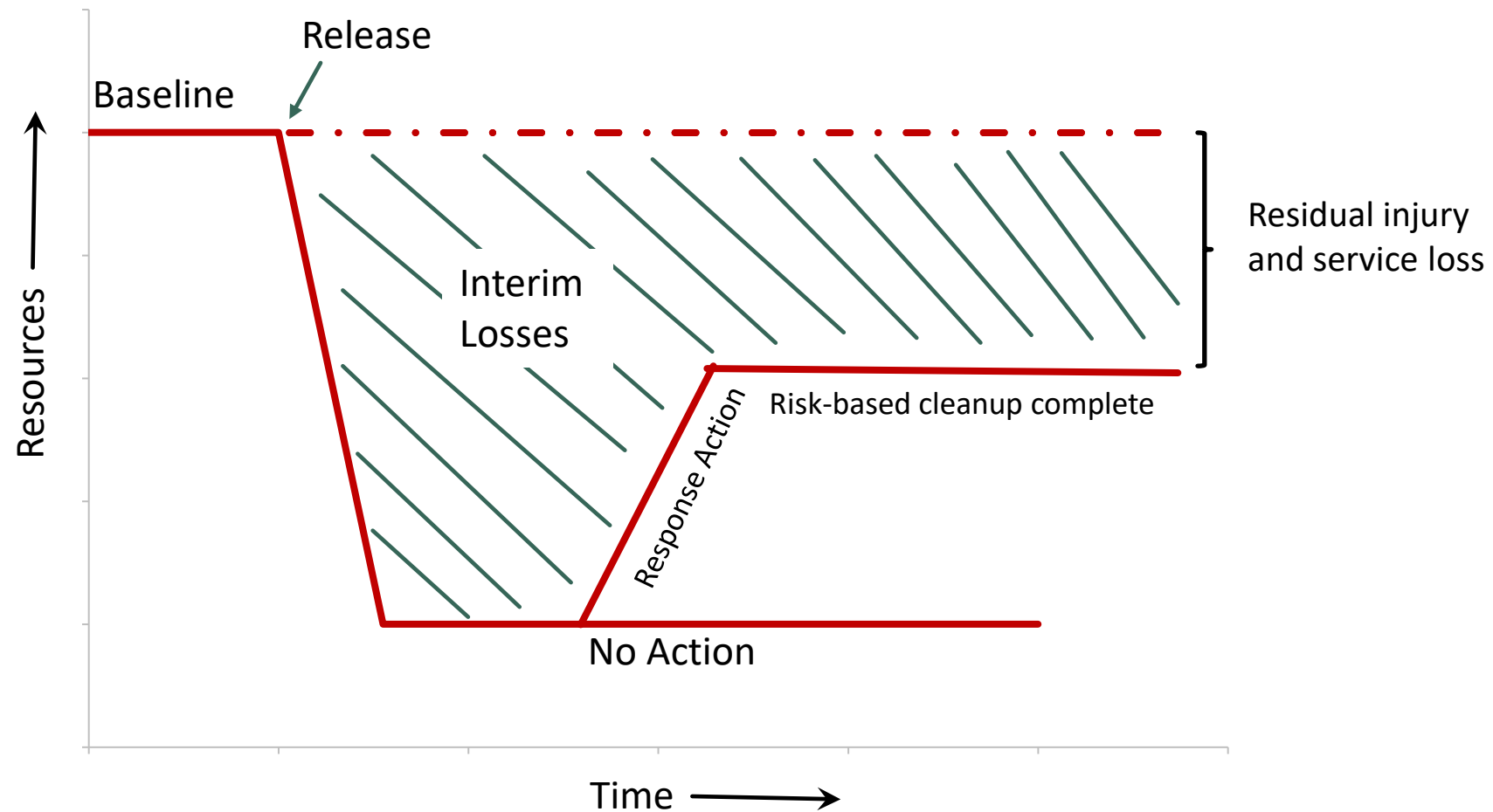
NATURAL RESOURCE DAMAGE LAW

- **Laws**
 - **CERCLA (Superfund)**
 - **CECRA (State equivalent of Superfund)**
 - OPA (Oil Pollution Act)
- **Natural Resource Damage (NRD) provisions**
 - Trustees can recover damages for injury to natural resources caused by the release of hazardous substances.
 - **Recovered damages must be used to restore, replace, rehabilitate, or acquire the equivalent of the injured resources.**
 - Objective is to return the injured resources to “baseline” conditions. If this is not possible, funds can be used to replace the injured resources.

WHEN THERE IS A RELEASE OF A HAZARDOUS SUBSTANCE...



NATURAL RESOURCE DAMAGES



LIBBY ASBESTOS OU3 RESTORATION PLANNING

-
- **\$18.5 million** in natural resource damages for State resources
 - Grace to pay to the State over 10 years, plus interest
 - First \$5 million received in October
 - \$1.5 million + 4.19% interest per year for the next 9 years
 - \$4.5 million available in spring 2024

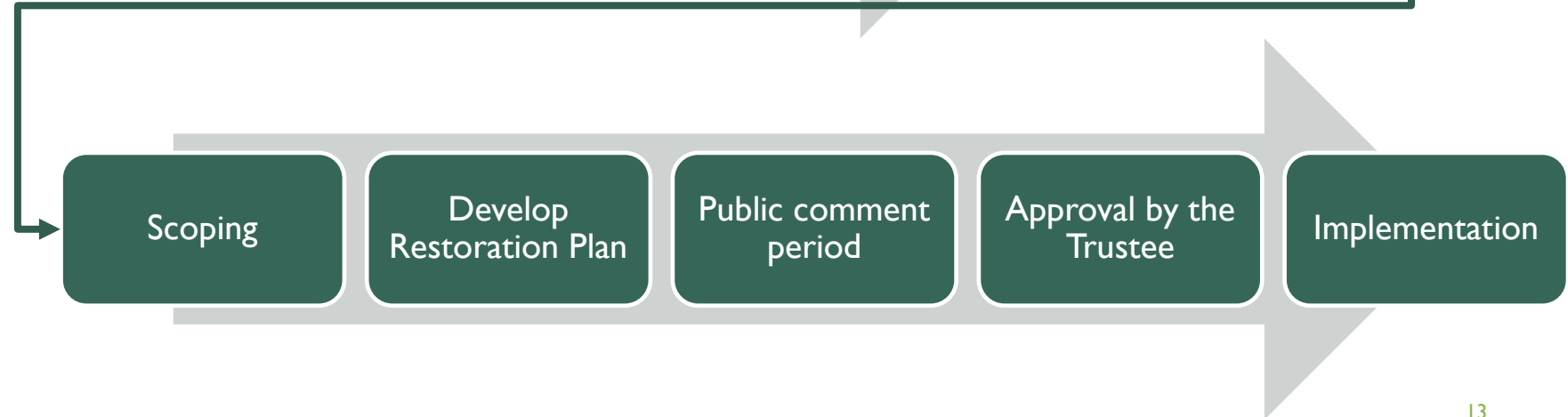
PROCESS FOR USE OF RESTORATION FUNDS

Interim Restoration Plan



Final Restoration Plan

- When the remedy is defined
- May amend when:
 - Full settlement is received
 - Remedial action is complete
 - As needed



INTERIM RESTORATION PLAN

Purpose

- Describe how a portion of the natural resource damages will be spent prior to developing the final restoration plan

Contents

- Introduction and Background
- Uses of Funds
 - Coordination with Remedy
 - Early Restoration Actions
 - Evaluation of alternatives
 - Final Restoration Plan Development
- Public Participation
- Budgeting and Administration

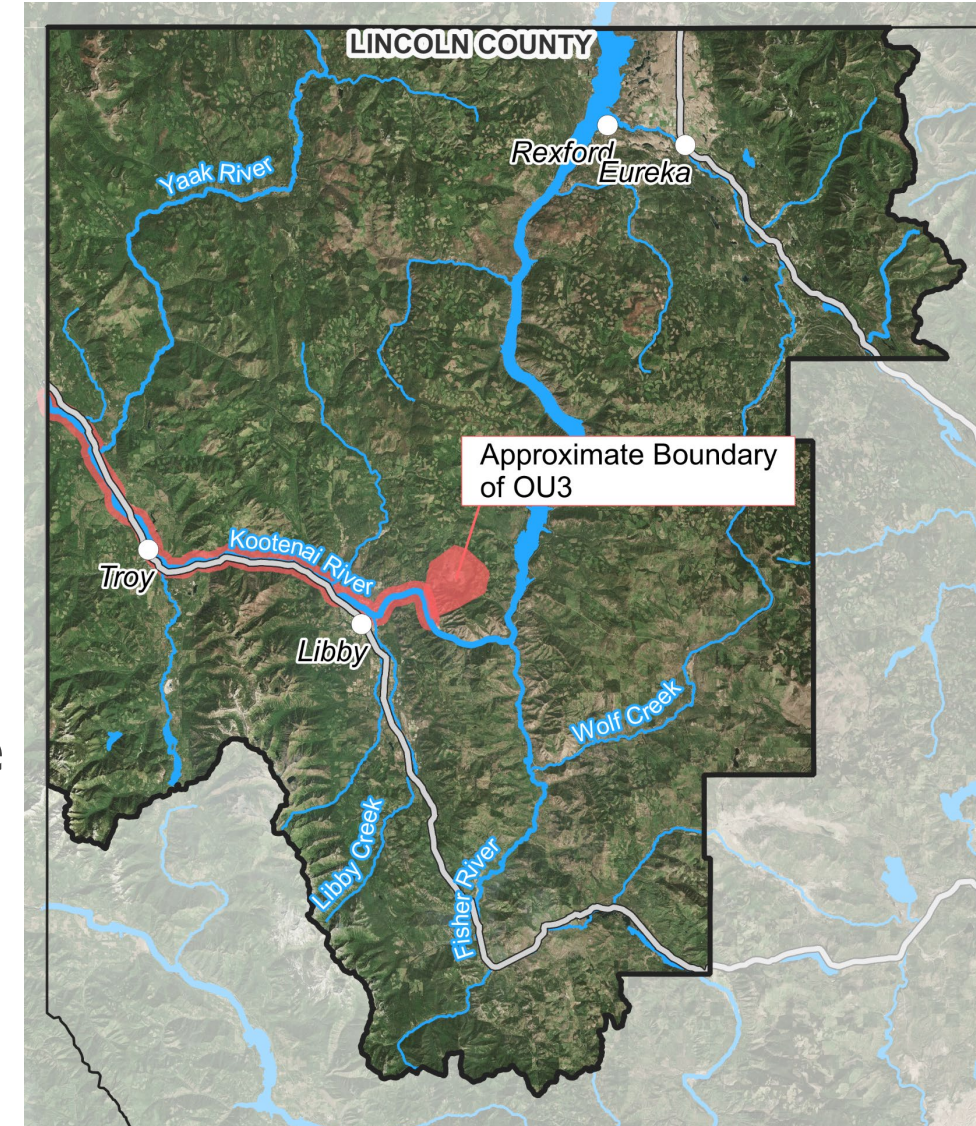
EARLY RESTORATION

- Benefits
 - Expedite time to recovery
 - Begin compensating the public for interim losses
- Considerations
 - Must comply with all other restoration project requirements
 - Time-sensitive, merit expedited funding



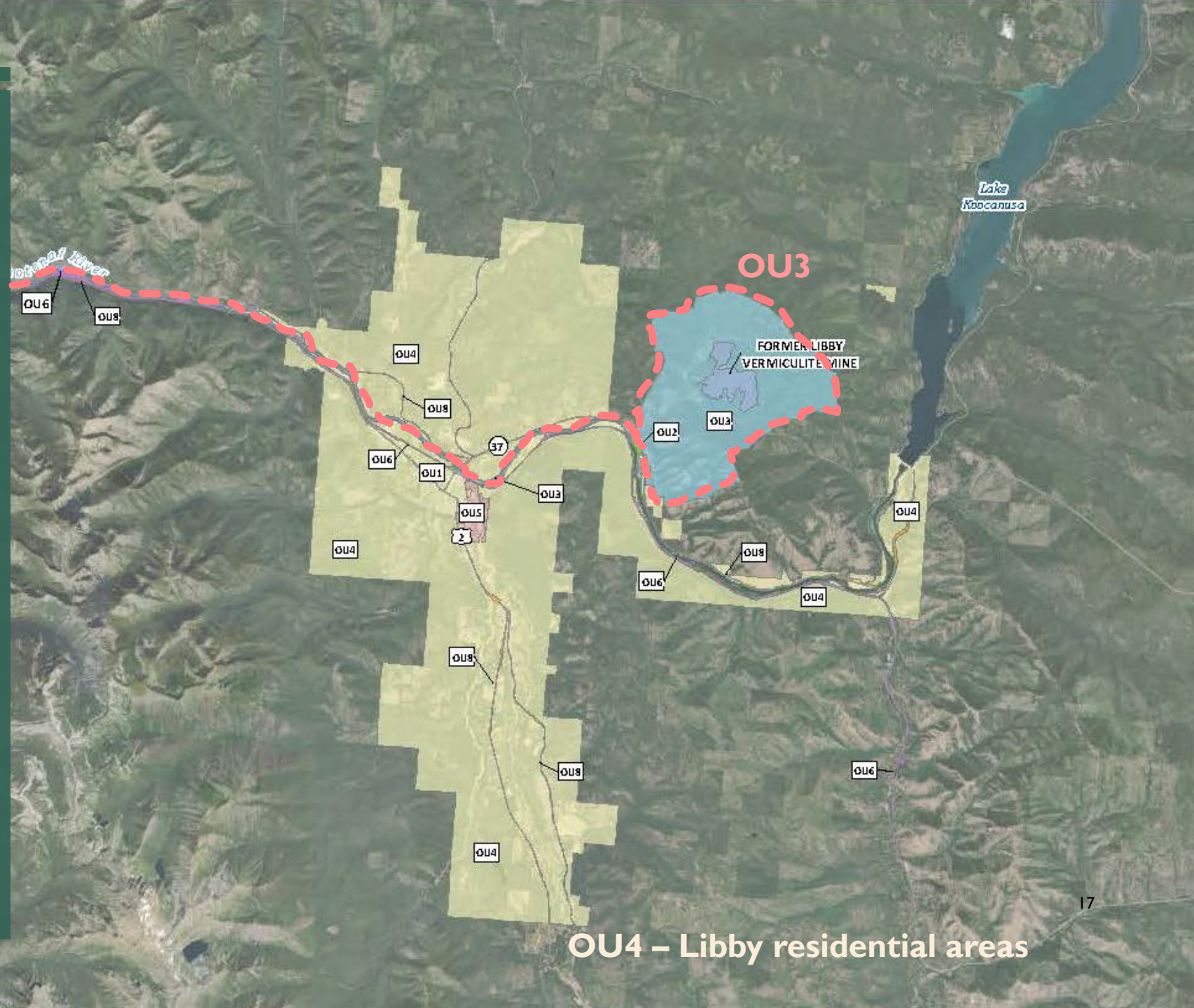
GENERAL RESTORATION PROJECT ELIGIBILITY REQUIREMENTS

- **Restore, replace, rehabilitate, or acquire the equivalent of the injured natural resources**
- Can be completed with the funding available
- Located within Lincoln County
- Will not interfere with remedy



LIBBY ASBESTOS OPERABLE UNIT 3

- Former Mine Site and anywhere contamination has come to be located
 - Former vermiculite mine
 - Forested areas
 - Kootenai River
- Official boundary TBD, will be defined in the Feasibility Study



OU4 – Libby residential areas



INJURED STATE RESOURCES AND SERVICES AT OR RELATED TO OU3



Natural Resources

Surface Water
Groundwater
Seeps
Sediment Pore Water
Sediment
Wildlife
Aquatic and Terrestrial
Plants



Services

Aquatic Habitat
Wetland Habitat
Terrestrial Habitat
Outdoor recreation
Fishing
Wildlife viewing
Drinking water supply

- Contamination mainly due to asbestos
- Non-asbestos contaminants also found in surface water, groundwater, and sediments at elevated concentrations
- More information in Exhibit E of the Settlement Agreement, available at <https://dojmt.gov/wp-content/uploads/Exhibit-E-NRD-report-1.pdf>



TYPES OF RESTORATION PROJECTS



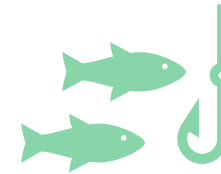
Aquatic/riparian habitat improvement

Riparian improvement
Instream habitat improvement,
channel modifications
Fish passage improvement



Terrestrial habitat improvement

Native planting, removal of non-
native species
Conservation easements



Recreation

Fishing access
Other recreational access

Projects must restore, replace, rehabilitate, or acquire the equivalent of the injured natural resources

PRELIMINARY PROJECT IDEAS: AQUATIC/RIPARIAN HABITAT



- Develop and manage native redband trout broodstock;
- Install a fish screen on an existing diversion on Parmenter Creek to prevent fish entrainment; evaluate ditch efficiency to increase summer base flows;
- Evaluate feasibility and cost of restoration projects on the Fisher River;
- Riparian vegetation restoration, streambank stabilization, and aquatic habitat improvement on Wolf Creek;
- Restoration on straightened portions of Libby Creek;
- Streambank stabilization and channel reconstruction on Lake Creek

PRELIMINARY PROJECT IDEAS: TERRESTRIAL HABITAT



- Protect terrestrial habitat through a conservation easement
- Restore native shrubland vegetation
- Promote diverse forest habitat by creating openings in the forest canopy

PRELIMINARY PROJECT IDEAS: RECREATION



- Develop, acquire, or improve recreational access on the Kootenai River
 - Fishing Access Sites
 - Trails
 - Other access features
- Improve public recreational access (conservation easements would include a public access component);
- Develop a Kootenai River Corridor Outdoor Recreation Management Plan

CRITERIA FOR SELECTING PROJECTS

Legal Criteria

- Technical feasibility
- Relationship of expected costs to expected benefits
- Cost-effectiveness
- Results of response actions
- Adverse environmental impacts
- Recovery period and potential for natural recovery
- Human health and safety
- Federal, State, and Tribal policies, rules, and laws

Policy Criteria

- Price
- Location
- Normal government function

FUNDING AVAILABLE

First Installment (October 2023)	\$5.0 M
Second Installment (April 2024)	\$2.0 M
Repay Past Costs	(\$2.5 M)
Total Available Spring 2024	\$4.5 M

- Available funds used in two ways:
 - Allocated to early restoration
 - Reserved for final restoration plan
- Early restoration allocation will depend on proposals received
- Trustee will make final decision

HOW YOU CAN PARTICIPATE



SUBMIT A PROJECT ABSTRACT



SUBMIT CONCERNS ABOUT
ENVIRONMENTAL IMPACTS

PROJECT ABSTRACTS

Scoping memo on NRDP website with instructions for submitting project abstracts.

<https://dojmt.gov/lands/nrdp-public-notice/notices-of-public-comment/>



Abstracts should include:

- ✓ Your name and contact info
- ✓ Project purpose and benefits
- ✓ Project location
- ✓ Project description
- ✓ Project schedule
- ✓ General cost information

NOTES FOR PROJECT PROPOSALS

- Projects can be for project feasibility, design, or implementation
- Match funding is not required at this time, but is encouraged
- Funding expected to be available in summer 2024, project should be able to be implemented within 1 to 2 years of receiving funding
- Contracting: a governmental entity (e.g., NRDP, FWP, Lincoln County) must hold the contract
- See Frequently Asked Questions and Fact Sheet for more info

HOW TO SUBMIT

- Submit proposals or feedback by 11:59 PM on November 20, 2023
- Email nrdp@mt.gov
- Subject: “Libby Asbestos OU3 Early Restoration Scoping”
- Natural Resource Damage Program
1720 9th Ave
PO Box 201425
Helena, MT 59620-1425

NRDP Libby Website



Exhibit E



Meeting Materials



Sydney Stewart
sydney.stewart@mt.gov

Katherine Hausrath
khausrath@mt.gov

Doug Martin
dougmartin@mt.gov

CONTACTS

Remediation – EPA

- Dania Zinner - zinner.dania@epa.gov
- Christina Progeess - Progeess.Christina@epa.gov
- Beth Archer - archer.elizabeth@epa.gov

Remediation – DEQ

- Jason Rappe - Jason.Rappe@mt.gov

KDID – DNRC

- Michele Lemieux - mlemieux@mt.gov

Forest fires – US Forest Service

- Pam Baltz - pamela.baltz@usda.gov

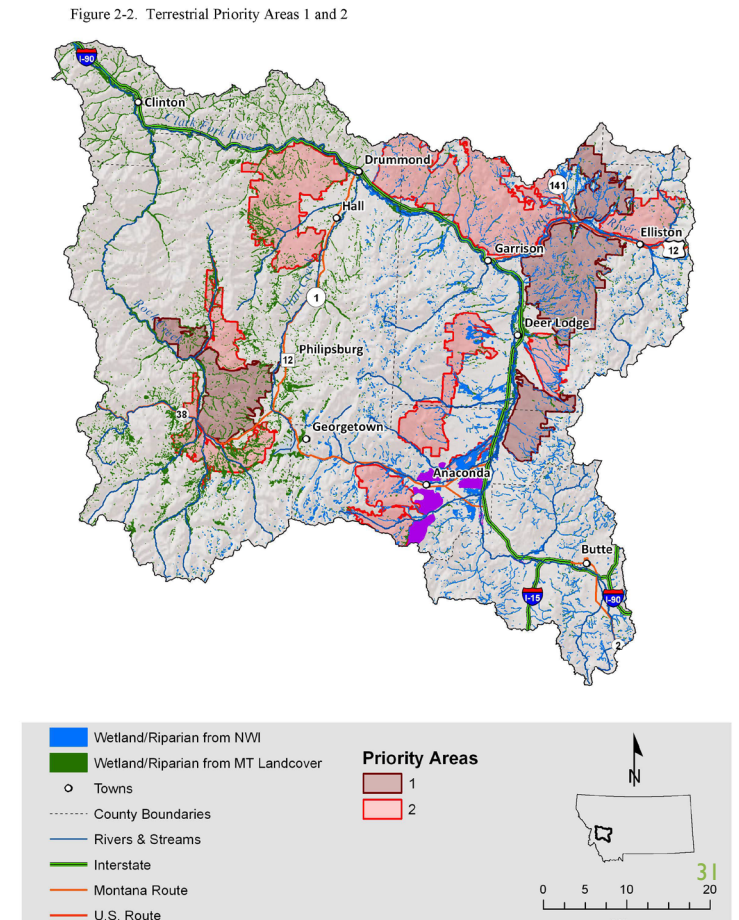
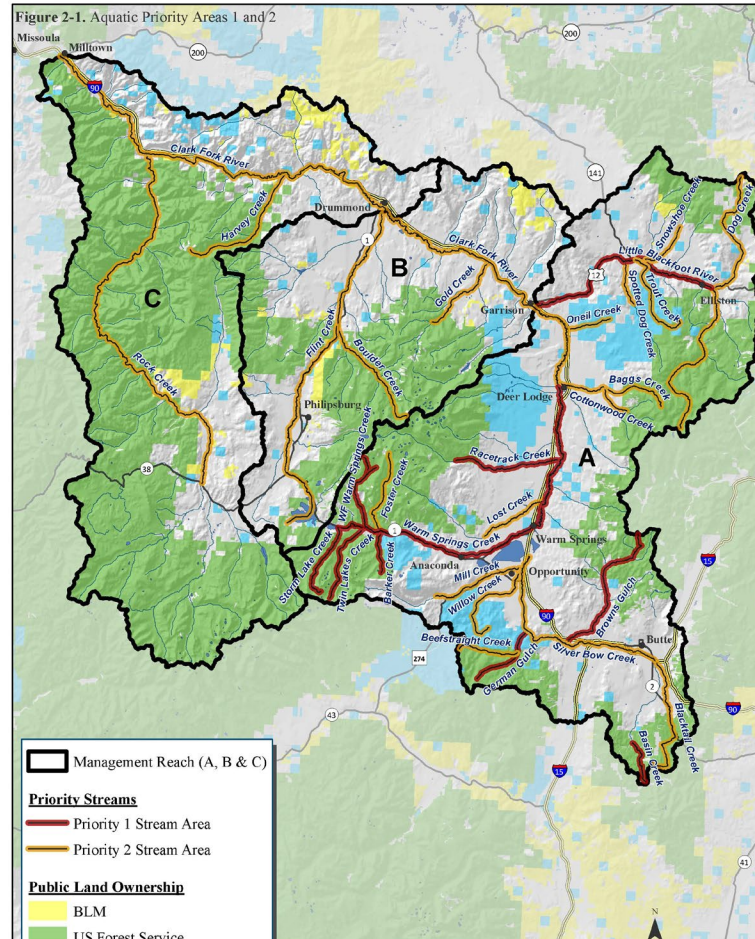


PROJECT LOCATIONS



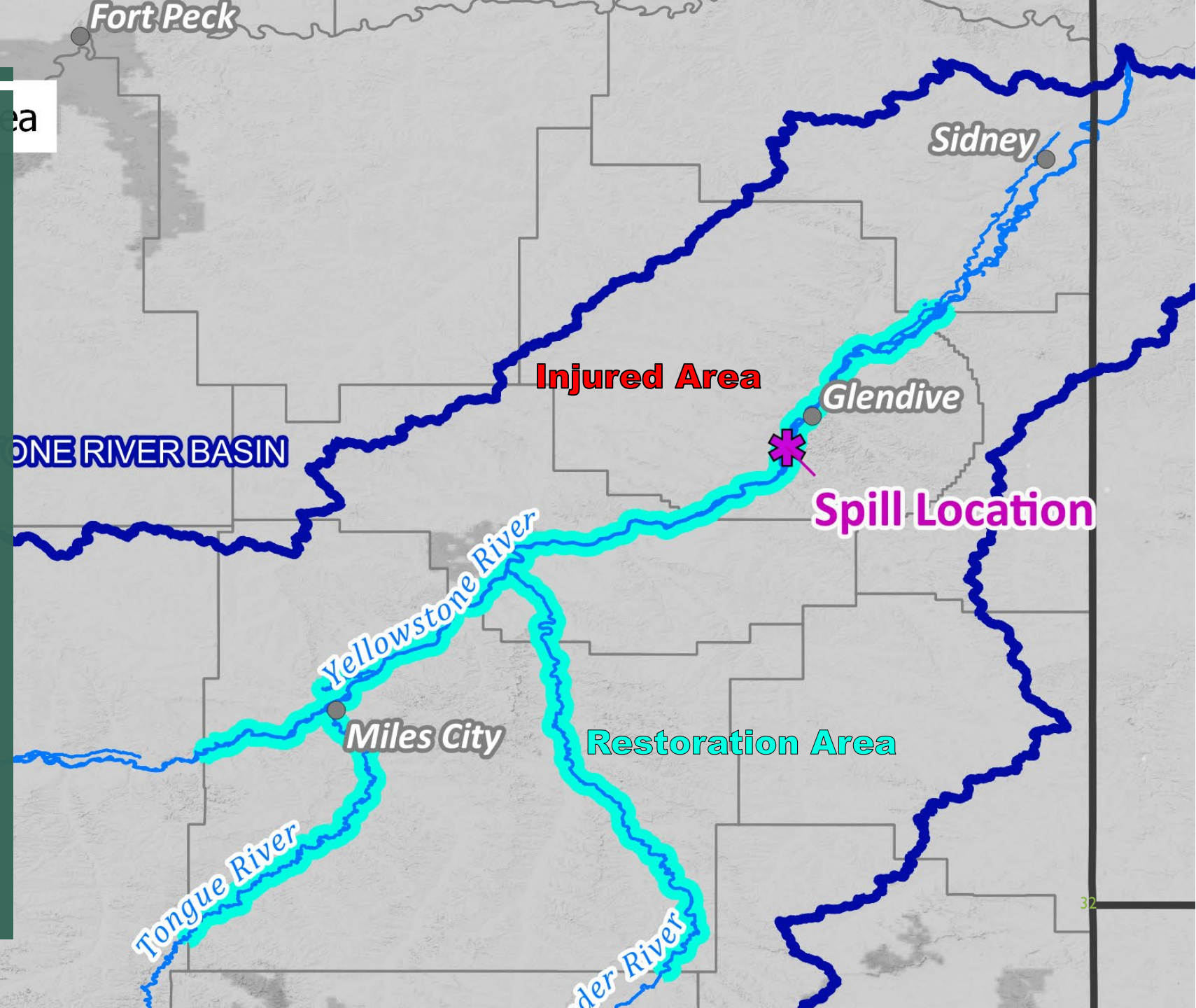
EXAMPLE PROJECT LOCATIONS: UPPER CLARK FORK RIVER BASIN

- FWP priority areas
 - Priority tributaries that provide fish habitat and contribute to fish populations in the mainstem Clark Fork River
 - Priority terrestrial areas that provide wildlife habitat



PROJECT LOCATIONS

- Projects do not need to be within OU3
- Projects must relate to the injured resources
- Example: Bridger Oil Spill fish habitat restoration area



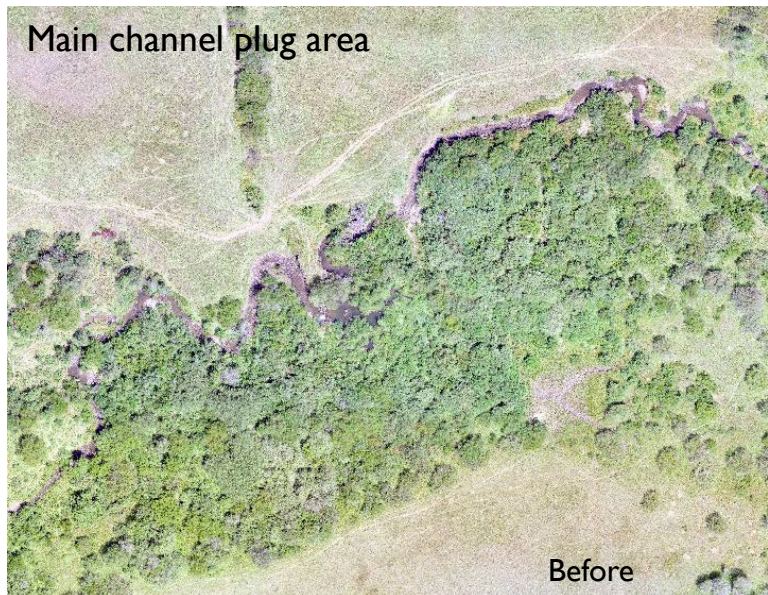


PROJECT EXAMPLES



EXAMPLE: SPOTTED DOG CREEK

- Heavily incised channel, disconnected floodplain, historic grazing
 - Area identified with FWP for high potential for wetland/riparian restoration
- Restoration:
 - Channel reconstruction
 - Seeding and willow planting
 - Beaver mimicry to raise the water table
 - Improved floodplain connectivity
 - Restored slope wetlands
 - Fenced riparian area to prevent further grazing



EXAMPLE: SPOTTED DOG CREEK

Before



After



Willow cuttings

Protect existing
beaver dam that
creates a wetland
complex

Bank Stabilization



Mike Horse Dam



October 2022

EXAMPLE: UPPER BLACKFOOT MINING COMPLEX (MIKE HORSE)

- Historic mining complex at the headwaters of the Upper Blackfoot River
- Mike Horse dam contained tailings generated from the mill, partial failure in 1975 released 100,00 tons of tailings to the Upper Blackfoot
- Integrated remediation and restoration with DEQ, USFS, and NRDP
 - Water treatment plant
 - Tailings removal
 - Stream and floodplain reconstruction
 - Revegetation

EXAMPLE: UPPER BLACKFOOT MINING COMPLEX (MIKE HORSE)

Upper Mike Horse Creek



Lower Beartrap Creek



EXAMPLE: FISH PASSAGE AND ENTRAINMENT



Fish Screens

Fish Passage
Improvements



EXAMPLE: REVEGETATION ON MT HAGGIN



EXAMPLE: CONSERVATION EASEMENTS

Baxbaum Conservation Easement

- Habitat protection
 - Grassland
 - Riparian
 - Forested
- Public hunting access



EXAMPLE: FISHING ACCESS SITE

- Develop new fishing access site with FWP
- Other river access
- Improve existing fishing access site





EXAMPLE: OLD YELLOWSTONE TRAIL AND PRICKLY PEAR CREEK GREENWAY

- Planning
- Implementation

