Response to Public Comments on Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Assessment for the ExxonMobil Pipeline Company July 1, 2011 Yellowstone River Oil Spill

Prepared by State and Federal Trustees

State of Montana and U.S. Department of the Interior

January 2017
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Section I. Introduction

On September 21, 2016, the U.S. Department of the Interior (DOI), acting through the Bureau of Land Management (BLM) and the Fish and Wildlife Service (FWS), and the State of Montana (State) (collectively, the Trustees) issued for public comment a Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Assessment (draft restoration plan) for the ExxonMobil Pipeline Company July 1, 2011 Yellowstone River Oil Spill. The public comment period for the draft restoration plan ran from September 21, 2016 through 5:00 PM on October 31, 2016. Starting on September 21, the document was available electronically at the Montana Natural Resource Damage Program website: https://dojmt.gov/lands/yellowstone-river-oil-spill-July-2011/. The Trustees held a press conference in Laurel, Montana on September 21, 2016, to announce a proposed settlement between the federal and State governments and Exxon, and availability of the draft restoration plan. The press event and document issuance resulted in several articles in local and national media outlets. The availability of the proposed consent decree and opportunity to comment were published in the Federal Register on September 28, 2016.

The Federal Register notice also referenced the availability of the draft restoration plan and opportunity to comment. Legal notices for the draft restoration plan were published on September 28, 2016 in the Billings Gazette, the Helena Independent Record, the Missoulian in Missoula, and the Butte Montana Standard newspapers. On September 22, 2016, the Trustees sent notices of the draft restoration plan comment opportunity to over 50 individuals and entities on its mailing list. On October 12, 2016, the Trustees presented the draft restoration plan at a public meeting in Billings and took verbal comments. Over 30 people attended the meeting. The public meeting was advertised on Tuesday, October 11, 2016 in a display ad in the Billings Gazette. The draft restoration plan was presented to the Billings Parks and Recreation Board at their meeting on October 12, 2016, to the Yellowstone County Commission on October 20, 2016, to the Montana Watershed Coordination Council on October 25, 2016, and to the Laurel City Commission on October 25, 2016.

The Trustees received a total of 28 letters or emails during the public comment period, and eight individuals gave verbal testimony at the public meeting in Billings on October 12, 2016. See Attachment A to this Appendix for a list of topics addressed in the comments, identified by a letter. Each commenter’s name is also listed, and identified by a number that serves as a reference to the comment throughout this document. Attachment B provides copies of the comment letters. Copies of comment letters are also available on the NRDP website at: https://dojmt.gov/lands/yellowstone-river-oil-spill-july-2011/. These responses to comments summarize the comments received and provide the Trustees’ responses. Where appropriate, changes were made to the text of the draft restoration plan to reflect the responses to comments. Those changes are identified in Section III of this document.

The Governor and the BLM State Director, Montana make the final decision on the draft restoration plan.
Section II. Comment Summary and Response by Comments

**Topic A: Comments in support of the draft restoration plan**

**Comments:** Nine written comments (#1, #2, #6, #7, #10, #12, #13, #16, #28) and three verbal comments (#V2, #V4, #V6) indicated general support for the draft restoration plan. One comment stated a preference for Alternative 2 (#2). Comments #6 and #7 supported the terrestrial/riparian habitat and riverine projects, including conservation easements or fee title land acquisitions to protect and restore those areas and cottonwood bottomlands with complex understory for nesting birds, restoration projects on properties within and adjacent to public lands, woody weed removal on public lands, fish passage improvements in the tributaries, and river function restoration in the mainstem. One comment requested that a percent of the funds go to fish and wildlife preservation (#28). Comment #V6 supported riverine projects and access.

**Response:** The Trustees acknowledge these comments and appreciate the support for the draft restoration plan. Alternative 2 is the preferred alternative and the one selected for implementation. Implementation of the draft restoration plan would restore fish and wildlife habitat more quickly, and preserve habitat and thus result in fish and wildlife recovery as well as preservation.

**Topic B: Comments offering to work with the Trustees**

**Comments:** Six written comments (#9, #10, #11, #13, #19, #20) and two verbal comments (#V1, #V7) offered to work with the Trustees to help plan and implement various aspects of the draft restoration plan, including terrestrial/riparian habitat acquisitions and restoration, control of invasive woody species on state and federal lands, acquiring channel migration easements or other easement or fee title land acquisitions to provide areas for large woody debris recruitment, removing flanked rip rap from the river, removing side channel blockages, improving fish passage at fish barriers, restoring and stabilizing river banks using soft bank restoration techniques, assistance with access, and recreation.

**Response:** The Trustees appreciate the offers of help and will be looking for ways to partner with local entities as much as possible.

**Topic C: Comments on project prioritization and selection**

**Comments:** Twelve written comments (#6, #7, #9, #10, #11, #12, #13, #14, #15, #16, #20, and #23) and three verbal comments (#V3, #V4, #V6) requested more information on how the Trustees will prioritize and select projects. Five comments requested that local agencies, organizations, and landowners be included in the prioritization and selection of projects (#9, #10, #13, #14, #15, #20). Two comments (#6 and #7) stated that with a lack of sufficient funds, only a few projects can be pursued and fully completed. Two comments (#10, #15) stated that projects addressing those lands directly affected by the spill should have priority. Three comments (#12 and #16, #V6) stated that before fixing tributary fish passages, main stem river fish passage projects should be prioritized. Verbal comment #V6 stated that the draft restoration plan includes a lot of projects between Laurel and Billings but not many downriver from Billings.
One comment (#13) requested that the project prioritization should be based on science-based principles.

**Response:** The OPA regulations state that trustees should develop more detailed work plans to implement restoration. 15 CFR 990.66(a)(2). The Trustees have developed more detailed implementation plans describing how projects will be prioritized and selected using science based decisions working with local resource managers. The plans are described in Chapter 7, Implementation Plan and in Appendix D and Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Further details of the federal lead pelican project can be found in Appendix D. Appendix F provides further information on the process the State Trustee will use to select and implement projects.

**Topic D: Comments about monitoring plans**

**Comment:** Two verbal comments (#V7, #V8) asked about long term project monitoring plans. Comment #V7 asked about what will be the length of time of land protections for easements. Comment #V8 asked how much money will be allocated for continued riparian area and river aquatic species monitoring, and how long monitoring would take place. The comment asked if the monitoring would be in addition to routine monitoring on the river. Comment #V3 asked how the Trustees know “what river we’re trying to restore it back to.”

**Response:** The OPA regulations state that each project should be monitored to document restoration effectiveness and include performance criteria that will be used to determine the success of restoration or need for interim corrective action (15 CFR 990.55 (b)(1)(vii)). Specific monitoring and adaptive management plans, as necessary, will be developed for each project concurrent with its development and implementation. Restoration project monitoring plans will address duration and frequency, sampling level, reference sites (as needed), and reasonable costs. More information on monitoring is included in Chapter 7, Implementation Plan. As part of its regular activities, FWP monitors the biologic resources in the Yellowstone River and riparian areas. The Trustees may fund FWP to add monitoring of specific resources related to specific restoration projects in order to gauge the progress, performance, and success of the restoration actions developed under the restoration plan (15 CFR 990.5(b)(3)).

The dollar amount allocated to long term monitoring of projects has not yet been determined, as it will depend on the specifics of the projects.

Easement terms will be determined on a case by case basis. Terms will be long enough to accomplish the restoration plan and project goals.

The overall restoration plan goal is to return the river to its pre-release condition. Each restoration project type described in Chapter 4 has identified specific goals that will guide the selection, development, implementation, monitoring, and completion of projects. Determining when these goals have been accomplished will be based on the professional judgment of the local resource managers, working with Trustees, that the projects have met identified measurable restoration objectives.
Topic E: Comments suggesting methods for accomplishing restoration plan goals
Comments: Three written comments suggested methods that were not considered in the draft restoration plan to accomplish certain restoration plan goals (#10, #13, #19). Comment #10 suggested use of quiet title searches to ascertain State ownership of land along or within the Yellowstone River. Comment #13 suggested use of deed restrictions as an alternative to channel migration easements to meet large woody debris project goals. Comment #19 suggested use of deed restrictions and term contracts as an alternative to channel migration easements to meet large woody debris project goals.

Response: In accordance with the OPA criteria, the Trustees will use methods that are technically feasible to accomplish the restoration plan goals. The above mentioned methods are technically feasible and the Trustees will consider applying them to projects. Chapter 4 has been clarified to allow quiet title searches for State properties in limited instances. Chapter 4, section 4.6.2.1, has been clarified to include deed restrictions and term contracts.

Topic F: Comments about restoration area
Comments: Two written comments (#12, #16) and two verbal comments (#V5, #V6) questioned the connection to the injury of the restoration area. Comments #12, #16, #V6 stated that there was no loss of use to Laurel Pond or Riverfront Park during the spill but that the loss of use occurred on the Yellowstone River mainstem, that fish passage projects should take place on the mainstem and that the draft restoration plan includes a lot of projects between Laurel and Billings but not many downriver from Billings. Comment #V5 pertained to pelicans and is addressed in Topic P.

Response: To clarify the restoration area for terrestrial/riparian habitat projects, large woody debris projects, riverine habitat projects and recreational human use projects, text has been added to Chapter 4, under the description of each project type, that the area where projects may take place includes upstream and downstream from the injured area (the area most heavily impacted by the spill - see Section 2.0), or in other specified locations such as tributaries or urban ponds. Projects that are outside the injured area will be considered on a project-specific basis for their potential to meet the restoration plan goals.

The comments are not correct that there was no loss of use at urban ponds (Laurel Pond and Lake Josephine). Riverfront Park, including access to Lake Josephine, was closed for some days during the spill response. Appendix E summarizes the loss of use at recreation areas along the Yellowstone River. Compensatory restoration actions are intended to compensate the public for the loss of natural resources and services during the “interim” time period between the start of injury and the eventual recovery of the resource or service (15 CFR 990.53). The urban pond project examples would be compensatory restoration. In general, restoration projects will take place in an area slightly greater than and including the injured area and will include the Yellowstone River upstream, within and downstream of the injured area, tributaries to the Yellowstone River, and Medicine Lake and Bowdoin National Wildlife Refuges (referred to in Section 2.0 as the affected environment or restoration area).
Laurel Pond and Lake Josephine are included in the draft restoration plan as example projects. The draft restoration plan specifies that recreation projects will occur as close to the areas impacted by the spill as practicable. The Yellowstone River area between Laurel and Billings was heavily impacted by the spill. The area targeted for restoration includes upstream and downstream from the directly injured area on a project specific basis. A more detailed explanation of how the Trustees will prioritize and select restoration projects is in Chapter 7, implementation plan, and in Appendix D and Appendix F. Chapter 7 has been revised to explain more fully restoration implementation and project selection. Further details of the federal lead pelican project can be found in Appendix D. Appendix F provides further information on the process the State Trustee will use to select projects. The OPA selection criteria require the Trustees to consider the extent to which restoration projects will help to return injured natural resources and services to at least baseline conditions that were present prior to the oil spill or compensate for interim service loss. Projects will need to demonstrate a clear relationship to the resources and services injured. Projects located within the area affected by the spill are preferred, but projects located within the Yellowstone River watershed that provide benefit to the resources injured in the affected area can also be considered.

The restoration area for fish passage projects was chosen to include tributaries because the fish species injured by the spill in the Yellowstone River were largely warm water species in the transition zone of the Yellowstone River. The fish species assemblage found in the lower Clarks Fork River is very similar to the Yellowstone River fish assemblage in the transition zone below its confluence with the Clarks Fork River. Warm water fish in large river systems like the Yellowstone River frequently travel long distances during their life cycles to reach spawning, feeding and overwintering areas. These activities can take place in the mainstem, in side channels or in tributary streams, depending on the species and habitat suitability. In the Yellowstone River, fish frequently use tributary streams for spawning. See section 2.2.2 in the restoration plan for more information. See Appendix F for an explanation of how projects will be selected.

The restoration area for pelicans is discussed in Topic P. The restoration area as it pertains to private party damages is addressed in Topic L.

**Topic G: Comments on river access**

**Comments:** Thirteen written comments (#6, #7, #9, #10, #12, #16, #18, #20, #21, #22, #25, #26, #27) and two verbal comments (#V2, #V6) indicated support of projects that would provide additional and improved fishing access to the Yellowstone River. Two comments mentioned a need to preserve and maintain existing fishing access points (#6, #7). Two comments supported general access to the river for floating and fishing (#10, #18). Two comments (#9, #20) and verbal comment #V2 indicated a need to identify additional public lands along the river to improve public access and suggested development of a computer app to help identify public lands. Three comments supported a new fishing access below Huntley diversion dam (#12, #16, #V6). Two comments supported a new fishing access at the Blue Creek Bridge (#9, #20). One comment supported new fishing access at the confluence of the Yellowstone River with the Clarks Fork
(#21), and one supported fishing access for walk in (#22). One comment supported new fishing access between Columbus and Buffalo Mirage (#25). Two comments supported additional or improved fishing access at Riverfront Park (#26, #27).

**Response:** The Trustees appreciate the identification of specific potential fishing access sites for maintenance or acquisition. The State Trustee will work with local resource managers to identify locations where restoration work could occur to improve access to fishing access sites. (See also the response to Topic R). Selection of specific new fishing access locations will depend on the process described in Chapter 7, Implementation Plan and in Appendix F. Chapter 7 has been revised to explain more fully the restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects.

**Topic H: Comment supporting other park improvements**

**Comments:** Four written comments supported other park improvements such as trail paving from Zoo Montana to Riverfront Park (#3), general improvements at Riverside Park buildings because the public cannot use the park to the degree it was being used before the flood and damage (#8), and a water remediation project to clean up storm water at Dover Park (#9, #20).

**Response:** The process that will be used to select specific recreation projects is described in Chapter 7, Implementation Plan and in Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects.

**Topic I: Comments supporting channel migration easements**

**Comments:** Three written comments (#11, #13, #19) and two verbal comments (#V3 and #V7) expressed support for or offered technical knowledge of channel migration easement projects.

**Response:** The State Trustee will use channel migration easements as appropriate and will look for opportunities to use local expertise.

**Topic J: Comments supporting mainstem fish passage projects**

**Comments:** Three comments offered support for main stem river fish passage projects (#12, #16 and verbal comment #V6).

**Response:** Mainstem fish passage projects will be considered along with tributary fish passage projects to determine which projects would best meet the restoration plan goal of enhancing aquatic habitat for fish production and other aquatic organisms. Please also see the response to Topic F. The process by which the fish passage projects will be selected is outlined in more detail in Chapter 7, Implementation Plan and in Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects. Section 4.6.3 has been modified to clarify that fish passage projects may take place on the main stem of the Yellowstone.
**Topic K: Comments offering a specific parcel for purchase**

**Comments:** Three comments (#21, #22, #24) offered specific properties for purchase. One comment offered a property for purchase upstream from the confluence with the Clarks Fork (#22). Another offered a property at the confluence with the Clarks Fork (#21). Another comment requested purchase of Dover Island (#24).

**Response:** Selection of specific properties to meet restoration plan goals will be guided by the process and criteria described in Chapter 7, Implementation Plan and in Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects.

**Topic L: Comments requesting bank stabilization on private property**

**Comments:** Two comments (#15, verbal comment #V4) requested that the funds be used to stabilize the eroding banks on their properties. Comment #V4 requested that the Trustees “concentrate some of that money on people that were really affected personally and not just hand it out to special interest groups” and that the dollars may be used “for things that may not even be connected with the actual damage to landowners.”

**Response:** Private claims are distinct from natural resource damages under the Oil Pollution Act. Natural resource damage funds recovered by the Trustees must be used to restore, replace, rehabilitate, or acquire the equivalent of the natural resources injured or lost due to the spill, for those natural resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the Trustees. Disbursing settlement funds to individuals affected would not meet these natural resource damage requirements. For instance, bank stabilization on private property for private party benefit would not meet this requirement. Private claimants have separate recovery under the Oil Pollution Act, such as for landowners with private property damage. Selection of specific projects to meet restoration plan goals will be guided by the OPA process and by the criteria for natural resource damages described in Chapter 7, Implementation Plan, and in Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects.

**Topic M: Comments supporting Yellowstone River research**

**Comments:** Seven written comments (#1, #4, #5, #6, #7, #9, #20) and two verbal comments (#V2, #V3) requested funding for or mentioned the need for research on the natural resources of the Yellowstone River. Comments #6 and #7 stated that part of the funds should go to FWP to conduct a study of what is in the river and riparian areas. Several comments (#1, #4, #9, #20, #V2) supported an allocation of funds to the Rocky Mountain College Yellowstone River Research Center. Comment #5 requested funding for a study on spiny softshell turtles and snapping turtles. One comment mentioned the need for good baseline data for species along the river and specifically, lack of data on turtles and amphibians (verbal comment #V3). The comment stated “it would be really nice to know what’s in our river.” Three comments (#6, #7, and #V3) stated the need for Yellowstone River biological baseline data in the event of a future spill.
Response: As part of its regular activities, FWP monitors the biologic resources in the Yellowstone River and riparian areas. The Trustees may fund FWP to add monitoring of specific resources related to specific restoration projects in order to gauge the progress, performance, and success of the restoration actions developed under the restoration plan.

New scientific research on post-spill conditions of natural resources in the Yellowstone River is not baseline information because the resources have already been injured. Scientific research tied to monitoring a specific restoration action, with the intent of documenting or improving the effect of the restoration, may provide useful information on the resources and services injured, and demonstrate how the restoration action will help to return the injured natural resources and services to baseline conditions. However, scientific research, undertaken more generally, and not tied to a particular restoration action or project would not meet the OPA selection criteria.

Preparation for a future spill is not within the purpose of restoration under the Oil Pollution Act. Baseline data collected now on the river may not be in the correct location, or obsolete by the time a future event occurs. FWP conducts annual surveys of the riparian and terrestrial biota along the river and other sources of information on the existing environment of the Yellowstone River such as the Yellowstone River Cumulative Effects Analysis and supporting reports document the river’s current condition. Monitoring of restoration projects will potentially provide useful information by documenting conditions on the river during recovery, but cannot be the purpose of the action.

Topic N: Comments supporting general weed control
Comments: One written comment (#9) and one verbal comment (#V2) requested use of funds for leafy spurge or knapweed control.

Response: Use of restoration funds for weeds on a landscape scale would not meet the OPA criterion for likelihood of project success. Weed control may be included in specific restoration projects on an as needed basis. Though the use of restoration funds set forth above is very limited, there are other external sources of funds for general weed control.

Topic O: Comments stating settlement dollar amount is too low
Comments: Three written comments (#6, #7, #17) and one verbal comment (#V3) stated that the settlement dollars are not sufficient to fully restore the river and floodplain from the damage caused by the spill.

Response: As stated in section 1.5 of the restoration plan, the Trustees believe that both the settlement and the restoration plan are appropriate for the following reasons. The Trustees have jointly examined and assessed the extent of injury and the proposed restoration alternatives with particular consideration of approaches to restoring, replacing, rehabilitating, or acquiring the equivalent of the injured natural resources and services. If the funding available for restoration is expended in conformance with the restoration plan, the Trustees will be satisfied that the resulting efforts will restore, replace, rehabilitate, or acquire the equivalent for the loss in natural...
resources and services suffered. Sums recovered in settlement, other than reimbursement of Trustees’ costs, may only be expended in accordance with the restoration plan.

The Trustees have considered, among other things: the nature and extent of the specific injuries that have been identified and studied and the uncertainties attached to those injuries; the uncertainties as to other injuries not fully studied; the potential benefits (and detriments) of ecosystem-level habitat restoration, and the uncertainties attached to those restoration options; the remoteness of the possibility of unknown conditions significantly impacting the natural resources in the future; the further degradation to the environment that would occur as restoration is delayed while further study is undertaken to narrow uncertainties; the further degradation to the environment that would occur as restoration is delayed during the litigation process; and the benefits of starting restoration sooner rather than litigating.

The Trustees have analyzed the injuries applying the factors set forth in the regulations, 15 C.F.R. Part 990, and believe that the settlement amount is adequate to restore, replace, rehabilitate, and/or acquire the equivalent of the injured natural resources, and therefore will compensate the public for the injuries to natural resources the spill caused.

Based on the Trustees’ experience implementing restoration projects and resource management programs, the Trustees believe that the $12,000,000 in restoration funds, as allocated, would provide appropriate and sufficient restoration to compensate for the natural resource injuries described in Chapter 3. See section 1.5 in the restoration plan for more information.

In addition, the Trustees will work with project partners, to the extent practicable, to leverage matching funds from other sources to accomplish further benefit to the natural resources and services within the injured area.

**Topic P: Comments about pelican projects**

**Comments:** One verbal comment (#V5) stated that the pelicans on Tongue River Reservoir are not being included in the draft restoration plan and wondered if some of the pelicans on the Yellowstone River are breeding on Tongue River Reservoir and if so, should they be included in restoration efforts. The commenter also wondered where the pelicans on the river are coming from and if they really are coming from northern Montana.

**Response:** There is no evidence of pelican breeding on the Tongue River Reservoir, as indicated by the Montana Natural Heritage Program. In a study conducted by Restani and Madden (2005), a portion of pelicans using the Yellowstone River breed at Medicine Lake, and based on known foraging distances of American white pelicans (>320 kilometers round trip), it is likely that a portion of pelicans breeding at Bowdoin National Wildlife Refuge are foraging on the Yellowstone River as well. Further details of the federal lead pelican project can be found in Appendix D.

**Topic Q: Comments about large woody debris projects**

**Comments:** Two comments (#12, #16) opposed using restoration dollars to build clean woody debris piles downstream, as the river will do this naturally.
Response: The draft restoration plan does not propose to build large woody debris piles manually downstream from upstream sources. That alternative was considered but dismissed (see section 4.7 in the restoration plan for more information). The funds for restoration of large woody debris piles would be used for acquiring channel migration easements, other easements, or fee title land that can erode into the river naturally and recruit large woody debris to the river (see Section 4.6.2 in the restoration plan). Other projects to benefit the large woody debris on the river would further enhance the naturally functioning river system by removing unnatural or man-made restrictions to natural fluvial processes and/or channel migration and function.

Topic R: Comments about normal government services
Comments: One comment (#14) stated that maintenance of existing fish access sites is already funded by hunting and fishing licenses as well as vehicle registration.

Response: The State Trustee agrees that those activities which are part of normal government function, such as routine maintenance at existing fishing access sites, are not an appropriate use of restoration funds, and will not be funded by restoration dollars. Project types that may occur at existing fishing access sites would be outside of the normal routine maintenance at these sites and would be directly related to the goals of the restoration plan. For example, FWP may identify a fishing access site that currently only has a hand boat launch and propose the construction of a boat ramp for all types. The construction of a new boat ramp would be considered as augmenting, but not replacing, normal government function since FWP oversees the construction of fishing access sites, but does not have the funding for construction.

Topic S: Comments requesting more remediation work
Comments: One comment stated that the draft restoration plan should include additional remediation work at Riverside Park (#8). The comment refers to damage to the park and buildings and lost use. Two comments (#12, #16) stated that all contaminated woody debris needs to be removed so that it does not continue to contaminate other parts of the river as it moves around each spring during high water. Another comment (#25) expressed opposition to additional cleanup of large woody debris piles.

Response: The draft restoration plan does not include additional remediation work. This would include Riverside Park. The dollars are allocated for natural resources restoration, not remediation. A summary of the response action (remediation) is included in section 1.3 of the restoration plan. However, the restoration plan has identified recreational human use project types that are not remediation, some of which may be undertaken in Riverside Park. The process for selection of specific recreation projects is described in Chapter 7, Implementation Plan and in Appendix F. Chapter 7 has been revised to explain more fully restoration implementation, including project selection. Appendix F provides further information on the process the State Trustee will use to select projects.

The restoration plan activities do not include additional cleanup of large woody debris piles. A summary of the response action is included in section 1.3 of the restoration plan. In September
2014, the Montana Department of Environmental Quality determined that oil from the pipeline release did not pose an unacceptable risk to public health, welfare or safety, and the environment via surface water. The Department of Environmental Quality concluded work associated with the oil spill on October 28, 2015.

**Topic T: Comments suggesting other ideas for use of funds**

**Comments:** One comment requested that a percent of the funds be used for cancer patients (#28). Two comments (#1, #4) requested funding directly for the Yellowstone River Research Center located at Rocky Mountain College. Specifically, comment #1 requested $10,000 per year for 10 years to be allocated to the research center to support ongoing center activities. The same comment suggested the funds could be used for annual river trash cleanup efforts at fishing access sites and city parks, for field based research for undergraduates at Rocky Mountain College, and for Rocky Mountain College staff and students to conduct community outreach to educate the public about river health and riparian ecosystems (#1). Comment #17 suggested the Trustees set aside a fund of 20 percent for unforeseen cleanup-issues.

**Response:** The OPA regulations require that settlement dollars be allocated for restoration of natural resources injured by the oil spill. The funding cannot be used for cancer patients.

The State Trustee will consider education and outreach projects on a project-specific basis, if they are related to a primary restoration project and restoration plan goals. Research is addressed further under Topic M. A proposal for an annual river trash cleanup project may be submitted to the recreation advisory committee discussed in Chapter 7, Implementation Plan and Appendix F.

OPA requires that the restoration funds be specifically designated for natural resource restoration. The funds cannot be used for unforeseen cleanup-issues. A summary of cleanup response actions is included in section 1.3 of the restoration plan. Cleanup concerns resulting from new information or unknown conditions would be addressed by either Montana Department of Environmental Quality or U.S. Environmental Protection Agency under response authorities.
Section III. Summary of Changes to Document

Chapter 1
Chapter 1 was modified to reflect that the restoration plan is no longer a draft, but now is a final. References were added to two new appendices:

Appendix F    State Trustee Project Implementation Process
Appendix G    Responses to Public Comments on Draft Restoration Plan

Section 1.4.1 presents the Trustees’ assessment that the final restoration plan will not cause significant impacts to the environment.

Section 1.4.5 includes a discussion of public comment on the draft restoration plan. Table 1-1 was updated to reflect changes in Chapter 4.

Chapter 2
Section 2.0 was changed to provide additional clarification of the restoration area.

Chapter 4
Chapter 4 changes include a number of technical clarifications.

- The discussion under each of the project types was modified to clarify where restoration projects would take place.

- Sections 4.6.1.1 and 4.6.2.1 were modified to allow quiet title actions in limited circumstances to provide certainty in desired terrestrial/riparian habitat and intact mature cottonwood bottomland stand areas.

- Section 4.6.2 was modified to clarify that additional land management tools such as deed restriction or term contracts could also be employed to meet restoration plan goals.

- Section 4.6.2.2 was modified after review by resource managers to clarify that the use of channel migration easements are included as a tool for improving natural river function.

- Section 4.6.3 was modified to clarify that fish passage projects may take place on the main stem. Resource managers also recommended including reactivation of old oxbows and backchannels for increasing aquatic habitat.

Section 4.7 was modified to remove the discussion of a larger acquisition area for large woody debris projects. Resource managers did not want to preclude looking at a larger area if, on a project-specific basis, additional properties were needed to restore, replace, rehabilitate, or acquire the equivalent of the injured resources.
Chapter 5
Chapter 5 was modified to include analysis of the technical changes described in Chapter 4, such as use of additional land management tools.

Chapter 6
Section 6.2.2 was modified to explain the rationale for expanding the restoration area for large woody debris.

Chapter 7
Chapter 7 was modified to reflect that the Trustees plan to implement the project types described in the restoration plan within 5 years, with a longer timeframe for monitoring. Additional information on standard NRDP oversight of contracts was also included.

Some information was added to explain the process the State Trustee will use to select individual projects.

Some information was added on additional opportunities for public involvement.

Figures
Figures were modified to make the restoration area clearer.
**Attachment A: Comments Received and Comment Topics**

- **Topic A:** Comments Supporting Plan
- **Topic B:** Comments Offering to Work with Trustees
- **Topic C:** Comments on Project Prioritization and Selection
- **Topic D:** Comments about Monitoring Plans
- **Topic E:** Comments Suggesting Methods for Achieving Goal
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- **Topic J:** Comments Supporting Fish Passage in Main Stem
- **Topic K:** Comments Offering Property to Purchase
- **Topic L:** Comments Requesting Riverbank Stabilization
- **Topic M:** Comments Supporting Yellowstone River Research
- **Topic N:** Comments Supporting General Weed Control
- **Topic O:** Comments Stating Dollar Amount is too Low
- **Topic P:** Comments about Pelican Projects
- **Topic Q:** Comments about Large Woody Debris Projects
- **Topic R:** Comments about Normal Government Services
- **Topic S:** Comments Requesting More Remediation Work
- **Topic T:** Comments Suggesting Other Miscellaneous Uses of the Funds
- **Topic U:** Comments Requesting Use of Funds on People Affected Personally

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<td>Dr. Dan Albrecht</td>
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<td>Kayhan Ostovar</td>
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Attachment B Copies of Comment Letters
Coleman, Kathleen

From: Megan Poulette <megan.poulette@rocky.edu>
Sent: Monday, October 31, 2016 4:55 PM
To: Natural Resource Damage Program
Subject: Yellowstone restoration plan comment
Attachments: Yellowstone restoration plan comment.pdf

Please find comments attached.

Thanks,

Megan Poulette

--
Megan Poulette
Rocky Mountain College
Assistant Professor of Environmental Science & Botany
Director - Yellowstone River Research Center
212 Tyler Hall
Billings, MT 59102
406-657-1186
Proposed Settlement and Draft Restoration Plan Comments

From: Yellowstone River Research Center

The Yellowstone River Research Center supports the projects highlighted in the Restoration Plan.

The Yellowstone River Research Center (YRRC) is a multidisciplinary research institute at Rocky Mountain College comprised of faculty from the fields of geology, biology, ecology, wildlife biology, geography, and social science. We would suggest additional funding of $10,000 a year for 10 years (total: $100,000) be allocated to the YRRC in support of several ongoing YRRC activities that have a significant impact on the Yellowstone River and the Greater Yellowstone Ecosystem.

YRRC Annual Yellowstone River Cleanup

Rocky Mountain College Environmental Program faculty and the YRRC have been conducting an annual river cleanup float since 2008. RMC faculty, students, and community partners float and collect trash along the Yellowstone River from Duck Creek Bridge to Coulson Park while shore-based teams clean city parks along the river. The first cleanup started with six people and three canoes and has steadily grown over the past nine years to 75 people, split between annual shore teams and river teams with canoes, kayaks, rafts, and drift boats. Since 2008 the river cleanup has accomplished the following:

- 25 organizations have participated in the annual river cleanup
- Total volunteer hours = 3,662
- 54,000 lbs of recycled materials (mostly metal) removed
- 280 tires removed
- 12,870 lbs of trash removed
- Total weight removed from the river 66,870 lbs

Many organizations in the community have supported this project with both donations and volunteers. Funding from the proposed settlement would help to sustain annual cleanup efforts.

Field Based Research for Undergraduates at Rocky Mountain College

YRRC faculty members teach and conduct research in and around the Yellowstone River and in the greater Yellowstone Ecosystem with the goal of deepening our understanding of the natural, physical, and social processes that shape our region. Faculty and student researchers partner with experts from the private and public sector to pursue this research. These partnerships serve to broaden the scope of our work and provide opportunities for undergraduate research. Over the past five years, the YRRC has engaged 30 student researchers and 13 student research assistants in various independent projects. Many of these students have conducted biological monitoring and research in and around the Yellowstone River:

- Bat species habitat use and distribution within the Yellowstone river riparian corridor
- Analysis of heavy metal exposure in two species of MT turtles
- Tumorigenic retroviruses in MT fish populations
- Effects of non-native riparian tree species on soil microbial community activity
- Ownership of Islands in the Yellowstone River
- Survey of stakeholder management preferences for Sage Grouse habitat in Yellowstone County and other counties with “core” Sage Grouse habitat
- Osprey delivery and fledgling success rates
- Study of mercury levels in osprey nestlings along the Yellowstone River
- Baseline hematological values for osprey nestlings on the Yellowstone River

Community partners have included: Our Montana, Cinnabar Foundation, Montana Wilderness Association, US Forest Service, USGS, RiverStone Health, ExxonMobil, Pryors Coalition, BLM, World Wildlife Fund. Funding from the proposed settlement would help to support additional research opportunities for RMC students. These funds would help sustain biological monitoring and research in and around the Yellowstone River, including research on the status and distribution of many species along the river.

Community Outreach

In addition to the annual Yellowstone River Cleanup, the YRRC also seeks to support service learning opportunities and outreach between RMC undergraduates and the community. These outreach opportunities serve to educate the public about river health and riparian ecosystems.

- Stream table demonstrations at the Philipps 66 Community Picnic and Nile Rodeo
- Senior high STEM outreach program at ExxonMobil wildlife habitat area
- Community Health Mapping in collaboration with RiverStone Health

Funding from the proposed settlement would allow YRRC faculty and students to continue these outreach efforts.

Thank you,

Dr. Megan Poulette

Yellowstone River Research Center Director – Rocky Mountain College
Attached please find the Yellowstone County Commission comments on the Yellowstone Restoration Plan. Please let us know if you have any questions.

Thanx!

Paulette Turner-Byrd
Office Manager
Yellowstone County Commissioners
PO Box 35000
Billings, MT 59107-5000
(406) 256-2703 (o)
(406) 256-2777 (f)
October 31, 2016

State of Montana
Natural Resource Damage Program
Attn: Yellowstone Restoration Plan
PO Box 201425
Helena, MT 59620-1425

To Whom It May Concern:

The Yellowstone County Board of County Commissioners would like to offer comments on, and support for, Alternative 2 as described in the Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Analysis.

Long term recovery is the final step in managing large disasters such as the 2011 Silvertip Pipeline spill. The restoration plan, as outlined in Table ES-1, takes a technically feasible approach to resource recovery of the Yellowstone River and affected lands and resources in Yellowstone County. The multiple project types address the numerous impacts that the oil spill had on the community and economy of Yellowstone County. Yellowstone County would also like to take this time to thank all agencies and individuals who worked over the last 5 years towards the response and recovery of the Yellowstone River and its ecosystem.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

[Signatures]

John Ostlund, Chairman

James E. Reno, Member

Robyn Driscoll, Member

BOCC/ptb

c: Brad Shoemaker, Emergency & General Services Director
Good Morning,

The City of Billings and Yellowstone County Planning Department would like to submit for review the ZooMontana to Riverfront Park Trail Project for funding from the Yellowstone Restoration Plan. The Billings area has experienced rapid growth in its trail system over the past decade and the concept of a continuous trail corridor generally following the Yellowstone River has been a vision for at least 20 years. In 2011, the Yellowstone Riverfront Trail Feasibility Study explored the feasibility of a trail connecting Mystic and Riverfront Parks and was funded by the Billings Chamber of Commerce. In 2014 the Billings MPO commissioned this document to study a similar connection between ZooMontana and Riverfront Park. Substantial new and imminent development is occurring within the area. This project does not have to be fully funded and completed to provide great recreation opportunities. This is a project that can be completed in phases.


If you have any questions regarding the project, please do not hesitate to contact me.

Thank you,

Lora Mattox, AICP
Transportation Planner, Planner II
Historic Preservation Officer
Planning & Community Services Department
2825 3rd Avenue North, 4th Floor
Billings, MT 59101
Phone: 406-247-8622
Fax: 406-657-8327

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https://www.facebook.com/Billings-City-County-Planning-Division-1738982159659260/
https://www.facebook.com/YellowstoneHistoricPreservationBoard/
Natural Resource Damage Program
Proposed Projects – Yellowstone County

This project was identified as a project that would include natural environment elements, public access, and high visibility. This project was identified through public planning processes and adopted by the Policy Coordinating Committee comprised of the City of Billings, Yellowstone County, Yellowstone County Planning Board and the Montana Department of Transportation. Projects are developed with phased alternatives to allow construction over a period of time as funding becomes available. Along with the description of the project below, included is a map of alternative segments, opportunities and constraints map and a cost estimate by segment.

1. ZooMontana to Riverfront Park Trail – This project would build approximately 4 miles of trail connecting existing trail segments that terminate at ZooMontana and Riverfront Park in Yellowstone County, Montana. Alignments were chosen that would remain stable and not be affected by the Yellowstone River migration and flood zones. ZooMontana is a regional destination with high bicycle and pedestrian traffic and is the current south terminus of the Shiloh Road multi-use trail. The trail starting at ZooMontana would traverse along a portion of Canyon Creek provide a linked connection to the Yellowstone River at near Riverfront Park, a 600-acre city park with direct Yellowstone River access. A preliminary design study has been completed and identifies various potential alignment alternatives and cost estimates. This corridor would provide options to the community for pedestrian and bicycle travel. This opportunity provides alternative transportation options for work and play, and encourage environmental stewardship in trail users of all users. This corridor is also a vital link to the 26-mile Billings Marathon Loop. The ideal route identified in the Planning Study provided an estimated cost of $2.91 million for completion. This did not include engineering, contingency, mobilization, etc. This cost estimate was developed in 2014. To reconcile with today, 20% was added to the cost for inflation, engineering, etc., for a project total of $3.5 million.
I am requesting that a certain portion of the funds received for the Yellowstone Restoration Plan be granted to the Yellowstone River Research Center (YRRC) at Rocky Mountain College. This group is comprised of faculty across campus (Biology, Geology, Chemistry, Mathematics, Computer Science, and Environmental Science and Studies) and has been heavily involved with basic species monitoring along the Yellowstone River for the last six years. This group could build upon the data already collected if provided with funding from the Yellowstone Restoration Plan.

Respectfully,
Dr. Dan Albrecht
(406) 657-1103
Dear NRDP,

Attached please find a comment and proposal request for oil spill funding allocation. This work is taking place in the exact area of the oil spill and seeks to better understand population status of two species that may have been directly impacted by the spill for which we do not have population estimates.

I would appreciate a confirmation of receipt and any comments you may have.

Thank you,

Kayhan Ostovar

Rocky Mountain College
Associate Professor Environmental Science & Fish and Wildlife Conservation
303 Tyler Hall
Billings, MT 59102

http://yellowstoneriver.weebly.com

Ph: 406-657-1175
POPULATION STRUCTURE AND ANTHROPOGENIC INFLUENCES
FOR TWO AQUATIC TURTLE SPECIES ON THE YELLOWSTONE RIVER

PROJECT SUMMARY
An ecological study of spiny softshell turtles (Apalone spinifera) and snapping turtles (Chelydra serpentina) on the mid Yellowstone River and associated tributaries was initiated in 2015 with plans to continue and expand the scope of this study through 2021. One of the primary challenges for assessing the impact of oil spills is knowing the status of various species before the spills occurred. This is especially true for two elusive and rarely seen native Montana turtle species.

Our current study started in 2015 and is based directly in the area impacted by the Silvertip spill from the Clarks Fork River to the Bighorn River, including both those aforementioned tributaries, as well as several other smaller tributaries like Pryor Creek and Razor Creek. With two years of tagging already complete it seems possible to develop population estimates for both these species in the area immediately below the ExxonMobil oil spill and compare population status of turtles on the Yellowstone to the status of other subpopulations on the Bighorn and Clarks Fork Rivers. In the last two years we have tagged nearly 300 spiny softshell turtles and 37 snapping turtles.

FUNDS REQUESTED $20,000 per year for five years

PRINCIPLE INVESTIGATOR
Kayhan Ostovar, Associate Professor. Ph (406) 657-1175, fax: 406-259-9751, kayhan.ostovar@rocky.edu Rocky Mountain College, Member – Yellowstone River Research Center. http://yellowstoneriver.weebly.com/

BACKGROUND & PROBLEM STATEMENT
The snapping turtle (Chelydra serpentina) and the spiny softshell turtle (Apalone spinifera) are both designated as species of concern in the State of Montana due to lack of knowledge regarding their conservation status, loss of habitat connectivity and anthropogenic changes in hydrology (Montana Field Guide 2016, Tornabene 2014). While there have been basic distribution and abundance studies for spiny softshell turtles, information on habitat preferences and quality, food habits, population demographics, traditional nesting sites and genetic information is still lacking in Montana (Maxell et al. 2009, Reinersten et al. 2016).

Information on habitat use, population abundance, and basic population structure for these turtle species is necessary to better understand how disturbances (i.e., pipeline breaches) influence this neglected faunal component of freshwater ecosystems. Across seasons and life stages, these species integrate the aquatic environment with nesting riparian zones and beaches. To assess their current and future threats, we need to evaluate: (1) Population connectivity across these basins and barriers to dispersal, as little is known about dispersal and connectivity for long-lived turtles species, but home ranges can exceed 30km² (Iverson et al. 1997, Tornabene 2014). (2) How invasive riparian plants change the substrate and conditions of nesting beaches, and/or overabundant algal growth, due to lower river flows and warmer temperatures, alter habitat quality and potentially decrease oxygen levels during hibernation periods (Reese et al. 2003), and (3) Whether these key species are being exposed to metal contamination at high enough levels to have population level impacts and/or human consumption advisories.

Our lack of basic knowledge is problematic not only for conservation but when disasters occur, such as the Silvertip Pipeline breach on July 1, 2011 and the more recent spill on January 17, 2015. One of the challenges in assessing the damages of these spills is understanding the impact on both these turtle species, for which we still do not have population estimates. The ecological integrity of the Yellowstone River also remains vulnerable to contamination from point and nonpoint sources, such as, refineries, wastewater plants, coal-fired power plants, agricultural activity and feedlots. As long-lived animals, both snapping turtles and spiny softshell turtles may be particularly vulnerable to hydrologic changes that alter critical habitats and population connectivity (Reinersten et al. 2016), catastrophic mortality events, and bioaccumulation of environmental contaminants (Yu et al. 2011, Golet and Haines 2001).
**Research Questions**

This study will focus on three key questions: 1) What is the current status (population estimate, population structure, specifically connectivity within and between tributaries) of both species along the Yellowstone River? 2) How might anthropogenic influences such as, decreases in instream flow and water quality, as well as, increased algae in rivers and invasive plant species on nesting beaches affect their habitat use and vital rates? 3) What are the heavy metal contaminant loads for both species and what factors may determine exposure?

**Research Approach and Methods**

Through an intensive tagging effort (Ousterhout and Semlitsch 2014, White and Burnham 1999) the population status, population connectivity, demographic composition and heavy metal composition and concentrations between the main stem of the Yellowstone River and other tributaries over 400 kilometers in length will be assessed (Turnquist et al. 2011, Green et al. 2010). Spiny softshell turtles and snapping turtles will be captured using standard turtle hoop traps baited with fish (Mali et al. 2014). Weight and measurements of the width and length of the carapace will be taken to the nearest millimeter. Blood will be drawn with a 22-gauge needle from the dorsal or ventral coecygeal vein (Perpinan et al. 2010). Turtles will then be marked using 12.5mm Biomark PIT tags. Collected blood samples will be analyzed at the UM Biogeochemistry Lab in Missoula for contaminant concentrations. Blood sampling and tagging is approved by renewable MFWP permits to K. Ostovar and collaborators (IACUC FWP04-2015 expires 12/2017, Wildlife Capture Permit #2016-082). In 2018 and 2019, the mark-recapture work will be supplemented by radio-telemetry, and habitat assessments to investigate how current and future habitat changes (invasive plants, algae, flow) may influence key breeding or overwintering areas.

**Timeline - the Majority of the Field Work Occurs Between June and September**

1. In 2015 and 2016, work focused mainly on tagging and drawing blood from (n = 296) spiny softshell turtles as well as starting to survey and capture snapping turtles.
2. In 2017 the plan is to increase the intensity of the tagging in order to increase marking and recapture rates to derive population estimates across multiple rivers and streams. Limited blood draws will occur to wrap up the heavy metal portion of the study and habitat assessments will begin.
3. In 2018/2019 we will augment capture efforts with radio-tracking and possibly instream PIT tag readers to assess turtle movements between areas, and continue to assess habitat conditions and population status.

**Predicted Outcomes, Benefits**

By expanding our knowledge of habitat use, population structure, and status of these turtle species we can help inform state managers and help address two of the five Key Recommendations in the State Water Plan. In addition managers will be able to more accurately assess the ecological impacts associated with future oil spills if we have critical baseline data on populations and methods for assessing contaminant loads. This study will provide much needed information on heavy metal contaminants in a number of water bodies in the Yellowstone watershed. Possibly more importantly is establishing baseline heavy metal levels in these two species of turtles in order to document changes in exposure related to industrial activity or mining. There are several points under "Key Recommendation #4 Ecological Health and Environment" that will be examined. These include the effects of various instream flow conditions on the status of turtle populations and assessing the importance of connectivity within stream and riparian systems. In addition, this research will help determine the frequency, magnitude, timing and duration of high flows and low flows needed to maintain the natural ecological functions of rivers and streams as they relate to spiny softshell and snapping turtles on different river and creek systems along the Yellowstone River. Finally, a better understanding of the negative impacts related to invasive species like Tamarisk on turtle nesting beaches may lead to improvements in invasive species management or related water flow regimes. We expect several publications related to our three key questions in the next several years, starting with the heavy metal analysis.
LITERATURE CITED
White, G. C., K. P. Burnham. 1999. Program MARK: survival estimation from populations of marked animals. 46(S1), S120-S139.
October 31, 2016

Natural Resource Damage Program

PO Box 201425
Helena, MT 59620-1425

Attn: Yellowstone Restoration Plan

The Montana Wildlife Federation (MWF) is Montana’s oldest, largest and most effective conservation organization. Since 1936, we’ve led efforts to protect Montana’s abundant fish and wildlife, our natural lands and waters, and public access for hunting, fishing, and other outdoor recreation.

Our thousands of members hunt and fish on the streams and rivers of Montana, and they understand personally the value of these waterways for fish and wildlife, habitat, and outdoor recreation. As a hunting and fishing based conservation organization, we care about the restoration and management of the effected Yellowstone River. Please consider our below recommendations for the Yellowstone Restoration Plan for the ExxonMobil Pipeline Company Yellowstone River Oil Spill.

On July 1, 2011, a 12-inch diameter pipeline (Silvertip Pipeline) owned by ExxonMobil Pipeline Company ruptured near Laurel, Montana, resulting in the discharge of crude oil into the Yellowstone River and floodplain. The discharge is estimated to have been approximately 63,000 gallons of oil. The discharge occurred during a high-flow event, affecting approximately 85 river miles and associated floodplain. Oil from the spill, along with the cleanup activities, harmed natural resources including fish and other aquatic organisms, birds, wildlife, large woody debris piles, aquatic habitat, terrestrial habitat, recreational use, and the services provided by these natural resources.

We appreciate the hard work by the Montana Department of Justice and federal officials to negotiate compensation for the damage wrought by the spill, but we believe that the $12 million is not sufficient to fully
restore the river and floodplain from the damage caused by the spill. With a lack of sufficient funds, MWF believes that only a few projects can be pursued and fully completed.

MWF would like part of the settlement money to go to Montana Fish, Wildlife and Parks to conduct a study of what is in the river and riparian areas. Documentation of the biota in and along the river would help Montana Fish, Wildlife and Parks as well as other agencies with management prescriptions. Once the baseline biota and habitat is established, the agency can set goals and design strategies to improve or remediate the problems. This would be beneficial and could serve as a baseline to measure remediation and for comparison, if a future incident involving the river and floodplain were to occur.

MWF believes that the bulk of settlement dollars should be spent on the restoration of terrestrial, riparian, and riverine habitats. This includes pursuing conservation easements or fee title land acquisitions to protect and restore the terrestrial and riparian areas, as well as the cottonwood bottomlands and areas with complex understory for nesting birds. Restoration should also take place on the properties within and adjacent to BLM and state lands. We would also like to see restoration work done to control invasive woody and plant species and replacement with native species on BLM and state-owned lands and islands in the affected area. Finally, MWF would like to see fish passage improvements in Yellowstone River tributaries and river function restoration by removing flanked riprap from mid-channel areas and blockages from side channels to improve connectivity.

Lastly, under the Recreational Human Use damage category, MWF would like to see the preservation and maintenance of Fishing Access Sites along the affected area of the Yellowstone River. We believe that this should be prioritized over improving urban fishing sites at Laurel Ponds and Lake Josephine. These areas were not as severely impacted by the oil spill compared to sites along the Yellowstone River.

Thank you for considering our recommendations for the Yellowstone Restoration Plan. This section of river and lands are extremely important for sportsmen in Montana. We appreciate your dedication to the restoration of the river and floodplain in hopes of returning the area to pre-spill conditions.

Sincerely,

Dave Chadwick
Executive Director
Montana Wildlife Federation
PO Box 1175
Natural Resource Damage Program,

Please find the Montana Wildlife Federation's comment letter on the Yellowstone River Restoration Plan attached.

Thanks,

John Bradley
Eastern Montana Field Representative
Montana Wildlife Federation
jbradley@mtwf.org
C: 320-583-8461
October 31, 2016

Natural Resource Damage Program
PO Box 201425
Helena, MT 59620-1425

Attn: Yellowstone Restoration Plan

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MWF would like part of the settlement money to go to Montana Fish, Wildlife and Parks to conduct a study of what is in the river and riparian areas. Documentation of the biota in and along the river would help Montana Fish, Wildlife and Parks as well as other agencies with management prescriptions. Once the baseline biota and habitat is established, the agency can set goals and design strategies to improve or remediate the problems. This would be beneficial and could serve as a baseline to measure remediation and for comparison, if a future incident involving the river and floodplain were to occur.

MWF believes that the bulk of settlement dollars should be spent on the restoration of terrestrial, riparian, and riverine habitats. This includes pursuing conservation easements or fee title land
acquisitions to protect and restore the terrestrial and riparian areas, as well as the cottonwood bottom-lands and areas with complex under-story for nesting birds. Restoration should also take place on the properties within and adjacent to BLM and state lands. We would also like to see restoration work done to control invasive woody and plant species and replacement with native species on BLM and state-owned lands and islands in the affected area. Finally, MWF would like to see fish passage improvements in Yellowstone River tributaries and river function restoration by removing flanked riprap from mid-channel areas and blockages from side channels to improve connectivity.

Lastly, under the Recreational Human Use damage category, MWF would like to see the preservation and maintenance of Fishing Access Sites along the affected area of the Yellowstone River. We believe that this should be prioritized over improving urban fishing sites at Laurel Ponds and Lake Josephine. These areas were not as severely impacted by the oil spill compared to sites along the Yellowstone River.

Thank you for considering our recommendations for the Yellowstone Restoration Plan. This section of river and lands are extremely important for sportsmen in Montana. We appreciate your dedication to the restoration of the river and floodplain in hopes of returning the area to pre-spill conditions.

Sincerely,

Dave Chadwick
Executive Director
Montana Wildlife Federation
PO Box 1175
Helena, MT 59624
I along with our city Council and area residents were hoping that this plan would include more remediation work to the Laurel Riverside Park area. The park as it stands, has areas within the river area that are historical treasures to the state and county and city with damage from flooding and repairs to the Exxon line that will never be the same for our residents. Laurel has lost the full use of our park and her historical buildings. Civic groups cannot use those buildings to this day due to damage from flooding and our city council, myself as Mayor and city staff are reluctant to allow our public citizens to use the park to the degree it was being used before the flood and damage to the lines and subsequent fuel spill.

Our historic buildings once used by civic groups, are locked up due to water damage and the fear of mold issues, as repairs are too costly for the residents and the city to replace to what it was before the flood and subsequent fuel spill. Please consider our issue as to what remediation we would like to see done to get our residents back to what we had before the flood which caused the Exxon spill, and left our town with damage that we cannot repair on our own.

Thank you, for your time.

Sincerely,
Laurel Mayor,
Mark A. Mace

Sent from my iPad
Coleman, Kathleen

From: Dana <d liariviere@ourmontana.org>
Sent: Saturday, October 29, 2016 1:45 PM
To: Natural Resource Damage Program
Cc: 'Dana'
Subject: "Yellowstone restoration plan comment"
Attachments: EPSON002.PDF
Importance: High

Hello,

I am writing on behalf of Our Montana. Our Montana was created over 20 years ago. We work collaboratively with other groups to participate in preserving the scenic, historic and recreational resources of Montana's parks, rivers, historic sites and trails. Our Montana's Boards of Directors, volunteers, staff, collaborative organizations and strategic partnerships speaks to the success of this small but powerful nonprofit. We are a broad sweep of like-minded individuals from all walks of life who cherish the state of Montana. We work to steward irreplaceable outdoor and historic values for ourselves and future generations. Our staff Members are professional people and volunteers with extensive hands on experience in land management, climatology, business, conservation and other related fields. The members of Our Montana's Board of Directors are prominent professional people with sound credentials, representing the broad spectrum of experience.

We hope that Our Montana can be included in The Yellowstone Restoration plan, we are local and have a presence in the community. It would restore community faith to see a local, 20 year old, thriving nonprofit like Our Montana receive funds to continue the work we do on our current projects. The Yellowstone River has always been our top priority and we have a wonderful 2017 planned with the theme "Love the Yellowstone" as our main effort. If you get a moment, please visit our website at www.OurMontana.org to see what Our Montana is all about.

Attached are some of our planned projects and the amount that each would cost. We hope you will take us into consideration and help us in our efforts.

Thank you in advance,

Dana Lariviere
Our Montana Executive Director
Office: 406-259-4600
Cell: 406-200-2091
Fax: 406-259-8352
dlarienne@ourmontana.org
https://www.facebook.com/ourmontana
Proposed Settlement and Draft Restoration Plan Comments

From Our Montana

Our Montana is in basic agreement with the types of projects outlined in the Restoration Plan.

We suggest additional funding for project that enhance public access, recreation and habitat improvement as follows:

Idea 1 - Explore Yellowstone River App

Our Montana has made significant progress on developing a web site intended to assist Montanans and visitors enjoy and explore the almost 700 miles of the Yellowstone River. The web site provides detailed information on:

- Develop and undeveloped public access sites of Fish Wildlife and Parks and others
- Museums along the Yellowstone River
- Location of historic features and sites along the Yellowstone River
- Public land along and within the Yellowstone River
- Location of excellent birding areas along the Yellowstone River
- River safety guidelines
- Commercial recreation providers along the Yellowstone River (e.g. boat rentals, bait and fly shops)

This site is now available on the web at exploreyellowstoneriver.org. Work continues on the site. The project need is to develop an app to make the web site highly available to travelers and boaters while they are in the Yellowstone River corridor. Estimated cost $15,000.

Idea 2 - Identifying Public Islands

Over the past decade Our Montana has examined the ownership of islands and riparian areas in the Billings vicinity. This has been a test project looking at the fluvial geomorphic changes in the river and that affect in creating new public islands and riparian areas since statehood. These islands often are unclaimed. We have determined that there exists a great public estate in and long the Yellowstone that at the present time is unavailable to the public. In the Billings area we have found almost 300 acres in public ownership. Some of this land we have studied provides new access to the Yellowstone, examples are what we now call Clarks Crossing Island and the island next to Mystic Park which is called Indian Crossing.
The project idea is to complete the detailed studies of the islands between the City of Laurel and the mouth of the Big Horn River. This work can be completed by the DNRC, BLM or Our Montana has the capability of completing these studies with the cooperation of DNRC and BLM. Estimated cost $50,000.

Idea 3 - New Fishing Access Site

There is a great need for a Fishing Access Site at the Blue Creek Bridge. There is an excellent location with access to Blue Creek Road below the Yellowstone Bridge. A FAS site here would provide for short floats adjacent to Billings and Laurel. This project has been looked at in the past and needs to be explored again.

Idea 4 - Yellowstone Environmental Research

Rocky Mountain College and its Yellowstone River Research Center have been accomplishing serious research on the Yellowstone River. The Yellowstone River Research Center is a multidisciplinary research institute composed of geologists, ecologists, ecologists, wildlife biologists, geographers, and social scientists. A unique feature of the Center is the strong emphasis that they place on involving undergraduate students in their projects to better understand the dynamics of the Yellowstone River and its ecological systems. They also enlist their citizen advisory board in evaluating and selecting research projects.

The Center has had several projects that have had positive affect in understanding multiple aspects of the Yellowstone’s ecology, for example, projects on Osprey, turtles and fish by pass of irrigation structures. They also have an annual river cleanup program with cooperation from business, nonprofits and many volunteers. The cleanup program has removed tons of metal and trash from the river channel over the past years. Much information can be found on their web site http://yellowstoneriver.weebly.com/

We recommend a matching fund to be held at the Yellowstone River Research Center, or some appropriate agency, for sponsorship of multiyear research projects. $50,000

Idea 5 - Flea Beetle Introduction

Public islands and public riparian areas along the Yellowstone are infested with many invasive plants. Invasives include Russian Olive, Salt Cedar, Spotted Knapweed and Leafy Spurge. Little control of the epidemic is taking place at the present time. We propose a cooperative program to release Flea Beatles in public areas that are infested with Leafy Spurge. Flea Beatles have been proven to be an effective biological control. The program would involve purchase of Flea Beatles which would be spread by volunteers at the appropriate time to pre select areas. $25,000

Idea 6 - Dover Park Water Remediation

John Dover Park is being developed by the Yellowstone River Parks Association. The concept plan for this major new recreation park along the Yellowstone River includes a major water remediation lake. This recreation lake will have the purpose of cleaning up storm water before it enters the Yellowstone River
and outdoor recreation. The lake would be developed by the City of Billings in cooperation with Yellowstone River Parks Association. The lake's function would be similar to Shiloh Ponds developed by the City. We believe design should be started before gravel mining is complete to enhance development of the lake. We don't have the information to propose a budget for this.
Date: October 28, 2016

To: Montana Department of Justice

Subject: Comments on Yellowstone Oil Spill Draft Restoration Plan

From: Area Manager, Matt Wolcott

To Whom It May Concern:

The Department of Natural Resources and Conservation would like to provide the following comments regarding the proposed Oil Spill Draft Restoration Plan.

The DNRC supports the efforts made by the State of Montana to seek reimbursement for damages caused by the oil spill. Whenever possible, we would like to see the funds support properties and agencies who were directly impacted by the spill. Projects on lands, or in support of agencies who were directly and significantly impacted, should be given priority for funding over properties and entities who may have suffered indirect or secondary impacts.

The DNRC is in the process of identifying properties that we may acquire that could provide additional income for the Trust, provide additional recreational use opportunities, and which could potentially provide additional access to currently held lands along the Yellowstone River. The DNRC would like to work with the selection committee to put forward a proposal for acquisition of such a property. This effort could also involve quiet title action on various state owned lands along or within the Yellowstone River.

The DNRC would like to have a local representative on the committee if space allows.

Feel free to contact us directly if you have any questions. Thanks for your efforts and the opportunity to comment.

Matt Wolcott

Area Manager, DNRC Southern Land Office
Alicia, I copied you below at the wrong email so now forwarding to the correct one.

Wendy

Begin forwarded message:

From: Wendy Weaver <wweaver@montanaaquaticresources.org>
Subject: NRDP Yellowstone Restoration Plan Comments from Montana Aquatic Resources Services (MARS)
Date: October 27, 2016 at 2:57:47 PM MDT
To: NRDP@mt.gov, astickney@mt.gov

Dear Alicia-

Thank you again for your very informative presentation in Billings on October 12th and again on October 25th at the MWCC Conference. It was great to meet you and learn more about the Yellowstone River NRD Program and roll out of restoration project funding. I’ve attached a copy of the letter that we also provided during comment in Billings for your consideration.

To recap, MARS appreciates an opportunity to deliver projects addressing 8 of the 12 preferred restoration alternatives, including:

- Acquiring terrestrial/riparian bottomland to conserve and restore terrestrial habitat with some acquisitions focusing on habitat requirements for injured birds
- Acquiring and restoring terrestrial/riparian habitat
- Controlling invasive woody species on state and federal lands
- Acquiring channel migration or other easements or fee title land acquisitions to provide areas for large woody debris recruitment
- Removing flanked riprap from the river
- Removing side channel blockages
- Providing fish passage around fish barriers
- Restoring and stabilizing river banks using soft bank restoration techniques

Additionally, MARS proposed projects will meet all of the following Oil Pollution Act primary requirements:

- Relate to the natural resource injuries and services losses identified in the Draft Restoration Plan
- Cause no additional adverse impact
- Be cost-effective
- Demonstrate likelihood of success
- Benefit multiple resources
- Not harm public health and safety
Your presentation highlighted the value and need of utilizing existing plans such as the Yellowstone River Cumulative Effects Analysis and Recommended Practices, Riverfront Park Master Plan, BLM Billings Field Office Resource Management Plan, and others. I'd like to add that MARS Yellowstone River Channel Migration Easement (CME) Program synthesized information from sources like these to prioritize specific sites for restoration projects such as but not limited to just CMEs. Riprap removal, woody debris recruitment, controlling invasive woody plants, soft bank stabilization, and acquiring fee parcels are all related outcomes from our CME prioritization work. All are examples of management activities that MARS can and will integrate into its long-term protection projects especially within the footprint of current and future CMEs. Moreover, through implementation of MARS Statewide In Lieu Fee Mitigation Plan, MARS has developed three compensation planning frameworks for the Upper, Middle and Lower Yellowstone Watersheds which synthesized information from these plans and multiple sources. Using this information, the past three years of MARS’ field work including contacting landowners, reaching out to Conservation Districts, and working with partners, such as the Northern Great Plains Joint Venture. MARS has developed all the necessary resources to deliver the NRDP projects and positioned to deliver these projects in a timely manner if funding is allocated for this program.

In delivering its first two CMEs, MARS has formalized its partnership with the Montana Land Reliance and The Nature Conservancy of Montana, the state's two largest private land trusts. This partnership is the sole source for CME delivery along the Yellowstone River with one easement closed in April of this year and the second that will close in December. Since the Settlement was announced, MARS has again confirmed MLR and TNC’s desire to partner with MARS in delivering the NRDP projects involving long-term land protection.

Finally, while MARS presented an MOU to YRCDC in July 2014 to formalize our partnership, which they declined to endorse, we have since then, at their recommendation, worked with the individual conservation districts in the valley to identify potential CME-interested landowners. Wherein either YRCDC or the individual Conservation Districts desire to work with MARS to help deliver conservation easements, deed restrictions, or short term agreements with landowners, we stand ready to work with them for the betterment of the River and its floodplain connectivity and health.

Thank you again for this opportunity. We look forward to working with you in this vital new program!

Sincerely,

Wendy

Wendy Weaver
Executive Director
Montana Aquatic Resources Services
Office: (406) 404-1166 Cell: (406) 579-2355
www.montanaaquaticresources.org

2
I would like to voice my agreement with the comments below from Eric Wolf. Thank you for giving us the opportunity to comment.

Brad Cole
Billings, M

Hi,

First off I would like to thank all those involved in securing the funds for this restoration plan and also a thanks to those who put this restoration plan together. I have been a very loyal fishermen to the Yellowstone River downstream of Billings for the last 11 years and understand this section of the river and how it changes very well. This was a very well-crafted document, I have comments on three specific sections:

1. **Large Woody Debris Piles**: I am in agreement that all contaminated woody debris needs to be removed so that it does not continue to contaminate other parts of the river as it moves around each spring during high water. However using funds to take un-contaminated woody debris piles that are upstream and move them downstream is something that the river will do on its own over the next 2-3 years and could do it as little as 1 year with the right snowpack and spring rain. I have seen these woody debris piles move each and every year, so I think diverting the funds to move clean woody debris piles downstream would be a good idea as the river will do this for us in about the same amount of time it will take to complete this restoration plan.

2. **Riverine Aquatic Habitat**: Specifically to fish passages I think this is a great idea however before fixing tributary passages we need to fix the diversion dams that are on the Yellowstone as right now our fish are trapped and cannot get around those dams to use the tributaries. The fish in the Yellowstone river below the Huntley diversion dam and downstream in the river are stuck in those sections between these diversion dams. We need to fix these passages so our fish can migrate the Yellowstone and then up into the tributaries of the Yellowstone. If the diversion dams are not fixed before the tributaries the only fish to benefit of the fish passages in the tributaries are the fish that are "trapped" in that section where the tributary meets the Yellowstone.

3. **Recreation Human Use**: There was no "loss of use" to Laurel Pond or Riverfront Park during the Exxon spill. There was however closures to many of our accesses to the
Yellowstone and then 3 years of very poor fishing due to the spill, so I am against any monies being spent on Laurel Pond and Riverfront Park.

I love the idea on another motorized boat access to the Yellowstone River, however South Billings Blvd is not the best spot as you have Coulson Park which has a motorized boat ramp 4 miles downstream and Duck Creek which is 6 miles upstream. Jet Boat users of the Yellowstone River can easily run 10-15 miles upstream or downstream of a motorized landing, so there is no need for one at South Billings when you have Duck Creek and Coulson already in place. There is also plenty of access to the upper Yellowstone. However Bundy Bridge and Manual Lisa on the Big Horn are the only motorized boat landings below Coulson Park that can float a boat year round, that is 60+ river miles with only 2 good access ramps for motorized boats. Road 18, Gritty Stone, and Captain Clark will only float a boat during higher water. I would propose an access below the Huntley diversion dam. This ramp would also be important if something like this were to happen again as there is no way to access this section of the river in an emergency situation.

Thank you for taking the time to allow all of us to comment on this restoration plan. I am very excited to see the completion of this plan and the benefits it will provide to the eco-system of the Yellowstone River that was affected. Please feel free to contact me for further comment or questions.

Eric Wolff | Operations & Inventory Manager
Big Sky Coil LLC
October 24, 2016

Natural Resource Damage Program
Attn: Yellowstone Restoration Plan
Post Office Box 201425
Helena, Montana 59620-1425

Attn: Doug Martin, Restoration Program Chief
Alicia Stickney, Environmental Science Specialist

Dear Doug and Alicia,

First, let me congratulate you and your colleagues with your success in negotiating a settlement for natural resource damages to the Yellowstone River associated with the 2011 ExxonMobil pipeline oil spill. Your diligence and hard work will be appreciated for generations to come.

Let me also express our gratitude for citing the Yellowstone River Conservation District Council (YRCD) and the US Army Corps’ landmark 2016 Yellowstone River Cumulative Effects Assessment (CEA) scientific study and recommended practices. This recently completed study was the result of more than a decade of commitment by Montanans to provide a comprehensive river study compiling definitive scientific information on subjects including hydrologic, biological, physical and socio-economic impacts of human activity on the full length of the Yellowstone River.

The CEA included the development of Channel Migration Zone mapping that can be used to prioritize easement areas. We also generated riparian mapping that, in conjunction with mapped areas of active channel migration, will identify those riparian areas most likely to contribute large wood to the river. The CEA included mapping of blocked side channels, mapping of bank armor through 2011, and identification of flanked armor segments. All of that information can be compiled specifically with regard to NRD restoration objectives.

The YRCD and its Technical Advisory Committee are very familiar with these datasets and could cost-effectively generate project prioritizations for the affected areas. We have all of the data in-house.
As you consider specific restoration projects, we encourage you to prioritize potential projects on science-based principles that will optimize improvements to the river.

We also encourage you to consider cost efficient and effective approaches to maximize settlement dollars. As an example, if you are considering river channel migration zone land easement acquisitions, you may want to consider deed restrictions in comparison with conservation easements. Deed restrictions are easier to establish and less cumbersome than conservation easements which could be very expensive and time-consuming.

Finally, we encourage you to actively engage with local agencies, organizations, and landowners to identify future restoration projects during the research and investigation phase, as well as during restoration project implementation.

The Yellowstone River Conservation District Council is ready and able to assist you and your staff at any time and has the available capacity to provide you with project management and technical services as needed. We have good relationships with contractors who worked on the CEA, and have a fiscal routing structure that has proven effective over 15 years of the CEA.

Our professional/technical contractors could assist you in developing project prioritization opportunities, including scope of work development, procurement, management, and oversight. We are also available to assist with public outreach and building partner coalitions.

Please feel free to call me if you have any questions or comments.

Very sincerely,

Don Youngbauer, Chairman
October 24, 2016

ATTN: Yellowstone Restoration Plan
Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425

RE: Yellowstone Restoration Plan Comment

Ladies and Gentlemen:

Having been born and raised in Montana, I consider myself a steward of public lands. My wife and I have donated property for the Duck Creek fishing access, and I am the president of Yellowstone River Parks Association—an organization that creates public parks along the Yellowstone River.

I attended the meeting held October 12, 2016, at Montana Fish, Wildlife and Parks' office. My perception of the meeting is that the State has already decided which projects will be funded, and the meeting was just to appease the public.

While I have no problems with State funding for maintaining existing fishing access along the spill corridor, tax dollars have already been set aside through hunting and fishing licenses as well as vehicle registration.

Furthermore, the administrators of this settlement live in Helena. Since they are not part of the Billings community, they should not have a final say on how these monies are spent. It needs to be a joint public private partnership.

I would request that the judge approving this agreement insist that the public have more input, not just State and Federal agencies.

Sincerely,

Darryl Wilson
8522 S. Frontage Rd.
Billings, MT 59101
Please see attachment.

Thanks,

Jerome Fachner

Sent from Mail for Windows 10
I am writing in reference to the Billings Gazette article about restoration of the Yellowstone River after the 2011 flood and Exxon oil spill. I understand there was a public meeting on Wednesday, October 12, 2016. If I had known about the meeting I would have attended.

I own the property at 101 North River Road just a short distance from the Exxon oil spill. The full legal description is: S13, T02 S, R24 E Section 13, consisting of 10.92 acres. In addition to the 2011 flood the Yellowstone River flooded again in 2014 and as a result approximately 40 feet of the Yellowstone river bank eroded into the river on the south end of my property parallel to my road. My neighbor to the south had his property completely split in two by the erosion. If we have another flood or if the river bank erodes any further both of us will lose access to our properties. Presently we are driving within 15 feet of the river bank. Any further erosion of the river bank at all will make it unsafe to drive. I understand that at one time there was a levy in that area of the river to help control the erosion, but it has not been maintained and is completely washed away.

I realize that it is virtually impossible to stop the Yellowstone River from flooding, although I believe there are steps that could be taken to protect private property along the river. I have already taken steps to protect the house on the property by adding a new concrete wall and adding a berm to protect the house, and removed all living quarters from the basement. Even those measures would not stop the effects of a severe flood.

I am not asking for any monetary compensation or have I received any. I simply want the river bank stabilized to make it safe and so I do not lose access to my property. My son and two year old grandson live on the property. My son is disabled and unable to work, I do not want to worry about them losing access to the property or worse the river bank collapses while they are driving to or from the property.

It is extremely important that a portion of the Yellowstone River on the south end of my property be stabilized by the use of riprap or whatever means it takes to stabilize the bank. It makes sense that the property and people that were affected by the Exxon oil spill and flood should be the ones that should be given priority in the use of the funds that are available.

I have in my file google photos of the property in addition I have digital photos of the most recent flood in 2014 showing the erosion and high water. I will be happy to share them with anyone interested.

In addition any information that I have I will make available to anyone.

I would like some sort of acknowledgement that you have received this request. My name, mailing address, email address and phone numbers are listed below.

Jerome O. or Carol Ann Fachner
2106 S. 48th St. W
Billings, Mt. 59106

Email: jcfachner@msn.com

Phones: Home 406 655 9451
       Cell 406 671 0888
       Cell 406 671 8186
Hi,

First off I would like to thank all those involved in securing the funds for this restoration plan and also a thanks to those who put this restoration plan together. I have been a very loyal fishermen to the Yellowstone River downstream of Billings for the last 11 years and understand this section of the river and how it changes very well. This was a very well-crafted document, I have comments on three specific sections:

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Thank you for taking the time to allow all of us to comment on this restoration plan. I am very excited to see the completion of this plan and the benefits it will provide to the eco-system of the Yellowstone River that was affected. Please feel free to contact me for further comment or questions.

Eric Wolff | Operations & Inventory Manager
Big Sky Coil LLC

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NRDP@mt.gov,

You really need to set aside a fund of 20% for unforeseen clean-up issues that could crop up down the line. Don't let this company off the hook. They need to pay until the clean up is complete, otherwise Montana will get stuck with the bill for the remaining cleanup. In 1989, the EXXON Valdez ran aground in Alaska, and today there is still oil being seen on the beach. The company paid in excess of 7 Billion to settle all claims, but it clearly wasn't enough, 'cause after 25 years, the job still isn't done.

It just doesn't seem like 12 million dollars is enough to get every last drop of oil out of the Yellowstone River. And just a few days ago, I heard about another pipeline bursting on this same river. The State of Montana needs to start collecting serious fines from these companies that can't seem to do their jobs without repeatedly spilling huge amounts of oil into our rivers. If there are no laws to cover these incidents, the Montana Legislature better be writing something up, because this is going to keep happening. The only way to make these companies take oil spills seriously is to threaten someone at the top with prison, then you might see a reduction in accidental spills and incompetent management.

Thank you for this opportunity to express my views. Thank you.

Best Regards,

LeeAnn Bennett
environmental advocate and concerned American
Please consider more access to the river for floating, fishing, etc. It is currently very hard to get a raft or kayak in especially at the Duck Creek road. Other access areas would be very appreciated.

Thank you,
Al Hayes
406-373-5557
October 12, 2016

Natural Resource Damage Program
PO Box 201425
Helena, MT 59620-1425

Re: Comment Letter for NRDP Yellowstone Restoration Plan ExxonMobil Pipeline Oil Spill

Dear Natural Resource Damage Program Trustees,

Montana Aquatic Resources Services (MARS) submits the following comments in response to the recently released Draft Programmatic Damage Assessment and Restoration Plan for the ExxonMobil Pipeline 2011 Oil Spill in the Yellowstone River. MARS is a 501(c)(3) nonprofit organization founded in 2011 to advance conservation of aquatic resources across Montana. Originally formed to sponsor the Montana In-Lieu Fee Mitigation program, MARS also works to develop innovative non-mitigation approaches to conservation of streams, riparian habitats, and wetlands. Our efforts to further development of the Yellowstone River Channel Migration Easement (CME) program filled a void in conservation of the river that agencies, land trusts, and others had, until that time, only talked about. The funding we bring to the table as well as MARS expertise and nonprofit approach, has resulted in completion of the first-ever CME in Montana in April 2016. Our second CME will close in December of this year.

The CME program concept for the Yellowstone and lower Missouri Rivers in Montana originated with Montana FWP in order to conserve habitat for Pallid Sturgeon and other native fish. Montana Fish, Wildlife and Parks (FWP) entered into an agreement with MARS in 2013 to help deliver the easement program. Following release of the Yellowstone River Cumulative Effects Analysis (CEA) in 2015, MARS found CMEs to be supported by the Yellowstone River Conservation District Council’s (YRDC) recommended practices for conserving the river and its floodplain. MARS CMEs have come together with critical and enthusiastic support of Montana’s two largest private land trusts, the Montana Land Reliance and The Nature Conservancy, and FWP. For the Yellowstone River specifically, MARS’ CMEs financially compensate landowners along the Yellowstone bank line who voluntarily agree not to stabilize their river bank.

The CME program, utilizing groundbreaking work by YRDC, the US Army Corps of Engineers, and local CDs, provided vital information and mapping resources to frame up areas for potential conservation. MARS used these data resources in a comprehensive screening and prioritization process to identify specific bend ways and landowners to contact for interest in the program. Screening looked not only at the CEA’s channel migration zone mapping but also GIS layers showing the National Wetland Inventory and riparian mapping, Russian olive infestations, side channel blockages, and other potential site priorities.
MARS is positioned along with its partner agencies and nonprofit conservation organizations to deliver projects addressing 8 of the 12 project types, which address NRD-injured resources from the Draft Programmatic Assessment and Restoration Plan. Our CME Program, for example, can not only conserve the river’s lateral channel migration but, within those easement areas, provide opportunities to conduct habitat restoration practices for terrestrial, riparian, and aquatic wildlife. Our CME program is a proven success, and is gaining momentum. We have a number of sites identified for CME implementation in the NRD reach extending fifty miles downstream from the oil spill. With NRDP funding, we can and will secure CMEs, deed restrictions, or term contracts to protect channel migration while compensating owners who are now losing land to the river through channel movement and bank erosion. These same areas can provide large woody debris recruitment into the channel to meet that specific need as identified in the settlement.

We appreciate and thank you for consideration of this opportunity to use our expertise, conservation experience, data resources, and network of landowners and conservation partners in collaboration with NRD, YRCDI, local CDs and others to deliver CMEs and habitat restoration practices for the Yellowstone River. We are currently, and will continue to build our network of partners to deliver shovel-ready specific projects so that when funds are received, we can implement our projects as quickly as possible to remediate the oil spill’s impacts in a positive and lasting way.

Sincerely,

Wendy Weaver
Executive Director
Proposed Settlement and Draft Restoration Plan Comments

From Our Montana

Our Montana is in basic agreement with the types of projects outlined in the Restoration Plan.

We suggest additional funding for project that enhance public access, recreation and habitat improvement as follows:

Idea 1 - Explore Yellowstone River App

Our Montana has made significant progress on developing a web site intended to assist Montanans and visitors enjoy and explore the almost 700 miles of the Yellowstone River. The web site provides detailed information on:

- Develop and undeveloped public access sites of Fish Wildlife and Parks and others
- Museums along the Yellowstone River
- Location of historic features and sites along the Yellowstone River
- Public land along and within the Yellowstone River
- Location of excellent birding areas along the Yellowstone River
- River safety guidelines
- Commercial recreation providers along the Yellowstone River (i.e. boat rentals, bait and fly shops)

This site is now available on the web at exploreyellowstoneriver.org. Work continues on the site. The project need is to develop an app to make the web site highly available to travelers and boaters while they are in the Yellowstone River corridor. Estimated cost $15,000.

Idea 2 - Identifying Public Islands

Over the past decade Our Montana has examined the ownership of islands and riparian areas in the Billings vicinity. This has been a test project looking at the fluvial geomorphic changes in the river and that affect in creating new public islands and riparian areas since statehood. These Islands often are unclaimed. We have determined that there exists a great public estate in and long the Yellowstone that at the present time is unavailable to the public. In the Billings area we have found almost 300 acres in public ownership. Some of this land we have studied provides new access to the Yellowstone, examples are what we now call Clarks Crossing Island and the island next to Mystic Park which is called Indian Crossing.
The project idea is to complete the detailed studies of the islands between the City of Laurel and the mouth of the Big Horn River. This work can be completed by the DNRC, BLM or Our Montana has the capability of completing these studies with the cooperation of DNRC and BLM. Estimated cost $50,000.

**Idea 3 - New Fishing Access Site**

There is a great need for a Fishing Access Site at the Blue Creek Bridge. There is an excellent location with access to Blue Creek Road below the Yellowstone Bridge. A FAS site here would provide for short floats adjacent to Billings and Laurel. This project has been looked at in the past and needs to be explored again.

**Idea 4 - Yellowstone Environmental Research**

Rocky Mountain College and its Yellowstone River Research Center have been accomplishing serious research on the Yellowstone River. The Yellowstone River Research Center is a multidisciplinary research institute composed of geologists, ecologists, ecologists, wildlife biologists, geographers, and social scientists. A unique feature of the Center is the strong emphasis that they place on involving undergraduate students in their projects to better understand the dynamics of the Yellowstone River and its ecological systems. They also enlist their citizen advisory board in evaluating and selecting research projects.

The Center has had several projects that have had positive affect in understanding multiple aspects of the Yellowstone’s ecology, for example, projects on Osprey, turtles and fish bypass of irrigation structures. They also have an annual river cleanup program with cooperation from business, nonprofits and many volunteers. The cleanup program has removed tons of metal and trash from the river channel over the past years. Much information can be found on their website [http://yellowstoneriver.weebly.com/](http://yellowstoneriver.weebly.com/)

We recommend a matching fund to be held at the Yellowstone River Research Center, or some appropriate agency, for sponsorship of multyear research projects. $50,000

**Idea 5 - Flea Beetle Introduction**

Public islands and public riparian areas along the Yellowstone are infested with many invasive plants. Invasives include Russian Olive, Salt Cedar, Spotted Knapweed and Leafy Spurge. Little control of the epidemic is taking place at the present time. We propose a cooperative program to release Flea Beatles in public areas that are infested with Leafy Spurge. Flea Beatles have been proven to be an effective biological control. The program would involve purchase of Flea Beatles which would be spread by volunteers at the appropriate time to pre select areas. $25,000

**Idea 6 - Dover Park Water Remediation**

John Dover Park is being developed by the Yellowstone River Parks Association. The concept plan for this major new recreation park along the Yellowstone River includes a major water remediation lake. This recreation lake will have the purpose of cleaning up storm water before it enters the Yellowstone River
and outdoor recreation. The lake would be developed by the City of Billings in cooperation with Yellowstone River Parks Association. The lake’s function would be similar to Shiloh Ponds developed by the City. We believe design should be started before gravel mining is complete to enhance development of the lake. We don’t have the information to propose a budget for this.
One thousand and one things to do along the Yellowstone River.
Coulson Park and Boat Launch

This is a City of Billings boat launch site. The site has good parking and a toilet. Coulson Park is an undeveloped park with birdwatching, picnicking, fishing, hiking, and other activities. It has a boat launch (concrete) but it is often unusable due to high water or channel change.

http://www.billingsparks.org/park/coulson/

Take exit 450 of I-90 and head south on 27th Street. Turn left on Garden Ave and go one block to Bluebird Ave. Turn right and go until the end of the road.

Amenities:
- Boat Services: concrete ramp (may be stranded during low water)
- Wildlife Viewing (Birding)
- Hiking: natural land and concrete trails
- Picnicking: tables, rings, picnic enclosures
- Vault toilets
- Fishing

406-792-7100, 406-474-88

406-792-7100, 406-474-88
Clarks Crossing Island

Near this site Capt. Clark had the remaining horses cross to the south side of the river so Sergeant Pryor of the Corps Discovery could take the horses on a short-cut to the Mandan Villages.

45.75183, -108.49445
Websites of the following businesses, organizations and associations provide valuable information about recreation along the Yellowstone River Trail.
October 12, 2016

Montana Fish, Wildlife & Parks
2300 Lake Elmo
Billings, MT 59105

On behalf of the owner, College Park LLP, Rocky Mountain Ranch Realty does hereby offer the attached exhibited property for your consideration to be acquired as part of the Exxon settlement for damages along the Yellowstone River frontage.

This parcel covers approximately 26 acres at the confluence of the Clarks Fork and the Yellowstone River. The property has access along Thiel River Road and would make an excellent fishing and quiet water boat launch area.

Please contact me about further information and details as questions arise.

Best regards,

[Signature]

Marvin Brown
Yellow - Edwards prop.
Green - College Park.
Property Record Card

Summary

Primary Information
Property Category: RP  
Geocode: 03-0821-23-1-09-01-0000  
Primary Owner: COLLEGE PARK LLP  
100 N 27TH ST STE 320  
BILLINGS, MT 59101-2054

Subcategory: Real Property
Assessment Code: 0000029200
Property Address: 3001 THIEL RD  
LAUREL, MT 59044

COS Parcel: 1

NOTE: See the Owner tab for all owner information
Certificate of Survey: 1750

Subdivision:
Legal Description:
S23, T02 S, R24 E, C.O.S. 1750, PARCEL 1

Last Modified: 9/26/2016 7:49:57 PM

General Property Information
Neighborhood: 004.1
Living Units: 0
Zoning:
Linked Property:

No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:
General: 0
Limited: 0

Property Factors
Topography: 1
Utilities: 7, 8
Access: 2
Location: 0 - Rural Land

Fronting: 8 - Frontage Road
Parking Type: 1 - Off Street
Parking Quantity: 2 - Adequate
Parking Proximity: 3 - On Site

Land Summary

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Owners

Party #1
Default Information: COLLEGE PARK LLP
100 N 27TH ST STE 320
Ownership %: 100
Primary Owner: "Yes"
Interest Type: Conversion
Last Modified: 11/6/2007 9:25:03 PM

Other Names

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Appraisals

Appraisal History

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Market Land

Market Land Info
No market land info exists for this parcel

Dwellings

Existing Dwellings
No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements
No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings
No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1
Acre Type: NQ - Non Qualified Ag Land
Class Code: 1701
Irrigation Type:
Timber Zone:
Productivity
Quantity: 0
Units: Non Qual
Valuation
Acres: 27.61
Value: 1229

Commodity:
Per Acre Value: 44.53
On behalf of the owner, James E. Edwards, Rocky Mountain Ranch Realty would hereby like to offer the attached exhibited property for your consideration to be acquired as part of the Exxon settlement for damages along the Yellowstone River frontage.

The property runs along the north shore of the Yellowstone River with side channels and wetlands scattered throughout the acreage.

The property was directly hit with the Exxon oil spills. The cleanup has been done and now would make an excellent walk-in fishery, hunting and camping area.

Sincerely,

Marvin Brown
Property Record Card

Summary

Primary Information
Property Category: RP
Geocode: 03-0821-15-4-01-05-0000
Primary Owner:
EDWARDS, JAMES E
PO BOX 1
FISHTAIL, MT 59028-0001

Subcategory: Real Property
Assessment Code: 0000027060

COS Parcel:

NOTE: See the Owner tab for all owner information

Certificate of Survey:
Subdivision:
Legal Description:
S15, T02 S, R24 E, LT 7 SEC 15-2S-24E
Last Modified: 9/26/2016 7:51:55 PM

General Property Information

Neighborhood: 004.1
Living Units: 0
Zoning: Ownership %: 100
Linked Property:

Property Type: AR - Agricultural Rural
Levy District: 03-2970-07L

No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:
General: 0
Limited: 0

Property Factors

Topography: 8
Utilities: 0
Access: 0
Location: 0 - Rural Land

Fronting: 0 - None
Parking Type:
Parking Quantity:
Parking Proximity:

Land Summary

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**Owners**

Party #1

**Default Information:** EDWARDS, JAMES E
PO BOX 1

Ownership %: 100
Primary Owner: "Yes"
Interest Type: Conversion
Last Modified: 11/6/2007 9:25:03 PM

**Appraisals**

**Appraisal History**

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**Market Land**

**Market Land Info**
No market land info exists for this parcel

**Dwellings**

**Existing Dwellings**
No dwellings exist for this parcel

**Other Buildings/Improvements**

**Outbuilding/Yard Improvements**
No other buildings or yard improvements exist for this parcel

**Commercial**

**Existing Commercial Buildings**
No commercial buildings exist for this parcel

**Ag/Forest Land**

**Ag/Forest Land Item #1**

Acre Type: G - Grazing
Irrigation Type:
Class Code: 1601
Productivity
Quantity: 0.043
Units: AUM/Acre
Valuation
Acres: 7.771
Value: 72
Ag/Forest Land Item #2
Acre Type: G - Grazing
Class Code: 1601
Productivity
Quantity: 0.142
Units: AUM/Acre
Valuation
Acres: 18.569
Value: 560

Timber Zone:
Commodity: Grazing Fee
Per Acre Value: 9.22

Irrigation Type:
Timber Zone:
Commodity: Grazing Fee
Per Acre Value: 30.16
Property Record Card

Summary

Primary Information
Property Category: RP
Geocode: 03-0821-14-3-01-01-0000
Primary Owner:
EDWARDS, JAMES E
PO BOX 1
FISHTAIL, MT 59028-0001
NOTE: See the Owner tab for all owner information
Certificate of Survey:
Subdivision:
Legal Description:
S14, T02 S, R24 E, LT 5
Last Modified: 9/26/2016 7:51:55 PM
General Property Information
Neighborhood: 004.1
Living Units: 0
Zoning: 
Linked Property:
No linked properties exist for this property
Exemptions:
No exemptions exist for this property
Condo Ownership:
General: 0
Limited: 0
Property Factors
Topography: 8
Utilities: 0
Access: 0
Location: 0 - Rural Land
Land Summary

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Deed Information:
Owners

Party #1
Default Information: EDWARDS, JAMES E
PO BOX 1
Ownership %: 100
Primary Owner: "Yes"
Interest Type: Conversion
Last Modified: 11/6/2007 9:25:03 PM

Other Names

Name
Type

Appraisals

Appraisal History

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Market Land

Market Land Info
No market land info exists for this parcel

Dwellings

Existing Dwellings
No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements
No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings
No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1
Acre Type: G - Grazing
Irrigation Type:
Class Code: 1601
Productivity
Quantity: 0.043
Units: AUM/Acre
Valuation
Acres: 6.319
Value: 58

Ag/Forest Land Item #2
Acre Type: G - Grazing
Class Code: 1601
Productivity
Quantity: 0.142
Units: AUM/Acre
Valuation
Acres: 15.401
Value: 464

Timber Zone:
Commodity: Grazing Fee
Per Acre Value: 9.22

Irrigation Type:
Timber Zone:
Commodity: Grazing Fee
Per Acre Value: 30.16
Property Record Card

Summary

Primary Information
Property Category: RP
Geocode: 03-0821-23-2-13-01-6001
Primary Owner:
EDWARDS, JAMES E
PO BOX 1
FISHTAIL, MT 59026-0001
NOTE: See the Owner tab for all owner information
Certificate of Survey:
Subdivision:
Legal Description:
SECTION 23, 02 S, 24 E, LT 1 **MULTI-DISTRICT** 6.367 AC IN O7L / 12.393 AC IN 7DL
Last Modified: 9/28/2016 7:54:47 PM

General Property Information
Neighborhood: 004.1
Living Units: 0
Zoning:
Linked Property:
No linked properties exist for this property
Exemptions:
No exemptions exist for this property
Condo Ownership:
General: 0
Limited: 0

Property Factors
Topography: 7, 8
Utilities: 7, 8
Access: 1
Location: 0 - Rural Land
Fronting: 8 - Frontage Road
Parking Type: 1 - Off Street
Parking Quantity: 2 - Adequate
Parking Proximity: 3 - On Site

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</tr>
<tr>
<td>Total Forest Land</td>
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Deed Information:
Owners

Party #1
Default Information: EDWARDS, JAMES E
PO BOX 1
Ownership %: 100
Primary Owner: "Yes"
Interest Type: Conversion
Last Modified: 11/6/2007 9:25:03 PM

Appraisals

Appraisal History

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Market Land

Market Land Info
No market land info exists for this parcel

Dwellings

Existing Dwellings
No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements
No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings
No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1
Acre Type: G - Grazing
Class Code: 1601
Productivity
Quantity: 0.142
Irrigation Type:
Timber Zone:
Commodity: Grazing Fee
Units: AUM/Acre
Valuation
Acres: 12.393
Value: 374

Per Acre Value: 30.16
Property Record Card

Summary

Primary Information
Property Category: RP
Geocode: 03-0821-23-2-13-01-6000
Primary Owner:
EDWARDS, JAMES E
PO BOX 1
FISHTAIL, MT 59028-0001
Subcategory: Real Property
Assessment Code: 0000029160
PropertyAddress: 2305 THIEL RD
LAUREL, MT 59044
COS Parcel:

NOTE: See the Owner tab for all owner information

Certificate of Survey:
Subdivision:
Legal Description:
S23, T02 S, R24 E, LT 1 **MULTI-DISTRICT** 6.367 AC IN 07L / 12.393 AC IN 7DL

Last Modified: 9/26/2016 7:49:56 PM

General Property Information
Neighborhood: 004.1
Living Units: 0
Zoning:
Linked Property:
No linked properties exist for this property

Exemptions:
No exemptions exist for this property

Condo Ownership:
General: 0
Limited: 0

Property Factors
Topography: 7, 8
Utilities: 7, 8
Access: 1
Location: 0 - Rural Land
Fronting: 8 - Frontage Road
Parking Type: 1 - Off Street
Parking Quantity: 2 - Adequate
Parking Proximity: 3 - On Site

Land Summary

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</tr>
<tr>
<td>Irrigated</td>
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<td>Wild Hay</td>
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<td>00.00</td>
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<td>Farmsite</td>
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<td>00.00</td>
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<td>00.00</td>
</tr>
<tr>
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<td>00.00</td>
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Deed Information:
 Owners

Party #1
Default Information: EDWARDS, JAMES E
PO BOX 1
Ownership %: 100
Primary Owner: "Yes"
Interest Type: Conversion
Last Modified: 11/6/2007 9:25:03 PM

Appraisals

Appraisal History

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<tr>
<td>2014</td>
<td>352</td>
<td>0</td>
<td>352</td>
<td>COST</td>
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Market Land

Market Land Info
No market land info exists for this parcel

Dwellings

Existing Dwellings
No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements
No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings
No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1
Acre Type: G - Grazing
Irrigation Type:
<table>
<thead>
<tr>
<th>Class Code: 1601</th>
<th>Timber Zone:</th>
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<tbody>
<tr>
<td>Productivity</td>
<td>Commodity: Grazing Fee</td>
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<tr>
<td>Quantity: 0.142</td>
<td>Per Acre Value: 30.16</td>
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<tr>
<td>Units: AUM/Acre</td>
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| Ag/Forest Land Item #2 | |
|------------------------||
| Acre Type: G - Grazing | |
| Class Code: 1601       | |
| Productivity           | |
| Quantity: 0.043        | |
| Units: AUM/Acre        | |
| Valuation              | |
| Acres: 2.972           | |
| Value: 27              | |
Property Record Card

Summary

Primary Information

Property Category: RP
Geocode: 03-0821-23-1-11-01-0000
Primary Owner: EDWARDS, JAMES E
PO BOX 1793
BILLINGS, MT 59103-1793
NOTE: See the Owner tab for all owner information
Certificate of Survey: 1177
Subdivision:
Legal Description:
S23, T02 S, R24 E, C.O.S. 1177, PARCEL 1
Last Modified: 9/26/2016 7:49:57 PM

General Property Information

Neighborhood: 004.1
Property Type: AR - Agricultural Rural
Living Units: 0
Levy District: 03-5970-7DL
Zoning: Ownership %: 100
Linked Property: No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:

General: 0
Limited: 0

Property Factors

Topography: 8
Fronting: 0 - None
Utilities: 0
Parking Type:
Access: 0
Parking Quantity:
Location: 0 - Rural Land
Parking Proximity:

Land Summary

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<th>Acres</th>
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<tr>
<td>Fallow</td>
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<td>00.00</td>
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<tr>
<td>Irrigated</td>
<td>0.000</td>
<td>00.00</td>
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<tr>
<td>Continuous Crop</td>
<td>0.000</td>
<td>00.00</td>
</tr>
<tr>
<td>Wild Hay</td>
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<td>00.00</td>
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Deed Information:
Owners

Party #1

Default Information: EDWARDS, JAMES E
PO BOX 1793
Ownership %: 100
Primary Owner: "Yes"
Interest Type: Conversion
Last Modified: 11/6/2007 9:25:03 PM

Other Names

Other Addresses

Appraisals

Appraisal History

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Market Land

Market Land Info
No market land info exists for this parcel

Dwellings

Existing Dwellings
No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements
No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings
No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1

Acre Type: G - Grazing
Class Code: 1601
Productivity
Quantity: 0.142

Irrigation Type:
Timber Zone:
Commodity: Grazing Fee
Units: AUM/Acre
Valuation
Acres: 23.96  Per Acre Value: 30.16
Value: 723
Property Record Card

Summary

Primary Information
Property Category: RP
Geocode: 03-0621-23-1-15-01-0000
Primary Owner:
EDWARDS, JAMES E
PO BOX 1793
BILLINGS, MT 59103-1793

Subcategory: Real Property
Assessment Code: 000D029170
COS Parcel:

NOTE: See the Owner tab for all owner information
Certificate of Survey:
Subdivision:
Legal Description:
S23, T02 S, R24 E, LOT 14
Last Modified: 9/26/2016 7:49:56 PM

General Property Information
Neighborhood: 004.1
Living Units: 0
Zoning:
Linked Property:
No linked properties exist for this property

Ownership %: 100

Exemptions:
No exemptions exist for this property

Condo Ownership:
General: 0
Limited: 0

Property Factors
Topography: 8
Utilities: 0
Access: 0
Location: 0 - Rural Land

Fronting: 0 - None
Parking Type:
Parking Quantity:
Parking Proximity:

Land Summary

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<th>Value</th>
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<td>Fallow</td>
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<tr>
<td>Irrigated</td>
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<tr>
<td>Continuous Crop</td>
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<tr>
<td>Wild Hay</td>
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<td>NonQual Land</td>
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<tr>
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<td>Total Forest Land</td>
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<td>Total Market Land</td>
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Deed Information:
Owners

Party #1
Default Information: EDWARDS, JAMES E
PO BOX 1793
Ownership %: 100
Primary Owner: "Yes"
Interest Type: Conversion
Last Modified: 11/8/2007 9:25:03 PM

Appraisals

Appraisal History

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Market Land

Market Land Info
No market land info exists for this parcel

Dwellings

Existing Dwellings
No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements
No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings
No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1
Acre Type: G - Grazing
Class Code: 1601
Productivity
Quantity: 0.142
Irrigation Type:
Timber Zone:
Commodity: Grazing Fee
Units: AUM/Acre
Valuation
Acres: 25.38
Value: 765
Per Acre Value: 30.16
Property Record Card

Summary

Primary Information
Property Category: RP
Geocode: 03-0821-14-4-01-01-0000
Subcategory: Real Property
Primary Owner:
EDWARDS, JAMES E
PO BOX 1793
BILLINGS, MT 59103-1793
COS Parcel:

NOTE: See the Owner tab for all owner information

Certificate of Survey:
Subdivision:

Legal Description:
S14, T02 S, R24 E, LOT 6 (LESS COS 1177)

Last Modified: 9/26/2016 7:51:54 PM

General Property Information

Neighborhood: 004.1
Property Type: AR - Agricultural Rural
Living Units: 0
Levy District: 03-5970-7DL
Zoning:
Ownership %: 100
Linked Property:
No linked properties exist for this property

Exemptions:
No exemptions exist for this property

Condo Ownership:
General: 0
Limited: 0

Property Factors
Topography: 8
Fronting: 0 - None
Utilities: 0
Parking Type:
Access: 0
Parking Quantity:
Location: 0 - Rural Land
Parking Proximity:

Land Summary

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<th>Land Type</th>
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<tr>
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<td>Farmsite</td>
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Deed Information:
Owners

Party #1
Default Information: EDWARDS, JAMES E
PO BOX 1793
Ownership %: 100
Primary Owner: "Yes"
Interest Type: Conversion
Last Modified: 11/6/2007 9:25:03 PM

Other Names

Other Addresses

Name   Type

Appraisals

Appraisal History

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<td>2014</td>
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Market Land

Market Land Info
No market land info exists for this parcel

Dwellings

Existing Dwellings
No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements
No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings
No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1
Acre Type: G - Grazing
Irrigation Type:
Class Code: 1601
Timber Zone:
Productivity
Commodity: Grazing Fee
Quantity: 0.142
Units: AUM/Acre
Valuation
Acres: 19.807
Value: 597
Per Acre Value: 30.16
Ag/Forest Land Item #2
Acre Type: G - Grazing
Class Code: 1601
Productivity
Quantity: 0.043
Units: AUM/Acre
Valuation
Acres: 12.253
Value: 113
Per Acre Value: 9.22
Irrigation Type:
Timber Zone:
Commodity: Grazing Fee
From: Lauren Alleman <lauren.allman@gmail.com>
Sent: Wednesday, October 12, 2016 1:01 PM
To: Meloy, Sara
Cc: Stickney, Alicia
Subject: Re: NRDP Yellowstone River settlement question

Hi Sara - thank you so much for this thoughtful reply. It is great that the Yellowstone CEA can give some basic direction but I see how the gap between feasibility and implementation could be tricky to bridge.

Alicia, great to meet you! I'm curious if you have any insight as to how the MT NRDP will be evaluating and prioritizing restoration projects? Will there be public meetings to support or suggest projects, or perhaps some type of submission process? I looked into the Gulf Coast states and it seems like at least one state (Louisiana) is accepting public proposals (in addition to drawing from the pre-existing priority project lists).

Many thanks to you both,
Lauren

On Wed, Oct 12, 2016 at 1:51 PM, Meloy, Sara <SMeloy@mt.gov> wrote:

Hi Lauren,

Thanks for getting in touch. If you have follow-up questions or would like to talk more, feel free to give me a call (406)-444-4247.

Generally, the NRDP is accepting public comment on the draft restoration plan/EA found here: https://d0imt.gov/governor-ag-announce-12-million-settlement-natural-resource-damage-2011-yellowstone-river-oil-spill/ until October 31 (a 30-day period).

The draft restoration plan references the Yellowstone CEA and the best management practices/projects (called "Yellowstone River Recommended Practices") that have come out of the study and are available here: http://yellowstonerivercouncil.org/pdfs/YellowstoneRiverYRPs_Final-03_01_2016.pdf

These are suggested, scientifically-based projects, many of which align well with the proposed settlement restoration projects, but none of the projects have been prioritized or vetted on-the-ground (e.g. the document identifies potential areas for channel migration zone easements, but landowners haven’t been contacted). This is a challenge that the Yellowstone River Conservation District Council is currently grappling with.
As for the state project prioritization process in terms of distributing funding, I'd recommend getting in touch with Alicia Stickney with the Natural Resource Damage Program (cdd here). I'm not sure how that process will work and am actually curious, myself. I'm not sure what further public comment periods will look like in between finalizing the restoration plan and implementing projects.

Hopefully I've answered a few of your questions. Let me know if I can be of further help!

- Sara

From: Lauren Alleman [mailto:lauren.alleman@gmail.com]
Sent: Saturday, October 08, 2016 12:22 PM
To: Meloy, Sara
Subject: NRDP Yellowstone River settlement question

Hi Sara,

I hope this finds you well. I am an ecologist with The Nature Conservancy and I'm trying to make connections between my knowledge of NRD as a Gulf Coast ecologist in the BP oil spill days and the state of play with NRD in Montana given the recent $12M Yellowstone River settlement announced a couple weeks ago. I'm emailing you from my personal account because I am interested in moving to Montana and leveraging my experiences in other geographies to employers.

My colleague Sierra Harris at TNC suggested that you might have good information about whether there is a list of priority projects in the Yellowstone River that are being prioritized to fund with the settlement dollars. I ask because in the BP/Deepwater Horizon case, the state of Louisiana drew from a backlog of already proposed coastal restoration projects that are funded through taxes on small motor vessels (https://lacoast.gov/new/Projects/List.aspx) and is going to make sure that future projects align to a Coastal Master Plan. In that case, the NRD process allowed for public comment in between the restoration planning and implementation stages and I am curious how similar Montana's process will be.

Does the state have a similar framework for the Yellowstone River that would give some insight into the MTNRDP's project selection? I'm aware that there is a "Yellowstone River Cumulative Effects Analysis" and a "Strategic Framework for Wetland and Riparian Area Conservation and Restoration (2013-2017)". Any insight or direction to reading materials would be greatly appreciated!

Thank you in advance for your time!
All the best,

Lauren Alleman
October 5, 2016

ATTN: Yellowstone Restoration Plan
Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425

RE: Application – Damage Category: Terrestrial/Riparian Habitat

Ladies and Gentlemen:

Please let this letter serve as a formal written request for an application in the amount of $866,610.00 to purchase Tract 1A of C.O.S. 2868, aka Dover Island. There are approximately 9,000 feet of river frontage consisting of 288 acres of cottonwood bottomlands.

YRPA is currently developing the John H. Dover Memorial Park adjacent to C.O.S. 2868. We own the 5 Mile Creek bottom flowing into the Yellowstone River as well as several thousand feet of Yellowstone River frontage. The acquisition of C.O.S. 2868 would allow for several more miles of river frontage.

YRPA has a proven record in our community and our properties were impacted by the spill. I have enclosed information on the John H. Dover Memorial Park plan.

We look forward to the public meetings and providing a formal presentation for the grant application.

Sincerely,

[Signature]
Darryl Wilson
President

DW/sec
Encl.
Dover Park History

By the early 1990’s, Jim Sindelar decided to preserve substantial portions of his farmland at the confluence of Five Mile Creek and Yellowstone River in Billings Heights for the future enjoyment of the public. He placed the homestead and the Five Mile Creek bottomland under easement with The Nature Conservancy to ensure preservation of its natural beauty, and began donating Five Mile Creek bottom and bench lands to Yellowstone River Parks Association development into a public park. He chose YRPA because of its more than 20 year record of accomplishment developing trails and other amenities to enhance access to and enjoyment of public parks along the Yellowstone River. To date, nearly 170 acres has been donated to YRPA. When completed, the park will include over a mile of Yellowstone River frontage.

Jim Sindelar also sought to memorialize his grandfather by naming the park the John H. Dover Memorial Park. John Dover began homesteading this area in the 1880’s, and the Dover-Sindelar family has farmed and ranched there since. There is a memorial plaque to Jim Sindelar’s sister, Lois, on one of the headlands, now called Lois’s Point, which overlooks the Yellowstone River.

The land has a rolling terrain with deep coulees and majestic overlooks, and will be a spectacular vista of native wildlife and riparian habitat. The land includes easements for public access via a multiuse, primary loop trail system. Secondary single-track trails will branch outward from the central trails to facilitate public access to the scenic benches and bottom lands. The Dover Park trails will, one day, be connected to the main east-west Billings Heritage Trail System via Mary St. and Dover Rd.

Dover Park Development

In 2010, YRPA engaged Land Design Inc. to develop a preliminary Master Plan using topographic, geologic, hydrologic, and historical information of the area. YRPA has made substantial progress developing the Park, and Land Design revised the Master Plan in 2015.

Beginning in the summer of 2012, YRPA’s volunteers removed a dilapidated cabin and other out-buildings, and excavated debris from an old appliances dump and recycled its metal components. Members of the Montana Conservation Corps and Boy Scout Troop 18 helped YRPA volunteers remove several miles of interior barbwire fence and a rickety old footbridge. Thanks to the generosity of the Harry L. Willet Foundation and Mackin Construction, Dover Park already contains three new fixed-steel and two steel-cable suspension bridges. Approximately three miles of multiuse trails have also been constructed.

The future John H. Dover Memorial Park may ultimately include the gravel pit, also owned by the Sindelars, and operated currently by Knife River Co. The gravel pit is located near the northwest corner of the Sindelar’s property. It lies on the high ground above Five Mile Creek and near the rims overlooking the Yellowstone River. The gravel pit has the potential to be reclaimed and developed into a substantial lake, with other attributes, on these beautiful highlands and bluffs.

In 2015 and beyond, YRPA will continue to develop primary multi-use trails and to clean up material from the old pasture lands. We will begin to remove invasive Russian olive trees and to control noxious weeds. A staging area has been cleared along the southwest entrance road, and will become a parking lot and trailhead with vault toilets. A facility will be built for a caretaker. Memorial benches can be placed at strategic intervals near the trails and at scenic overlooks.

A variable over which YRPA has very little control is the plan for the Billings Bypass Highway to come through Dover Park. Now that the Montana Department of Transportation has made their final Record of Decision, YRPA seeks to assure minimal disruption to the scenic tranquility of the Park, and the construction of over- and underpasses to safely move park users and resident wildlife away from the highway’s future. We also seek to ensure that the new highway bridge over the Yellowstone River has a separated and protected facility to safely move pedestrians and bicyclists between Dover Park and the growing community of Lockwood.

Developing the John H. Dover Memorial Park is an ambitious project that will take many years to complete, and will probably cost several million dollars. YRPA will seek out partners and benefactors to accomplish this long-term goal. Development will proceed in stages, but is well underway.

How You Can Help

Endowment Fund: YRPA has established the John H. Dover Memorial Park Endowment Fund with the Billings Community Foundation. The intent of this endowment fund is to assure the longevity of Dover Park.

Specific Projects: There is a growing list of specific projects for that need funding. These include: vault toilets, parking areas, caretaker facilities, water well, fences, secure storage for tools and supplies, signage, dog park fencing and amenities, irrigation improvements. We welcome ideas.

General donations: YRPA can always make use of donations. Although much of our labor is volunteer, materials, fuel, insurance, and equipment rental uses a lot of money.

Volunteer labor: Above all else, YRPA depends on volunteers. We use all kinds of skills, both manual and mental. Give us a call!

Contact us-
Phone: 406 248-1400
email: yrpa@yrpa.org
Our website: yrpa.org
PO Box 1201
Billings, MT 59103
John H. Dover Memorial Park

John H. Dover Memorial Park is located at the junction of Mary Street and Five Mile Road in the Billings Heights. Lying along the Yellowstone River, it straddles Five Mile Creek with its riparian bottomlands and rise onto the Billings Bench.

The Yellowstone River Parks Association is undertaking the creation of a large, beautiful natural park as a private venture for the enhancement of the Billings community. YRPA intends for the public to have free access once the park is open.
Alicia – here is a forward of the first emailed comments I got from personal acquaintances re: the ExxonMobil Pipeline settlement proposal – bg

Bob: I assume that this is just like most public hearings, the decision has been made and the hearings are a mere formality, but I will try any way. The Exxon money represents a sizable amount of discretionary cash that can be spent wisely or on frivolous items of no lasting consequence. Exxon spent millions cleaning up the spill, in the years since, the bugs have finished the job. No money should be spent cleaning up stained piles of cottonwood etc (2+ Million Really? Kidding right?). I would recommend using the money to purchase access for Montana residents. How about an access below Columbus and above Buffalo Mirage? Ten years from now, no one will know if we spent millions “cleaning”, oil is organic and while it is called crude for a reason, the long term effects are minimal. Spend the money wisely for something our kids will enjoy with their kids, the rest is just some ones pocket lining pet project. Mac

Mac Clark
Beartooth Oil & Gas
please note my new email address: mac@beartoothoil.com

**************************

Robert C. Gibson
2300 Lake Elmo Dr.
Billings, MT 59105
(406) 247-2950
**************************
Hello, I have lived in Billings since I was a very young. I have greatly enjoyed floating the Yellowstone River with my dad and friends every summer. The only problem is there isn't any boat ramps in or around Billings that are worth a damn.

Having a boat ramp off of riverfront park or close to, would make for so much more recreational activities. Families could enjoy the greatest River more and more every year with a boat ramp in Billings. Not to mention us fly fisherman who love that Freestone more than any other River in the state.

Thanks for taking the time to read this.

God Bless!

Chris Stinson
Riverfront/billings Blvrd boat access would be great!!
Hello  

I would like to offer a suggestion for the use of the Exxon settlement money. Since the substance released into the river is carcinogenic, I think 10% of the money should go to Montana cancer patients, and another 10% to fish and wildlife preservation.

Larry Downer
Pursuant to Notice, a hearing for public comment on the ExxonMobil Pipeline July 1, 2011 Yellowstone River Oil Spill Plan, was held on October 12, 2016 at the 2300 Lake Elmo Drive, Fish Wildlife and Parks Region 5 Office, Billings, Montana, starting at 6:00 p.m.

APPEARANCES:

DOUGLAS H. MARTIN
Environmental Impact Specialist
Natural Resource Damage Program
Montana Department of Justice
1301 East Lockey
Helena, Montana 59620-1425

Also Present:

ALICIA STICKNEY
Environmental Scientist Specialist
Natural Resource Damage Program
Montana Department of Justice
1301 East Lockey
Helena, Montana 59620-1425
PRESENTATION GIVEN (not reported)

* * * * * * * * *

PUBLIC COMMENTS:

And I wanted to say that I'm the president of Yellowstone River Parks Association, and I would like to have my name put on as a partner to be contacted in regards to the Restoration Plan.
That's it.

MR. MIKE PENFOLD: Mike Penfold. P-E-N-F-O-L-D.
And I do volunteer work with a group called "Our Montana".
Generally we like the tone of the Restoration Plan. We give you high marks for doing that.
Our Montana has been working on developing, trying to encourage the development of a cooperative rivering trail program for several years for the under
700 miles of the Yellowstone River.

Projects that we are working on and would like to partner with these various agencies -- I've got a list of them just to touch upon a few.

One is, we have developed a website called "exploretheyellowstoneriver.org", and it's the most robust recreation data that exists for the 700 miles of the Yellowstone River.

On that, it has all the fishing websites, all the public access sites within communities.

It's got good areas where you can bird watch. It's got all the public land that we've been able to identify along the Yellowstone River.

It's got on it recreation providers who will provide, and probably been damaged by the oil spill per boat rentals and fishing -- fly fishing sites, and museums and trails along communities and good bird watching areas. Very robust.

But we really would like to partner with somebody to turn that website into an app.

So, there's people who are on the river, or in the Yellowstone River corridor with easy access to everything on there.

So, when you go by a Clark site on the Yellowstone, you can read what happened at the
Clark's Camp because that information is on there.

So, that's the type of thing we'd like to partner with.

Another one has to do with our research on islands of the Yellowstone River. What we have discovered is that there's a huge amount of unclaimed islands, public islands owned by the State, some quite often by the State that are not identified in terms of ownership.

If we have a 700-mile-long recreation trail people need to know where public land is where they can legally stop.

These islands are really important for outdoor recreation, hunting, places to fish. They're good for catching woody debris. They have good environmental resources except for weeds, which is another project that we would like to cooperate on.

We think that the conservation groups in the area would be really good partners with the various agencies - DNRC, BLM, communities to at least do a fleet bill spread in some of these areas that are so concentrated with spotted knapweed we think that would be a good partnership to sponsor.

Another idea in the material that I'm going to give you, one, just to touch on that is there's a
good research entity in Rocky Mountain College.

They're doing very good work on various projects that affect the Yellowstone River.

Their problem is that they're undergraduate work and they short, year-end projects. And they need to have multi-year projects and some kind of a fund to stretch over several years to do these projects. So, we would support that.

There is a fishing access site at South Billings Boulevard. The Department has tried to get that developed. It's an excellent site. We'd like to see them try that again.

So, those are a few things. Thank you very much.

MS. STICKNEY: And you have written comments for us?

MR. PENFOLD: And I even wrote it down.

MS. STICKNEY: Thank you very much.

MS. ALEXIS BONOGOFSKY: Hi. I am Alexis Bonogofsky. I am a landowner along the Yellowstone River that was impacted by the oil spill.

First of all, I'm disappointed by the amount.

In 2011, Exxon made $5 million profit every hour. So, to have $12 million be the amount of the
restoration -- and like you said, it's probably not the actual damages of the river, but it is what Exxon is willing to pay. And I'm frustrated that we allow this to happen continually. This is just sort of the way we do business now. If something happens to the environment, the company then negotiates a settlement instead of looking at the actual damages and what it would cost to restore the river. We take what we can get.

So, I'm frustrated by the amount. I think there's a lot of good projects in here, but I think that you are trying to do too much with too little. So, what I would like to see is a prioritization on what you think would benefit the river the most. And to me, that would be probably the channel migration easements, and maybe even looking at some baseline surveys. I saw the article in the "Gazette" where Bob Gibson talked about, you know, there was not really good baseline data.

So, how do we know what we are restoring the river to if we don't have good baseline data? What do we know about counting turtles? How many amphibians? How many of those species that we don't really think about very often because they're not
as charismatic as trout and walleye.

So, what kind of information do we have on the Yellowstone River prior to this oil spill, and do we know what river we’re trying to restore it back to, or is this just sort of like, "Here’s some good projects that would benefit the river"? That language that we use about "making the river whole again" kind of rubs me wrong a little bit because I don’t think we actually know what that means statistically. So, I would like to see a collection of robust data set for the species along the river.

Looking back, Exxon spent $135 million on the cleanup. They recovered less than 1% the oil. If I had to do it all over again, I wouldn’t have let them on our property. Most of the damage from the oil spill came from their cleanup.

We have 50 acres of wheat. We have a river bottom that has weeds in it now that we’ve never had before from their equipment. So, it was not a fun part of our life.

So, I would like to see the projects narrowed down to something that’s actually achievable and not necessarily just a negotiation between agencies on who gets what money.

There is a lot of work to be done on the
Yellowstone. Anything focusing on channel migration
easements and baseline data would be really important.

We just saw with the Yellowstone River fish
kill out by Livingston that there wasn't real good
baseline data on the whitefish.

Before the Fish Wildlife & Parks was saying
that a lot of that survey work had maybe overestimated
fish population, so it would be really nice to know
what's in our river.

So, yeah, I appreciate you taking my
comments, and I'll be submitting more detailed written
comments in the future.

But, I know the likelihood of it changing
from 12 million is probably not possible, but I would
have liked to see a little bit more money for the
river.

MS. STICKNEY: Thank you for your comments.
If you want to leave those with us, or later?

MS. BONOGRFSKY: Oh, I'll submit them later.

MR. LEHENBAUER: I'm Steve Lehenbauer.

I also have property right on the Yellowstone
River. I have fish property that's right at the Clark
Forks and Yellowstone where it comes together right
there.
I would like to maybe partner with some soft
shore type restoration as a project.

So, I also know there is going to be a lot of
special interests groups. It sounds like there's two
or three in here right now wanting money for things
that may not even be connected with the actual damage
to landowners, like this gal here.

I would like to make sure that you guys try
to concentrate some of that money on people that were
really affected personally and not just hand it out to
special interest groups for a project that may not be
-- you know, that was not affected directly by the
spill.

So, just, yeah, I would like to be contacted
about maybe a project or something.

MR. RICHARD HERR: My name is Richard Herr.

I am a Councilman at Laurel, Laurel City.

And I really have studied. I don't know how
many of you have read this book, but I have read it
three times.

I don't agree with it all. There are lots of
things that are going on, and they will all work out
good for you, I'm sure.

I don't want to be saying "Laurel needs all
this money", because they don't. There is a park down
there that was damaged. There's soft bank. There's woody debris that you talk about.

I've lived in Laurel since 1975. If you go out to the river in May and June, there is wood floating down that river, a tremendous amount. And huge cottonwoods, they're coming from upriver.

Why do we have to spend money upriver that's already coming. We need to help you with your work. We need damage control, yes, I agree.

Laurel has some things it needs we'd like some money for. We're going the fight Billings. And you know who wins? The big city. I mean, we will do what we can.

I appreciate the work that's been done.

Fish and Game is here.

I have a question about this. The white pelicans, what are the white pelicans doing on Tongue River, on the Tongue River Reservoir? Are they breeding down there? They are not being included.

Just the pelicans up north. They are not on the Yellowstone. We need our monies to go to the Yellowstone.

Now, 400,000 to the pelicans is fine. That's a small amount of money. But, is there enough money here already?
Those birds up at Malta, and over at Culbertson area, four years ago, they didn't supply maybe.

But in the past years, they's hundreds of pelicans on the river. Where are they coming from? Maybe from up there, they're getting bred, but does that mean that fox are eating those, all those little ones? Because we're gaining some. We're getting back to normal.

We are doing a water project over in Laurel. It associated with, but not with this project. The river right now, if they did not riprapp with large rock on the south side of the Laurel bridge, that whole park that we have down there would be inundated.

Two years ago, it took out about 30% -- or a percentage of the dyke that we have. We had to get back and re-riprapp higher.

The Corps of Engineers allowed us. We had to go back in for more permission.

We did it. We saved the bank.

But they already planted -- and I think we talked earlier -- several hundred trees, soft bank.

And a lot of them went down the river before they could save them.
We have re-planted, but it's an extra cost.

It more cost to the City. We've done it.

I just appreciate what you have done.

Thank you.

MS. STICKNEY: Other comments?

ERIC WOLFF: My name is Eric Wolff.

I'd like to see some of this money be used for Yellowstone Billings and downstream.

Montana's famous for taking care of all the trout areas of the river. And there's a lot in here that's Laurel to Billings, and really nothing downstream of Billings. A lot of this river below Billings was affected.

So, you know, I fish the Yellowstone a lot, all below Billings, since 2005. The three years after the oil spill were the worst three years I've ever seen. Just unreal how bad it was.

And I fish with guys that are extremely good fishermen, and none of us could find any fish. A lot of little fish. It was really bad. It's finally starting to get back a little bit.

So, my comments are really based on just a couple of area.

Fish passages. We only have one on the Yellowstone that works around our diversion dams. All
the big diversion dams, there's only one that works.

So, before we fix any passages on the tributaries, the fish that are stuck between those diversion dams, they can't move anywhere. They can't get to those tributaries alone. So, I'd like to maybe see some of that money go to fixing the passages on the diversion dams that we have.

And then the other area is just access. They take really good care of all our accesses upstream of Billings. Nothing ever goes to our accesses downstream of Billings.

They have in here for a motorized access at Riverfront. You got one like two miles up the river at Duck Creek. You've got one another two, three miles down at Coulson. Those are both motorized. Why do we need another right there?

We have nothing below the Huntley Diversion Dam. So, if you do have another spill, how do you get access for the Diversion Dam? It has to be all through private land.

You have your few at Road 18, but those don't work in low water conditions. 27th Street doesn't work in low water conditions.

So, you know what, an access, a motorized access below the Huntley Diversion Dam might be money
better spent than putting another one in an area that already has plenty of them.

Nonmotorized can still get in and out right there, but motorized, they're going to go more than two miles. They can run the extra two miles to another access.

Then I guess I just really have a hard time with Lake Josephine and Laurel Pond. They weren't really affected. You know, the City of Billings, the park stuff, we didn't lose any use of the properties. We lost the use of the river. We lost the use of our landings. We had really poor fishing for years.

I mean, you lost decades of fish in that spill, and it would be nice if you saw more of that money used towards fixing things.

I mean, our diversion dams are horrible on that river, really. If they did one thing to the river, they should fix the diversion dams.

I saw the Corps show up one day with a whole bunch of fancy jet boats. They said they were going run to Forsyth. I said, you guys are going to make it about six miles when you hit the diversion dam.

Oh, no, we can go around there.

None of them worked. They only work on a really high water year.
Well, the fish can't get up. They're stuck.

It's amazing that we have as good of fishing as we do.

So, that's all I got say. I'd like to see more in fish passages and an access below Huntley.

So, thank you.

**MS. STICKNEY:** Are there any more comments?

And, of course, you don't have to speak tonight. You can submit comments in writing until October 31st. So, don't feel that you need to stand up and speak if that's not your thing.

**MS. WENDY WEAVER:** Hello. My name is Wendy Weaver, W-E-A-V-E-R.

I'm the Executive Director for Montana Aquatic Resource Services. We are a nonprofit founded in 2011 in response to the rapid loss of aquatic resources in Montana.

So, one of the reasons we are here today is our primary program that we have, which is tied directly into the damage from the oil spill is our Yellowstone Channel Migration Easement Program.

So the program is a unique type of conservation easement where willing landowners sell in perpetuity their rights to stabilize river banks. So, riprap, no levees or any form of bank stabilization.
So, this program was started partly because of the hard work of the YRCDC and the cumulative effects analysis that was on the river, which is just coming to an end, hopefully finalizing this year. And one of their recommendations from that study was channel migration easements.

So, I guess what I would like to say about the program is, we are positioned really well, along with other partner agencies and other conservation organizations to deliver projects. That addresses 8 out of 12 project types listed in the Restoration Plan.

So the program places under protection the channel migration zoned land along the Yellowstone. So we currently closed on our first project outside of Sidney in April. We are about to close on the next one outside of Forsyth by the end of this year, and we have a number of other projects, landowners working with additional projects.

So, I would like to offer that and have you consider, I believe it's one of the OPA's criteria for addressing a number of issues. So, I feel like with the protection of a channel migration zone, it address woody debris, reconnects flood plain side channel blockages and a number of other things.
So, thank you.

Oh, one other question I had.

Have you guys talked about or discussed what type of length you want the land protections to he? Is that perpetuity, or have you had any discussion along that line?

MS. STICKNEY: We can answer -- since we are doing the hearing, you know, a court reporter now, we will answer that in your comments.

So, just ask Fran.

MS. WEAVER: You got that?

THE REPORTER: Yes.

MS. STICKNEY: Are there any other comments?

MR. BRIAN CORCORAN: My name is Brian Corcoran, C-O-R-C-O-R-A-N.

At the conclusion of the life-year project, or proposed, I would like to know how much money will be allocated for the continuation of monitoring to the riparian areas and the aquatic species within the river, and if that would be a projection of a set amount of time, or until the funds run out, and see if there would be any increased to what you folks already do, or if that will just be for the duration of the projects?
MS. STICKNEY: We will answer that.

Any other questions or comments?

I guess I would say that if you have not spoken up tonight, please do submit written comments to us by October 31st, and we will do our best to address your comments.

MR. MARTIN: And with that, I guess we will the close the hearing. We will be around if anybody has any questions.

(Whereupon, the public comments was concluded at 7:15 p.m.)
REPORTER'S CERTIFICATE

CASE TITLE: Yellowstone River Restoration Plan

HEARING DATE: October 12, 2016

LOCATION: Billings, Montana

I hereby certify that the proceedings and evidence herein are contained fully and accurately on the stenographic notes reported by me at the hearing in the above matter, and that this is a true and correct transcript of the same.

DATE: October 18, 2016

Frances L. Mock
Big Sky Reporting
2308 Interlachen Circle
Billings, Montana 59105