

**Draft Response to Public Comments
on Draft Butte Area One Restoration Plan**

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**Draft Response to Public Comments on
October 2012 Draft Butte Area One Restoration Plan**

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Section I. Introduction

On October 15, 2012, the Butte Natural Resource Damage Restoration Council (BNRC), with assistance from the State of Montana, Department of Justice, Natural Resource Damage Program (NRDP), released the *Butte Area One Draft Restoration Plan* for public comment through November 16, 2012. For outreach on this public comment period, the NRDP sent notices of this opportunity for public comment to 373 individual/entities on its mailing lists and over 200 individuals on its e-mailing list, issued a press release, and placed two sets of display ads in the Butte area newspaper. The BNRC/NRDP also summarized the *Butte Area One Draft Restoration Plan* at an October 12, 2012 meeting of the Trustee Restoration Council.

The NRDP received a total of 47 comment letters during the public comment period. An additional six individuals provided public hearing comments. See Appendix 1 for a list of commenters, identified by a specific number that serves as a reference to the comment throughout this document. Appendix 1 also provides copies of the comment letters and public hearing testimony, which are also available on the NRDP website at: <https://doj.mt.gov/lands/advisory-councils/>.

All but three of the 53 total comments received either indicated general support of or appreciation for the Restoration Plan. Forty-one comments made note of the importance of the \$10 million in funding for the water system improvements.

This draft document further summarizes the comments received, with similar comments grouped together by category, and provides the NRDP/BNRC's draft responses organized by these categories.

The draft responses will be the subject of consideration at the November 27, 2012 meeting of the BNRC and the December 3, 2012 meeting of the Trustee Restoration Council. These draft responses may be revised based on input from the BNRC, the Trustee Restoration Council, and a final decision by the Governor.

Section II. Comment Summary and Response by Category:

Category 1: General Support of the Draft Restoration Plan

Comments: Forty three comment letters and six public comments at the public hearing (PH) indicated general support of the *Butte Area One Draft Restoration Plan* (#1-41; 44-45; 47; PH 1-6).

Response: We appreciate the indicated support of the *Butte Area One Draft Restoration Plan*.

Category 2: Support of the \$10 million in funding for water system improvements.

Comments: Forty one comment letters from 9 entities and 32 citizens wrote in a form letter the support for the Draft Restoration Plan and noted the importance of \$10 million for water system improvements. The following language was in each of the 41 letters, “I would also like to make a specific note of the importance of the \$10 million in funding for the water system improvements. This money is critical for our community in the development of the water treatment plant for Basin Creek water and to ensure the availability of clean water to our citizens”. (#2-41, 45)

Also stated in a similar letter by John Roeber with the Montana State Building and Construction Trades Council in regards to the \$10 million allocation (#45), “This money is critical for our way of life, and with the development of the water treatment plant at Basin Creek, we all win. Projects like this turn into a long-term investment for generations to come.”

Response: The BNRC agrees with the importance to Butte for the \$10 million allocation for funding of Butte’s water system improvements. The request of \$10 million for a Basin Creek water treatment plant was made to the BNRC by Butte Silver Bow Chief Executive Paul Babb in a July 3, 2012 letter and during a BNRC meeting on June 26, 2012.

Category 3: Against funding of the Montana Tech revegetation proposal.

Comments: Dr. Pat Munday and Andrea Stierle expressed concern that the BNRC should not allocate funding of \$1 million for the Montana Tech revegetation project. They list the following concerns about funding the project (#42 & 43):

- The project was also a proposal submitted for consideration in the Draft UCFRB Aquatic and Terrestrial Resources Restoration Plans and was not recommended for funding by the NRDP for those plans.
- The established test plots to date are labor intensive and very small, totaling less than an acre of vegetation that must be watered regularly to survive. There is not much to show for the \$600,000 that the NRDP has already invested in this project.

Response: The NRDP will complete this Category 3 response after consultation with the BNRC on how they would like to present it in this document.

Below is a draft response to assist the BNRC in discussions of appropriate language. *The rationale for the State not recommending funding in the aquatic and terrestrial restoration plans for the requested \$2.5 million was that the state believed an allocation for this project was most appropriate in Butte where the diversity of forbs has been the focus of the original project. Restoration and remedy at Silver Bow Creek and the Clark Fork River is expected to continue to*

work successfully and be cost-effective with the continued use of the nurseries and seed companies already being procured over the past decade without the use of the Montana Tech project.

In the original draft plan, the NRDP had language concerning this project which stated: “This idea may not be as cost-effective as projects involving direct purchase and planting of commercially available seed, tree, and shrubs because of the high cost of labor to maintain small-scale orchards, greenhouses, and test plots.” The BNRC could consider requesting that when the NRDP/Montana Tech contract and scope of work are being drafted that the project will be evaluated and funded on a biennial basis to ascertain if it is cost-effectively meeting the goal of enhancing forb and shrub diversity on the Butte Hill.

It is important to note that the \$1 million for funding of this project is expected to be expended over an eight year period (2013-2020). About two-thirds of the allocation would go toward supporting a nursery manager that would be primarily responsible for growing nursery stock, seed collection, and coordination of a plant diversity effort on the 400 plus acres of reclaimed mine dumps with the Butte-Silver Bow Reclamation Manager. At the present time, BSB is in support of the diversity project and looks forward to continuing the productive relationship with Montana Tech nursery project personnel.¹

Category 4: Importance of removal of the Parrot Tailings:

Comment: Dr. Pat Munday and Andrea Stierle expressed concern that removal of the Parrot Tailings is not part of the BNRC Restoration Plan (#42 & 43).

Response: The plan does provide for a larger restoration project that would include removal of the Parrot Tailings. For example, in order to remove the Parrot Tailings there are considerable costs involved such as removal and replacement of the BSB shop complex, final development restoration, and revegetation of tailings removal area. These costs, along with other efforts in the upper SBC corridor, could be the focus of the BNRC \$10 million effort and not necessarily the costs for actual tailings removal, which could be the focus of other settlement funding sources. Specifically, page 38 of the plan states that the \$10 million restoration allocation could include land shaping and contouring, constructing sediment controls, waste removals, importing clean soils and soil amendments, revegetation of disturbed areas, and replacing recreational or public facilities that would be eliminated incidental to waste removal activities.

¹ Phone conversation with Gregory Mullen and BSB reclamation manager Tom Molloy about the Montana Tech project on 11/19/12.

Category 5: Configuration of a baseball field post restoration actions.

Comment: Jack Whelan asked if the configuration of a baseball field could be part of post Parrot Tailings removal. (PH1)

Response: After the removal of the Parrot Tailings it is feasible and possible that a baseball field configuration may be an appropriate land use in this area. Final determination will need to be evaluated at that time.

Category 6: Importance of Butte NRDP staff.

Comment: Jon Sesso expressed that local staff should be in Butte to implement all projects outlined in the Plan (PH6).

Response: There presently is a local NRDP staff person whose primary responsibility is and will be the implementation of projects outlined in the Plan. If significantly more resources are needed in the Butte NRDP office to implement projects outlined in the Plan, and it would be cost effective to do so, then these resources could come out of the Butte NRDP office.

Category 7: Funding interest proportionately for each specific category.

Comment: Jon Sesso requested that all categories in the plan earn their own interest and that the interest earned on the unexpended balances in each of the six categories remain in the specific category accounts (PH6).

Response: Pages 59 and 60 of the Plan state that interest earned on the overall BAO Restoration Fund will be divided proportionately among accounts based upon their individual balances at the end of each fiscal year.

Category 8: Restoration of the SBC corridor as the primary funding commitment of BAO funds.

Comments: Mary Kay Craig and Fritz Daly conveyed in their comments:

- The importance of restoring the SBC corridor from Texas Avenue to Blacktail Creek (#1 and PH3);
- concerns about the \$10 million earmarked for infrastructure of water system improvements would not guarantee enough funds to remove the Parrot Tailings (#1 and PH3);
- Mr. Daly expressed that a solid financial commitment of removing the Parrot Tailings, Digging East, North Side Tailings, and other contaminated tailings remaining in the SBC channel flowing through Butte are essential to responsibly complete the work. He suggested that the \$15 million economic development fund that BSB will receive from

the BSB/AR 2006 allocation agreement² be used for funding the Basin Creek water treatment plant (#1).

Response: The BNRC agrees that it is important to restore the SBC corridor from Texas Avenue to Blacktail Creek and has allocated funds to be used with expected other funding sources to complete the project. The importance of restoring the Upper SBC corridor is discussed and contemplated throughout the Plan.

The allocation of \$10 million for the Basin Creek water system is considered an important investment by the BNRC and is an appropriate use of NRD funds.

The BNRC is not in a position to direct how the \$15 million BSB economic development fund is allocated.

Category 9: Question on timing of restoration actions.

Comment: Trinity Berry of Butte asked about the timing of restoration actions in the upper SBC corridor so kids in Butte would have a place to recreate in the near future (#46).

Response: Table 2 on page 42 of the Plan proposes that Upper SBC restoration be completed between years 2013 and 2016. This is only an estimate, which depends on funding allocations that cannot be specifically estimated at this time.

Category 10: Concern about vegetation improvement allocation compared to stream restoration allocation.

Comments: Bob Olsen with the George Grant Chapter of Trout Unlimited commented that the allocation of \$6 million for vegetation improvements on the hill seems high when compared with the stream restoration allocation of \$4 million. He also expressed general support for the plan, appreciation of the level of public solicitation generated while preparing the plan, and generally agreed with the other funding allocations (#47).

Response: Although \$4 million is allocated in the stream restoration category, there will be other restoration work completed with the implementation of the \$10 million allocation for restoration of the Upper Silver Bow Creek corridor that will help restore Silver Bow Creek. With this work, water quality in SBC is expected to improve, and wetlands are anticipated to be created.

² The draft allocation agreement between BSB and Atlantic Richfield Company is entitled, *Allocation and Settlement Agreement and Mutual Release of Claims by and Between the City and County of Butte-Silver Bow and Atlantic Richfield Company, November 15, 2006 Draft.*

Attachment A – Categorical Breakdown of Comments

Category Number	Category Title	Letter Number
1	General Support of the Draft Restoration Plan	1-41, 44-45, 47, PH1-6
2	Support of \$10 Million for Water System Improvements	2-41, 45
3	Against Funding of the Montana Tech Revegetation Proposal	42, 43
4	Importance of Parrot Tailings Removal	42, 43
5	Configuration of a Baseball Field Post Restoration Actions	PH1
6	Importance of Butte NRDP Staff	PH6
7	Funding Interest Proportionately for each Specific Category	PH6
8	Restoration of the SBC Corridor as the Primary Funding Commitment of BAO Funds	1, PH3
9	Question on Timing of Restoration Actions	46
10	Concern about amount of vegetation Improvement Allocation Compared to the Stream Restoration Allocation	47

PH = Public Hearing comments