2008 FINAL
UPPER CLARK FORK RIVER BASIN
RESTORATION WORK PLAN

PREPARED BY:

STATE OF MONTANA
NATURAL RESOURCE DAMAGE PROGRAM
1301 EAST LOCKEY
P. O. BOX 201425
HELENA, MT 59620-1425

DECEMBER 2008

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I hereby approve of this document and the funding decisions indicated herein:

Governor Brian Schweitzer

12·22·2008
Date

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List of Acronyms

ADLC	Anaconda-Deer Lodge City-County Government
Advisory Council	Upper Clark Fork River Basin Remediation and Restoration Advisory Council
ARCO	Atlantic Richfield Company
B-SB	Butte-Silver Bow City-County Government
CERCLA	Comprehensive Environmental Response Compensation and Liability Act
CFC	Clark Fork Coalition
CFR	Clark Fork River
CFWEP	Clark Fork Watershed Education Program
DEQ	Montana Department of Environmental Quality
DNRC	Montana Department of Natural Resources and Conservation
DOI	U.S. Department of Interior
EPA	U.S. Environmental Protection Agency
FWP	Montana Fish, Wildlife and Parks
MOU	Memorandum of Understanding
NRDP	Natural Resource Damage Program
RPPC	UCFRB Restoration Plan Procedures and Criteria
ROD	Record of Decision
TRC	Trustee Restoration Council
Tribes	Confederated Salish and Kootenai Tribes
UCFRB	Upper Clark Fork River Basin
USFS	U.S. Forest Service

1.0 EXECUTIVE SUMMARY

1.1 Background

The State of Montana obtained approximately $130 million for restoration of injured natural resources in the Upper Clark Fork River Basin (UCFRB) through a partial settlement of its natural resource damage lawsuit against the Atlantic Richfield Company (ARCO) in 1999. In February 2000, the State released the *UCFRB Restoration Plan Procedures and Criteria* (*RPPC*) that provided the framework for expending these Restoration Funds. The document was based on input from the UCFRB Remediation and Restoration Advisory Council (Advisory Council)[1] and public comment. Rather than embarking on a prescriptive process, the State elected to establish a grant process whereby various entities could apply for Restoration Funds based on procedures and criteria set forth in the *RPPC*. The criteria are aimed at funding the best mix of projects that will restore or replace the natural resources that were injured, and/or services provided by those resources that were lost, due to releases of hazardous substances from ARCO and its predecessor's mining and mineral processing operations in the UCFRB. The State revised the *RPPC* in March 2002, January 2006, and January 2007.

The Montana Natural Resource Damage Program (NRDP) administers the UCFRB Restoration Grant process. UCFRB Restoration Grant eligibility requirements include:

Applicant Eligibility: Governmental entities, private entities, and individuals are eligible to apply for UCFRB Restoration Grants.

Project Type Eligibility: Four types of projects are eligible for funding:

- Restoration projects that will restore, rehabilitate, replace, or acquire the equivalent of injured natural resources and/or the services lost as a result of releases of hazardous substances by ARCO or its predecessors that were the subject of the Montana v. ARCO lawsuit.

- Planning projects that involve developing future grant proposals.

- Monitoring and research projects that pertain to restoration or replacement of natural resources in the UCFRB.

- Education Projects that pertain to the restoration or replacement of natural resources in the UCFRB.

Project Location Eligibility: Only projects that would be located in the UCFRB are eligible for funding. This requirement does not apply to: (1) research or education projects, provided that the proposed research or education pertains to restoration of natural resources located in the UCFRB; and (2) a project, or a portion thereof, that would be located outside of the UCFRB but would have the effect of restoring or significantly facilitating the restoration of natural resources or lost services of the UCFRB.

[1] The Advisory Council consists of 12 citizen volunteers representing the public and various interest groups and 5 government representatives. A list of Advisory Council members is provided in Appendix B.

The State has awarded approximately $67.5 million for 90 grant projects since December 2000. Information on these projects can be found on the Department of Justice website at www.doj.mt.gov under "Montana Lands" or upon request from the NRDP (406-444-0205).

1.2 Work Plan Overview

This *2008 Final UCFRB Restoration Work Plan* (*Final Work Plan*) describes the State's evaluation of twelve 2008 Restoration Grant proposals, the public review process associated with the pre-draft and draft versions of this document, and the Governor's final funding decisions. The *RPPC* sets forth the process that State follows in evaluating applications and making funding decisions.

Section 3.0 of this *Final Work Plan* contains a project summary, a map, and a criteria summary table for each project. Section 4.0 provides the comparisons of the twelve projects on a criterion-specific basis. Section 5.0 summarizes the draft project rankings and draft funding recommendations. The following summarizes the various phases of the application submittal and evaluation process and identifies the sections of this *Final Work Plan* that are reflective of these phases and the contents of the other sections of this document.

- In January 2008, the NRDP distributed the 2008 grant application materials and conducted educational workshops on the application process.

- In April 2008, the NRDP received fourteen grant applications for a total Restoration Fund request of $21,865,669. Subsequently, two applications were withdrawn and budgets for five projects were revised, leaving a total of twelve applications for a total Restoration Fund request of $19,303,562. Appendix A provides the Budget Summary Tables for each project.

- In May 2008, the NRDP issued its minimum qualification determinations for the twelve remaining applications. All twelve applications were judged as meeting all the minimum qualification criteria, as covered in Section 2.0.

- In May 2008, grants applicants for nine of the 12 grant proposals presented their proposals to the Advisory Council.

- In June 2008, grant applicants for the remaining three grant proposals presented their proposals to the Advisory Council.

- In June and July 2008, Advisory Council members toured proposal sites.

- The NRDP received input from the Tribes (July 2008) and DOI (August 2008) on this year's projects that is included in Appendix B.

- The NRDP presented the August 2008 *Pre-Draft Work Plan* to the UCFRB Advisory Council at its August 12, 2008 meeting. In its *Pre-Draft Work Plan*, the NRDP recommended all proposals for funding, subject to certain funding conditions for some of the projects.

- At its September 9, 2008 meeting, the Advisory Council voted to recommend all twelve proposals for funding, subject to certain funding conditions for some of the projects. Appendix B contains a summary of Advisory Council decisions and summary meeting minutes from four Advisory Council meetings specific to these projects.

- At its September 12, 2008 meeting, the Trustee Restoration Council considered input from staff, the Advisory Council, and the public in deciding on the draft funding recommendations. The Council directed that public comment be solicited on draft funding recommendations to fund all twelve proposals, subject to certain funding conditions for some of the proposals.

- The NRDP solicited public comment from September 29, 2008 to October 31, 2008. A total of eight individuals testified at the October 21, 2008 public hearing in Butte and 50 individuals submitted comment letters. The evaluation tables provided in Section 3 provide a summary of all the public input received both before and during the public comment period on all the grant proposals.

- At its November 18, 2008 meeting, the Advisory Council considered public comment and voted to reaffirm its draft recommendation to fund all twelve proposals.

- At its December 17, 2008 meeting, the Trustee Restoration Council considered public comment and voted to recommend 11 proposals for funding as recommended in the *Draft Work Plan* and voted to recommend deferral of a funding decision on the 12th proposal, the Vanisko Ranch Conservation easement proposal, pending completion of a second appraisal.

- In December 2008, Governor Brian Schweitzer approved funding for 11 restoration projects for a total of $13,648,562 and approved this document. The Governor deferred a final decision on the Vanisko Ranch Conservation Easement project, pending a second appraisal. The projects and amounts approved for funding, subject to certain conditions, are:

Project Title	**Approved Funding**
Anaconda Waterline – Year 7	$1,742,169
Big Hole Diversion Dam Replacement Project	$3,714,833
Big Hole Transmission Line Replacement: Year 2	$1,650,542
Butte Waterline – Year 8	$2,414,424
Butte Water Metering and Public Awareness Project	$273,600
Cottonwood Creek Project Development Grant	$90,377
Milltown Land Acquisition	$586,200
Montana Tech Native Plant Diversity Nursery Project	$628,175
Silver Bow Creek Greenway	$2,173,444
State of Georgetown Lake Study	$109,463
Stucky Ridge/Jamison Property Acquisition	$265,335
Total	**$13,648,562**
Vanisko Ranch Conservation Easement	Deferred decision

2.0 MINIMUM QUALIFICATION DETERMINATIONS

The NRDP initially evaluated the twelve applications according to the following minimum qualification criteria specified in the *RPPC*:

- That the application is completed fully and accurately and contains all necessary information.

- That the proposed project would restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources that were the subject of Montana v. ARCO.

- That the proposed project would be located in the UCFRB. This requirement does not apply to: (1) research or education projects, provided that the proposed research or education pertains to restoration of natural resources located in the UCFRB; (2) a project, or a portion thereof, that would be located outside of the UCFRB but would have the effect of restoring or significantly facilitating the restoration of natural resources or lost services of the UCFRB; and (3) projects to restore native trout, provided such projects are located in the Big Blackfoot River Basin and there is a showing that it would be impractical or uneconomic to restore such trout in the UCFRB.

- That the applicant has the ability, financial means, and other qualifications necessary to undertake the proposed project.

- That the project will not potentially interfere, overlap, or partially overlap with the restoration work covered under current or planned consent decrees or restoration plans.

The twelve projects met minimum qualifications and were thus fully evaluated for Stage 1 and 2 criteria according to the *RPPC* procedures.

3.0 PROJECT SUMMARIES, MAPS, and CRITERIA SUMMARY TABLES

Table 1-1 summarizes the twelve projects submitted. Project summaries, maps and criteria summary tables follow for each project.

Table 1-1. 2008 Restoration Project Requests

2008 NRDP GRANT PROPOSAL BUDGET TABLE – updated September 2008[2]		
APPLICANT and PROJECT TITLE	**FUNDING SOURCE**	**TOTAL BUDGET**
Anaconda-Deer Lodge County	NRDP	$1,742,169
	Other	$120,664
Front and Alder Street Water Main Replacements	Total	$1,862,833
American Land Conservancy	NRDP	$265,335
	Other	$5,488
Stucky Ridge / Jamison Property Acquisition	Total	$270,823
Butte-Silver Bow Local Government	NRDP	$3,714,833
	Other	$441,012
Big Hole Diversion Dam Replacement Project	Total	$4,155,845
Butte-Silver Bow Local Government	NRDP	$1,650,542
	Other	$504,863
Big Hole Transmission Line Replacement: Year 2	Total	$2,155,405
Butte-Silver Bow Local Government	NRDP	$2,414,424
	Other	$314,647
Year 8 of the Butte Drinking Water Infrastructure Upgrades Program	Total	$2,729,071
Butte-Silver Bow Local Government	NRDP	$273,600
	Other	$51,561
Water Metering and Public Awareness Project	Total	$325,161

[2] The budgets for the Big Hole Diversion Dam, Butte Nursery Research, Cottonwood Creek Flow Study, Georgetown Lake Study, Milltown Acquisition projects were revised by the NRDP with the concurrence of the applicants.

APPLICANT and PROJECT TITLE	FUNDING SOURCE	TOTAL BUDGET
Granite Conservation District, Granite Headwaters Watershed Group, Georgetown Lake Homeowners Assoc. and Upper Clark Fork River Basin Steering Committee State of Georgetown Lake	NRDP	$109,463
	Other	$41,292
	Total	$150,755
Greenway Service District Silver Bow Creek Greenway	NRDP	$2,173,444
	Other	$0
	Total	$2,173,444
Milltown Redevelopment Working Group and Clark Fork Coalition Milltown Land Acquisition	NRDP	$586,200
	Other	$0
	Total	$586,200
Montana Fish, Wildlife and Parks Vanisko Ranch Conservation Easement	NRDP	$5,655,000
	Other	$27,031
	Total	$5,682,031
Montana Tech Restoring Native Plant Diversity in the UCFRB	NRDP	$628,175
	Other	$142,072
	Total	$770,247
Watershed Restoration Council Cottonwood Creek Project Development Grant	NRDP	$90,377
	Other	$25,180
	Total	$115,557
	NRDP	**$19,303,562**
	Other	**$1,673,810**
	Total	**$20,977,372**

WITHDRAWN 2008 Grant Proposals	
Watershed Restoration Council Cottonwood Creek Fish Passage	**WITHDRAWN by applicant –** $199,933 request to NRDP for a project to remove fish passage barriers in lower Cottonwood Creek near its confluence with the Clark Fork River in Deer Lodge.
Rocky Mountain Elk Foundation Modesty Creek II Conservation Easement and Land Acquisition	**WITHDRAWN by applicant – $**1,226,656 request to the NRDP to fund acquisition of 1200 acres wildlife habitat and associated public access through a purchase of 800 acres and public access easement on 400 acres of lands north of Anaconda near Modesty Creek**.**

Clark Fork Coalition and Milltown Redevelopment Working Group
Milltown Land Acquisition Grant

Project Summary

The Clark Fork Coalition and the Milltown Redevelopment Working Group propose that the State acquire approximately 415 acres of property and associated water rights that the NorthWestern Corporation (NWC) owns near the Milltown Dam site for a net cost of $586,200.

Pursuant to the 2005 Milltown Consent Decree (CD), NWC owes the State $3.9 million for the State's restoration activities at the Milltown site. Of this amount, NWC paid the State $2.5 million in cash in April 2006, which was deposited into the Milltown Restoration Fund. The remaining $1.4 million is to be paid with NWC's insurance policy premium refund and NWC's Milltown land and water rights or cash on a schedule tied to the dam removal schedule. In June 2008, the NWC insurance refund of $813,800 was paid to the State and also deposited in the Milltown Restoration Fund. The option in the CD provides for NWC to transfer its land/water rights to the State to resolve its remaining debt to the State of $586,200; however, resolving this debt with the land transfer instead of cash would leave the Milltown Restoration Fund short $586,200 that is needed for implementation of the State's Milltown Restoration Plan. If approved, this grant proposal would authorize the transfer of $586,200 in UCFRB Restoration Grant Funds to the Milltown Restoration Fund, thereby enabling the land/water rights acquisition and providing needed funding for Milltown restoration activities.[3]

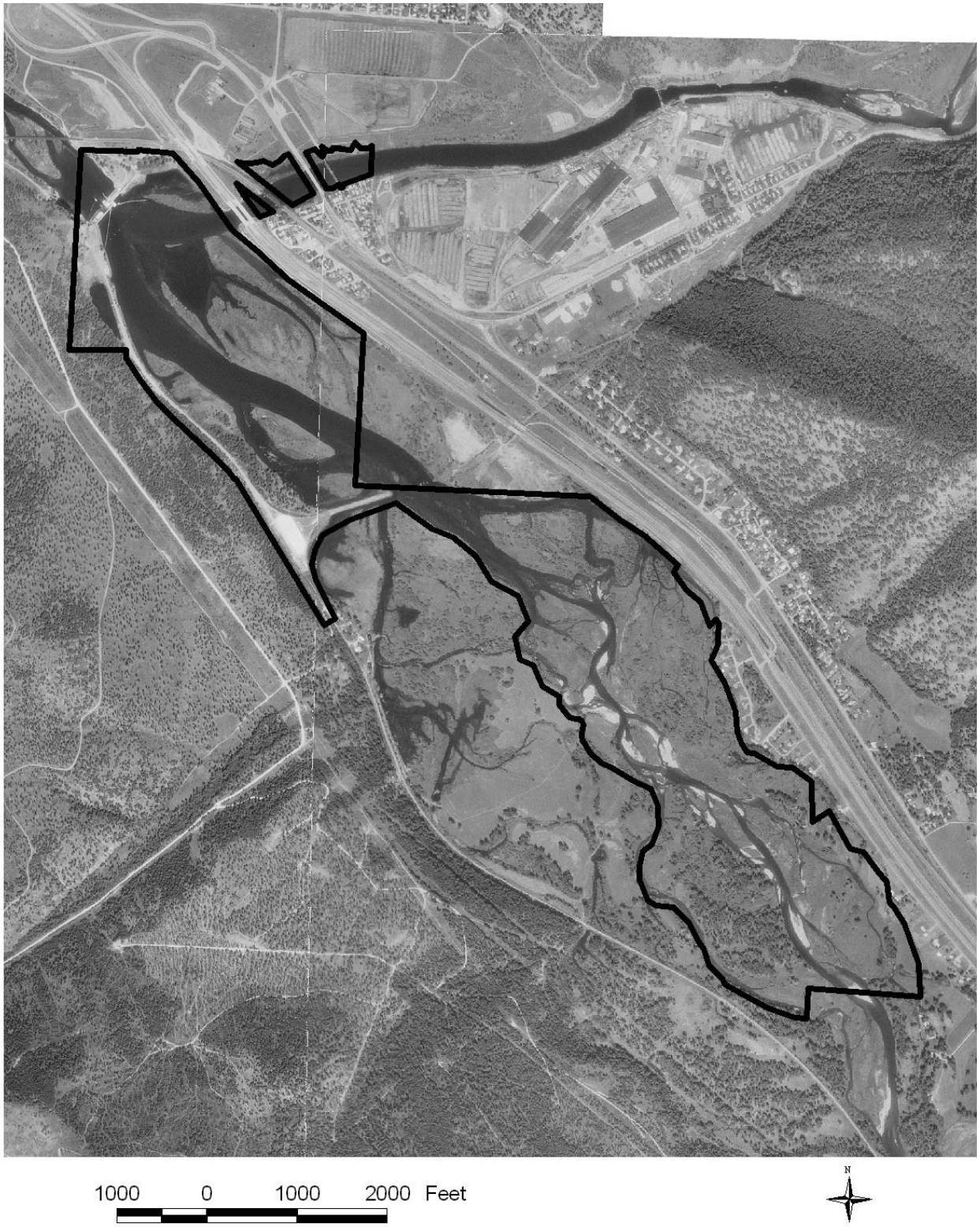
Through a project development grant approved in 2006, the State conducted a property appraisal of the NWC property. The appraisal valued the NWC's Milltown lands at $1,625,000, which is $1,038,800 higher than, or about 3 times as much as the $586,200 requested in grant funds to accomplish the proposed land and water rights transaction. The value to the State that would be obtained in exercising the option would be even greater, given that the appraisal did not assess or consider the value of NWC's Milltown water rights, which could be substantial.

Local groups from Milltown, Bonner and Missoula have expressed interest in having the NWC Milltown property in public ownership and have developed conceptual plans for redevelopment of certain portions of this property. Ideas include a state park augmenting the restoration work, with developed areas consisting of recreational trails, river access sites, and visitor facilities.

This grant application only provides for a funding mechanism for and a commitment by the State to acquire NWC's land and water rights. It does not identify which state agency should hold title to the lands, instead leaving that decision to be worked out within the state executive branch. Also left to be worked out later are decisions about the future development plans and public use of these acquired lands.

[3] At the time of grant submittal, the amount of NWC's insurance refund was unknown. Thus the original grant application involved a request of "up to $1.4 million" with the recognition that this amount would be reduced by the amount of the insurance refund.

Figure 1: Map of Milltown Land Acquisition



Summary of RPPC Criteria Evaluation for Milltown Land Acquisition Grant Application Applicant: Clark Fork Coalition and Milltown Redevelopment Working Group	
Project Summary	The Clark Fork Coalition and the Milltown Redevelopment Working Group proposes that the State acquire, under an option provided for in the Milltown CD, approximately 415 acres of property and associated water rights that NorthWestern Corporation (NWC) owns near the Milltown Dam site. The net project costs are $586,200. Overall Application Quality: Good
Final Funding Decision and Funding Conditions	The Governor approved full funding of this project for the requested $586,200, with no additional funding conditions.
Criteria Evaluation	
1. Technical Feasibility	Reasonably Feasible: The Milltown Site CD provides the process with which the State can take ownership of the NWC property and water rights near the Milltown Dam. The CD option provides for NWC to transfer the property and water rights to the State and thereby resolve their remaining debt to the State of $586,200. The State needs to accept and complete the transaction process, which is technically and administratively feasible and does not involve any significant uncertainties. Title and survey work has been completed and the mineral rights go with the land.
2. Costs:Benefits	High Net Benefits: This project is considered a high net benefit because the State will be getting property appraised at $1,625,000 for $586,200, plus associated water rights, and the benefits the public could gain from public ownership of the land and water rights are substantial. State ownership of the lands would provide for public access and recreational opportunities at the Milltown reservoir area and help protect the State's $12 million investment to restore this area, as well as help protect the remedial investment. State ownership of the water rights can also benefit the Clark Fork fishery if the water rights are converted to instream flow.
3. Cost-Effectiveness	Cost-Effective: The appraised value of the NWC land is $1,625,000. This value does not include the water rights that NWC would also provide to the State. Since the State is receiving $813,800 from NWC for their insurance policy premium refund, the land and water rights are being provided to the State at a value of $586,200, or $1,038,800 less than the appraised value of the land alone. The State taking title to this land and water rights for this price is cost-effective. Other alternatives to the State purchasing the Milltown land and water rights would be for the State to purchase a conservation easement from the future landowner, or for the Tribes or the federal government to acquire the land from NWC, which is allowed under the CD provisions in the event the State does not acquire the property. The easement option offers less benefits and likely higher costs than the other alternatives, and State ownership is considered favorable to federal or Tribal ownership, given that the State is directing restoration actions on these lands and will have control of them once they are acquired.

Summary of RPPC Criteria Evaluation for Milltown Land Acquisition Grant Application Applicant: Clark Fork Coalition and Milltown Redevelopment Working Group	
4. Adverse Environmental Impacts	No Adverse Impacts: There are no adverse environmental impacts associated with this property acquisition. The project will actually provide benefits to the environment by insuring the protection of the remediation and restoration investments spent in this area.
5. Human Health and Safety	No Adverse Impacts: The proposed acquisition will not impact human health. See criterion #19 regarding demands for additional government services associated with this proposal.
6. Results of Response Actions	Positive Coordinates: State acquisition of NWC's Milltown property coordinates with the remedial actions at the Milltown Reservoir Sediments Operable Unit. By placing the land in State ownership it should facilitate compliance with the Milltown Site CD.
7. Natural Recovery Potential	Reduces the Recovery Period: State ownership of the NWC land and water rights will allow the State to manage the lands and water rights to benefit the site recovery period. Protection of the restoration and remedial actions will ensure that the initial restoration actions taken to establish the natural processes will be allowed to fully develop so the site will restore itself over time.
8. Applicable Policies and Laws	Consistent: This project is consistent with the Milltown CD and other legal requirements. The State will comply with all legal requirements that apply to public acquisitions, such as weed control.
9. Resources of Special Interest	Beneficial Impacts: The Tribes have indicated they strongly support this project, stating that it offers many restoration and redevelopment benefits and that it would restore certain treaty-reserved rights. The DOI supports funding the project. There are several threatened and endangered species that use or may benefit from the use of this area in the future and the documented cultural sites will be protected with State ownership.
10. Project Location	Within and Proximate: The Milltown Reservoir is located within the UCFRB, and identified as an injured area.
11. Actual Restoration of Injured Resources	Contributes to Restoration: This is an acquisition of property that the State is restoring in conjunction with an EPA-required remediation. State ownership of this property will help insure the protection of the remediation and restoration investment at this site.
12. Service Loss/Restored & Service Restoration	Same: This project will help restore lost recreational services by securing public access to lands for public recreation and restore lost ecological services by protecting restored lands.
13. Public Support	3 support comments: from the Clark Fork River Technical Assistance Committee and two individuals. The 2006 Project Development Grant to fund the appraisal for this project received strong public support.
14. Matching Funds	None: However, substantial value is being acquired at what is, in essence, a discounted price. (64% below the appraised fair market value.) This discount, in effect, was part of the State's natural resource damages recovery from NWC negotiated as part of the Milltown CD.
15. Public Access	Increased Access Beneficial: The proposed acquisition will insure public access at the site. The benefits of this access are considered to outweigh the potential adverse impacts associated with increased access, as described under criteria #19.

Summary of RPPC Criteria Evaluation for Milltown Land Acquisition Grant Application Applicant: Clark Fork Coalition and Milltown Redevelopment Working Group	
16. Ecosystem Considerations	Positive: The NWC property and water rights are located at the confluence to two major rivers in western Montana. The placement of these lands and water rights in State ownership will insure the critical migration corridors for fish and wildlife are maintained.
17. Coordination & Integration	Coordinates/Integrates: This project will allow the State to manage these lands in a manner best suited to benefit the restoration investment at this site. It coordinates with proposed redevelopment plans by local groups in the Milltown area.
18. Normal Government Functions	Outside Normal Government Functions: While the CD provides the process for the State or other entities to acquire NWC's lands and water rights, the proposed acquisition is not required to be conducted or funded by any government entity.
Property Acquisition Criteria	
19. Desirability of Public Ownership	Restoration Beneficial: There has been strong public support for the NWC land becoming a State park, and the acquisition of the land is the first step in that process.[4] The potential detriments of public ownership are the reduced property taxes under public ownership compared to private ownership, which may not be significant given the likely increased tax revenue from adjacent lands, and the costs of maintaining a State park at this site, which have not been determined. The transfer of water rights from NWC to the State has received both supportive comments and comments of concern.[5] Supporters of the State taking the water rights believe that the State is the best entity to own these water rights, because if the State does not accept the water rights, then the federal government or the Tribes will have an option of acquiring them. Changing the water right from hydropower to instream flow rights will benefit the Clark Fork fishery. Others have expressed concerns about the State owning water rights as instream flow rights and potentially making calls on upstream users that have a water right date less senior than the 1904 NWC water rights. These same concerns would exist and could be greater under the alternative of federal or Tribal ownership of the water rights. Overall, the benefits of State ownership are considered to outweigh these potential or perceived detriments.
20. Price	Below Fair Market Value: The purchase price of this property is $586,200, which is 64% below the appraised fair market value of the land alone, i.e., $1,625,000.

[4] This support is documented through deliberations, public hearings, and products of the Milltown Redevelopment Working Group.

[5] This potential transfer of the Milltown water rights has been the subject of deliberations at several meetings in the past three years of the Clark Fork Steering Committee, which produced an issue paper on this topic in October 2007, and the UCFRB Remediation and Restoration Advisory Council.

Greenway Service District
Silver Bow Creek Greenway – 2008 Grant

Project Summary

The Greenway Service District (GSD) is requesting $2,173,444 to restore aquatic and riparian resources and for trail construction along Subarea 3 and 4 of Silver Bow Creek. All the proposed activities will be coordinated with remedial actions. The major requests are for ecological and habitat improvements in Subarea 3 and access features in both Subareas 3 and 4. Of the total $2,173,444 requested, $1,217,130 (56%) is for access features, $521,624 (24%) is for ecological and habitat improvements, and $434,690 (20%) is for contingency, oversight, and design.

Subarea 3 Description and Major Restoration Components

Subarea 3 is five miles long (miles 11-15) and extends from Miles Crossing, which is about one mile east of Durant Canyon, through Durant Canyon to the Fairmont Bridge. At Miles Crossing, the proposal provides for additional floodplain and a revised stream channel alignment in a one mile area, with work to be coordinated with remedy in 2009. The channel would be realigned outside of its existing location in a very constricted area between two railroads. A railroad undercrossing (box-culvert) will be required for this effort. Requested funding would also cover about one-half mile of trail and a second railroad undercrossing to allow passage of the Greenway trail. Funding for other ecological components such as organic matter placement and additional plantings for this area, as well as for the design alternatives analysis for the proposed stream realignment, was approved through previous GSD grants.

Subarea 4 Description and Major Restoration Components

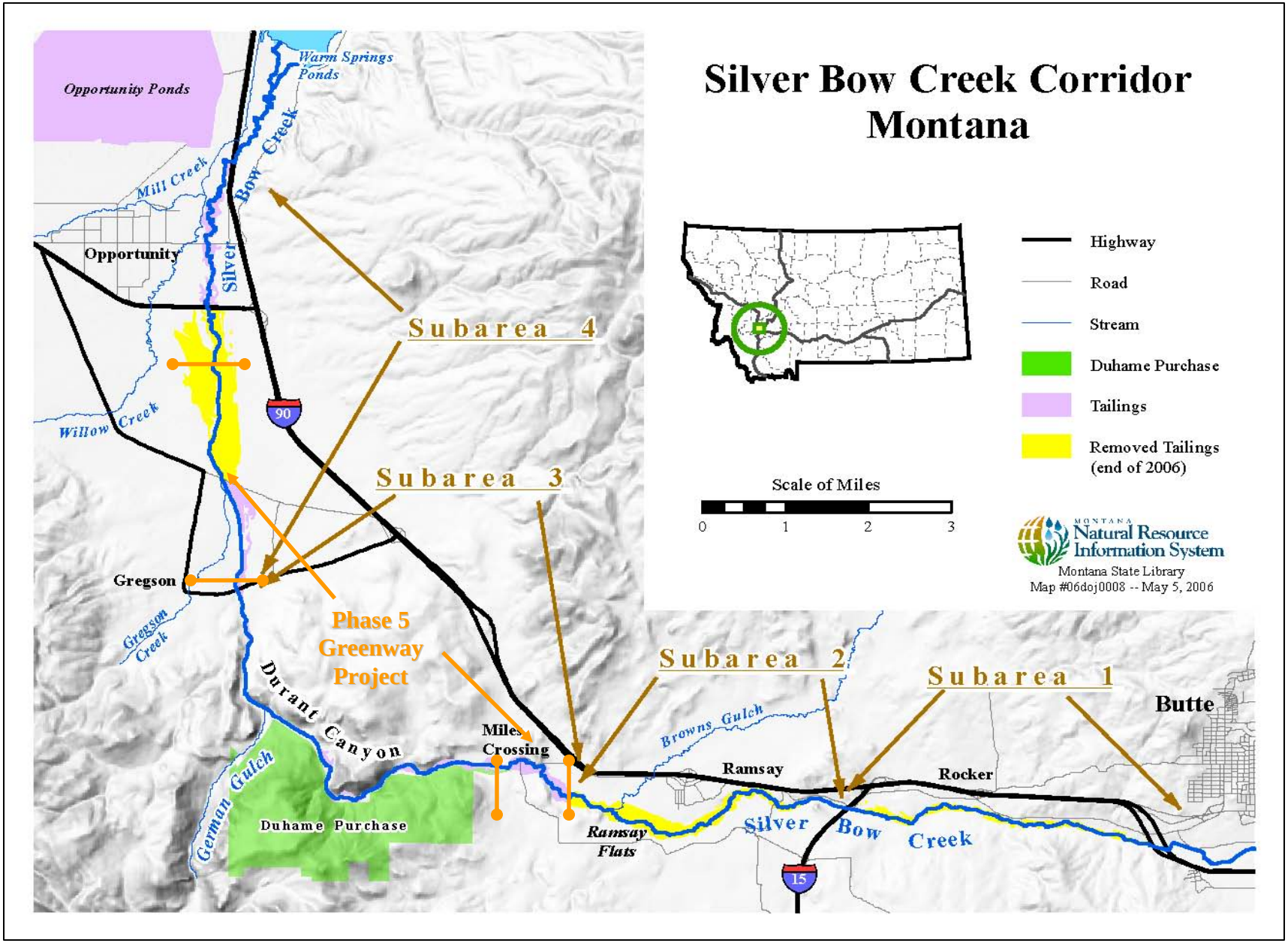
Subarea 4 is seven miles long (miles 16-22) and extends from the Fairmont Bridge to Warm Springs Ponds. This proposal provides for construction of a 10-foot asphalt trail, about four miles in length, along Subarea 4 in 2009. The aggregate base course for the trail is proposed to be 14-feet wide and 6 inches deep with a fabric layer. Four foot bridges for this area were approved for funding in the 2007 GSD grant.

Past Silver Bow Creek Greenway Grants

In the last seven years, the GSD was awarded approximately $12 million in Restoration Funds for development of a Greenway trail on the first 7 miles of creek and restoration of aquatic and riparian resources and services along most of the 25-mile Silver Bow Creek. To date about half the approved funding has been spent, mostly on aquatic and floodplain habitat improvements and on the Ramsay Flats tailings removal. This aquatic and floodplain habitat work has occurred with extensive remedial coordination between the GSD, NRDP, and DEQ. For example, DEQ contracts for organic matter placement before contracting for seeding and the NRDP, with GSD concurrence, pays DEQ for the work from past Restoration Fund allocations.

Completion of DEQ's major remediation construction activities is expected in 2011. The majority of restoration work will also be completed by then, except for construction of any remaining GSD access features and monitoring activities.

Figure 2: Map of Greenway Project



Summary of RPPC Criteria Evaluation for Greenway Applicant: Greenway Service District (GSD) – 2008 grant	
Project Summary	The GSD seeks $2,173,444 for stream realignment activities in the Miles Crossing area and trail access feature development in Subarea 3 and Subarea 4. Of the total requested, 56% is for access features, 24% is for ecological and habitat improvements, and 20% is for contingency, oversight, and design. Overall Application Quality: Good
Final Funding Decision and Funding Conditions	The Governor approved full funding of this project for the requested amount of $2,173,444, with no additional funding conditions.
Criteria Evaluation	
1. Technical Feasibility	Reasonably Feasible: The GSD project will employ accepted technologies. The success of the project is contingent on coordination with DEQ's remedial design and construction activities. The DEQ supports this proposal and will coordinate the effort with both remedial designs and actions. The GSD consultant that is designing the proposed restoration components is also the remedial design contractor for DEQ, which facilitates the remedy/restoration coordination. Acceptance by Rarus Railroad for allowing the construction of the rail underpasses is also needed. At this time, Rarus is supportive of this work, which would reduce the possibility of trail/rail conflicts and the potential impact of flooding to railroad embankments.[6] The proposal is consistent with the terms of the GSD's approved master agreement with Rarus. The only significant uncertainty with the trail portion of this proposal concerns the GSD's acquisition of the Golden Technologies property in Subarea 4, which has been approved for funding via a previous GSD grant but has not been completed. If this acquisition is not successful, the GSD will pursue an alternative trail location to the east of the property.
2. Costs: Benefits	Net Benefits: The project will benefit the injured natural resources of Silver Bow Creek by enhancing fish and wildlife habitat and the ecological and recreational services associated with these restored resources. Aquatic resources will benefit from the realignment of one mile of stream with enhanced streambanks from its current restricted channel between two railroads and from the broadening of the floodplain from the planned 6 acres under remedy to 19 acres. This stream realignment/broadening of the floodplain will also reduce flood flow depths and erosive forces on the railroad embankments and provide for an alternate trail location that has less potential for rail/trail conflicts. The development of the Greenway trails will provide for public access to the corridor and enjoyment of a variety of recreational opportunities in an ecologically-protective manner. The project provides for optimal coordination with remedy, thereby achieving significant cost savings.

[6] Joel Gerhardt of the GSD has indicated to Greg Mullen of the NRDP that Rarus is accepting of the proposed work based on his multiple communications with the Rarus representatives regarding this project in June 2008.

Summary of RPPC Criteria Evaluation for Greenway Applicant: Greenway Service District (GSD) – 2008 grant	
3. Cost-Effectiveness	Likely Cost-Effective: The GSD provided an adequate analysis of alternatives, particularly for the stream location alternatives for the Miles Crossing area. The stream and trail will be placed north of the Rarus rail line, which allows for a broader floodplain and eliminates a railroad crossing for the trail. The NRDP's stream restoration consultant concurs with this alternate location. The proposed enhancements are likely to be cost-effective given the reasonableness of the costs, combined with the sound approaches that will be coordinated with remedial actions. The GSD proposes to pave the Subarea 4 trail because the newly constructed interstate rest area at Highway 1 will serve as a good access point for many trail users of various types, including users with disabilities, and because this new segment of the trail will attract a variety of users, from area residents to the traveling public using the rest area. Paving the trail will have lower long-term maintenance costs compared to soft-surface trails, and the paving costs are considered reasonable since they are based on results of a recent competitive bidding process. For these reasons, the NRDP considers paving to be a cost-effective alternative for this trail section.
4. Adverse Environmental Impacts	Short-term Adverse Impacts with Mitigation: The DEQ's and GSD's contractors will address short-term adverse water quality impacts during the construction activities for their respective portions of the project through best management practices. Long-term beneficial impacts to the environment will result from this project.
5. Human Health and Safety	No Significant Adverse Impacts: The DEQ's and GSD's contractors will address potential short-term impacts to human health and safety during the construction activities for their respective portions of the project via implementation with standard safety plans. The Butte-Silver Bow and Anaconda-Deer Lodge City/County governments have created the GSD to manage the Silver Bow Creek Greenway and are willing to accept the additional governmental demands associated with the Greenway.
6. Results of Response Actions	Positive Coordination: This project positively coordinates with and augments remedial actions by enhancing both aquatic and terrestrial resources.
7. Natural Recovery Potential	Reduces Recovery Period: The recovery time will be reduced by the proposed additional stream enhancements, which will accelerate the recovery of aquatic and wildlife habitat. Trail creation will also accelerate the recovery of injured resources by properly controlling public use, thereby protecting the remediated and restored areas.
8. Applicable Policies and Laws	Consistent/Sufficient Information Provided: The GSD has identified the needed permits that will be obtained for performing the work.

Summary of RPPC Criteria Evaluation for Greenway Applicant: Greenway Service District (GSD) – 2008 grant	
9. Resources of Special Interest	Beneficial Impacts: The project is expected to benefit natural resources of special interest to the Tribes and DOI, due to the improved fish and wildlife habitat. The Tribes have commented in support of the project and noted the potential for encountering buried cultural features and/or artifacts during excavation. A database inquiry did not indicate any cultural or historic resources in the project area. If funded, the project grant agreement would require compliance with the State/Tribal MOU that provides for the proper inquiry and consultation with the Tribes during project implementation. The DOI supports funding the project.
10. Project Location	Within Basin and Proximate: All restoration activities associated with this proposal will be conducted at or near the injured resource areas of Silver Bow Creek.
11. Actual Restoration of Injured Resources	Restoration/Other: The proposed stream restoration actions at Miles Crossing constitute actual restoration. Most of the project components, such as trail construction, contribute to restoration.
12. Service Loss/Restored & Service Restoration	Same and Similar: The project will provide some of the same services as those lost due to injuries, including ecological services that restored habitat provides to fish and wildlife and recreational services, such as fishing and hiking and other recreational services considered to be similar to those covered under Montana v. ARCO.
13. Public Support	Five Support Comments: from the Clark Fork Coalition, Butte-Silver Bow, the Greenway Service District, and two individuals. Past Greenway grants have received substantial public support.
14. Matching Funds	None: While the GSD does not propose any matching funds, it should be noted that the cost savings obtained by coordinating with remedy should be substantial.
15. Public Access	Increased Access Beneficial: The proposed Greenway trail will allow the public to access and recreate along Silver Bow Creek in a manner protective of restored resources. Butte-Silver Bow and Anaconda Deer-Lodge counties are willing to accept the additional governmental demands associated with this increased public access.
16. Ecosystem Considerations	Positive: The project will result in improvements to the headwaters of the Clark Fork River and benefits to multiple natural resources.
17. Coordination & Integration	Coordinates/Integrates: This project fits well with the restoration priorities set out in the *Silver Bow Creek Watershed Restoration Plan*, with past GSD grants, and with funded educational projects that are using Silver Bow Creek as an outdoor classroom. It coordinates with the Montana Department of Transportation's construction of a new rest area at Highway 1.
18. Normal Government Functions	Outside of Normal Government Function: None of the project activities entail those that a governmental entity is obligated by law to conduct or would normally conduct.

American Land Conservancy
Stucky Ridge/Jamison Property Acquisition

Project Summary

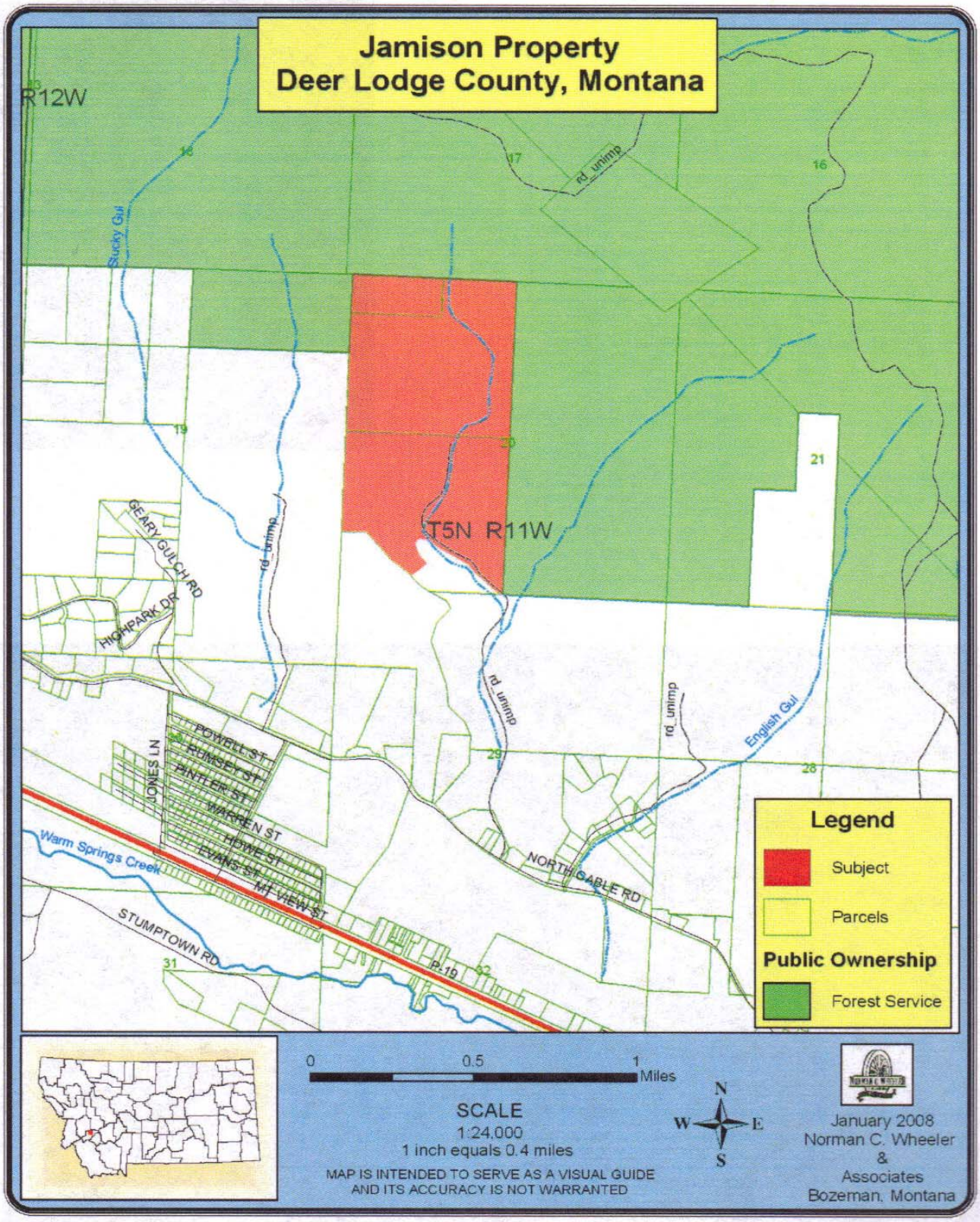
The American Land Conservancy proposes to purchase the remaining 76 acres of a 296-acre property located three miles northwest of Anaconda adjacent to Stucky Ridge. The American Land Conservancy holds a purchase option on the entire property with Sheri Jamison. With assistance of the Conservancy, Montana Fish, Wildlife and Parks (FWP) purchased the first 220 acres on June 30, 2008. Total project costs are $270,823 with $265,335 requested in Restoration Funds and $5,488 in matching funds ($4,408 cash and $1,080 in-kind).

FWP will own and manage all of the property as part of the Blue-eyed Nellie Wildlife Management Area (WMA). The property is adjacent to Forest Service land on Stucky Ridge and provides a critical link for wildlife migration between the Blue-eyed Nellie WMA, Lost Creek WMA, and Garrity WMA. FWP considers this property to be the most important and at most risk of potential subdivision of the two mile privately owned Stucky Ridge front.

The entire 296 acre property is critical winter range habitat for Rocky Mountain bighorn sheep and elk, rutting and calving habitat for elk, and habitat for a variety of other wildlife species, including mule deer. The property contains intermountain foothills, grasslands, aspen, lodgepole pine, and riparian vegetation. The property will also provide public access for hunting and wildlife viewing as well as other recreational opportunities.

The option agreement, title work, and appraisal have been completed on this property. The value of this property has been appraised at $3,600 per acre, while the purchase price for this transaction is below the appraised value at $3,500 per acre.

Figure 3: Detailed Map – Stucky Ridge/Jamison Property Acquisition, Deer Lodge County, Montana



Summary of RPPC Criteria Evaluation for Stucky Ridge/Jamison Property Acquisition Applicant: American Land Conservancy	
Project Summary	The American Land Conservancy proposes to purchase 76 acres located three miles northwest of Anaconda adjacent to Stucky Ridge. Total project costs are $270,823 with $265,335 requested in Restoration funds and $5,488 in matching funds ($4,408 cash and $1,080 in-kind). Overall Application Quality: Good
Final Funding Decision and Funding Conditions	The Governor approved full funding of this project for the requested $265,335, subject to a funding condition that if the mineral title search indicates a third party owns a significant portion of the mineral rights and the right to surface entry, that the acquisition not go forward unless those rights are purchased by the owner and conveyed to the State or subordinated to the State's surface rights as the fee owner (i.e., no right of surface entry).
Criteria Evaluation	
1. Technical Feasibility	Reasonably Feasible: There are a few remaining uncertainties with achieving the project goal of securing public ownership of the 76 acre Jamison property in order to protect critical winter range habitat for Rocky Mountain bighorn sheep and elk, as well providing public access for hunting, hiking, and wildlife viewing. This purchase would be Phase II of a two-phased project. American Land Conservancy has secured an option for the entire 296 acre Jamison property and FWP has successfully completed the purchase on the Phase I parcel consisting of 220 acres. Through that purchase, FWP acquired legal access on the east side of the property. The title work and appraisal have been completed for the entire property, but not solely for the Phase II 76 acres. The Land Board and FWP Commission have approved the purchase of the entire parcel. The only uncertainties at this time, with regard to the purchase of the Phase II acres, are: 1) obtaining a clear title report and survey for the Phase II 76 acres; and 2) resolving unknowns regarding the ownership of the mineral rights. In July 2008, FWP ordered a title report for the property, including a determination of how the title to the mineral rights are held. Based on a September 2008 update, the title company will issue a mineral guarantee to FWP.[7] Given that the Phase I acquisition has been successfully completed, it is reasonably likely that Phase II can be successfully completed.
2. Costs:Benefits	High Net Benefits: Direct costs to the Restoration Fund to acquire the 76 acre property would be $265,335. By acquiring public ownership of the high quality wildlife habitat, winter range, and recreational lands, acquisition of this land, in conjunction with the acquisition of 220 acres in Phase I, will protect and preserve the area from development or land use activities that may be detrimental to natural resources, provide public access, and maintain and enhance natural resources through conservation focused public management. Given these substantial benefits and that the majority of the entire acquisition was purchased with other funds besides Restoration Funds, the NRDP considers the project to be of high net benefits.

[7] Information provided in a 9/4/08 email from Candace Durran of FWP to Carol Fox of the NRDP.

Summary of RPPC Criteria Evaluation for Stucky Ridge/Jamison Property Acquisition Applicant: American Land Conservancy	
3. Cost-Effectiveness	Likely Cost-Effective: The applicant considered four alternatives to the selected proposal – the no action alternative, conservation easement, bargain sale, and purchase at a later date. The no-action alternative would not accomplish the project's goal. The land owner was not willing to consider a conservation easement or a sale below the negotiated $3,500 per acre. A later purchase by FWP would not be cost-effective given the continual increase in land prices. Given the price per acre is below the appraised price and the completed purchase of the Phase I 220 acres by FWP, the chosen alternative is likely cost-effective.
4. Adverse Environmental Impacts	No Adverse Impacts: The purchase of the Jamison property presents no adverse impacts to the environment. Acquisition of the property will likely enhance the natural resources by protecting them from potential detrimental development or land management activities and by implementing a conservation oriented management plan for the property.
5. Human Health and Safety	No Adverse Impacts: No adverse impacts to health and safety are anticipated with this public acquisition or associated protection aspects of the project.
6. Results of Response Actions	Consistent: This project will not duplicate or interfere with results of a completed, planned, or anticipated Superfund response action. The property is not located within the Stucky Ridge injured area.
7. Natural Recovery Potential	No Effect on Recovery Period: This acquisition will not change the time frame for recovery.
8. Applicable Policies and Laws	Consistent: American Land Conservancy has conducted the necessary coordination and provided reasonable assurance that the necessary land transaction documents have been or will be executed. FWP will comply with state laws relating to weed control and weed management for public acquisitions.
9. Resources of Special Interest	Beneficial Impact: Given that this acquisition would provide long-term protection for wildlife habitat, it is likely to benefit resources of special interest to the Tribes and DOI. The Tribes have indicated their strong support for the proposal. The DOI supports funding the project.
10. Project Location	Within the Basin and Proximate: The project is considered proximate to injured terrestrial resources due to its location three miles northwest of Anaconda.
11. Actual Restoration of Injured Resources	May Contribute to Restoration: This project involves the acquisition of unimpaired resources that are near to injured terrestrial resources on Stucky Ridge. The project will protect existing habitat on the property and may enhance wildlife populations in the adjoining Stucky Ridge area.
12. Service Loss/Restored & Service Restoration	Same: The acquisition protects replacement wildlife habitat and associated recreational services that are considered substantially equivalent to those lost or impaired services addressed under Montana v. ARCO.
13. Public Support	17 Support Comments: from the Anaconda Deer Lodge Commission, Foundation for North American Wild Sheep, Rocky Mountain Elk Foundation, Montana Wildlife Federation (2), Safari Club International, Public Lands/Water Access Association, Skyline Sportsmen Association (2), Anaconda Sportsmen Club (2), Five Valleys Land Trust (2), Anaconda Wildlife Expo, and three individuals.

Summary of RPPC Criteria Evaluation for Stucky Ridge/Jamison Property Acquisition Applicant: American Land Conservancy	
14. Matching Funds	1.6% Cash Match; 0.4% In-Kind Match: The applicant will provide a $4,408 cash match on costs to be incurred and documented for salary and contracted services for a lands specialist, and a $1,080 in-kind match for donated salary of the project manager. In addition to the recognized match, FWP and other groups have contributed $840,000 towards the purchase of the adjoining 220 acre Phase I property, which is 74% of the entire Jamison property acquisition.
15. Public Access	Increased Access Beneficial: This acquisition will ensure permanent public access to the project area as well as the adjoining Phase I property and the adjacent lands on the Beaverhead National Forest. FWP will address any weed problems associated with the increased access through monitoring and a management plan.
16. Ecosystem Considerations	Positive: This project fits within a broad ecosystem context because it is aimed at protecting critical winter range habitat. It will protect multiple resources, such as forested and grassland habitat that support ungulate populations. It fits within a broad ecosystem by providing connecting habitat of the three nearby Wildlife Management Areas (WMAs) (Lost Creek, Garrity, Blue-eyed Nellie) and the National Forest.
17. Coordination & Integration	Coordinates/Integrates: While this project does not directly coordinate with other ongoing or planned restoration, it does complement and coordinate with the Phase I acquisition, as well as three nearby WMA's and is within 10 miles of the Warm Springs and Mount Haggin WMA.
18. Normal Government Functions	Outside Normal Government Function: Neither FWP nor any other governmental entity is specifically responsible for acquiring land in the UCFRB or funded for such acquisitions in the normal course of events.
Property Acquisition Criteria	
19. Desirability of Public Ownership	Replacement Beneficial: The 76 acres acquired through this purchase will protect critical wildlife habitat and provide access for public recreation as well as access to the adjacent Phase I property and National Forest lands. While the public ownership will minimally increase the demand for governmental service and have some reduction in tax revenues (compared to that which would have been generated by development), the acquisition benefits outweigh these minimal impacts.
20. Price	Below Fair Market Value: The completed appraisal covered both the Phase I property and the 76 acres included in this proposal. The purchase price for this property is $3,500 per acre, which is less than the appraised fair market value of the property of $3,600 per acre.

Butte-Silver Bow Local Government
Big Hole Transmission Line Replacement – Year 2

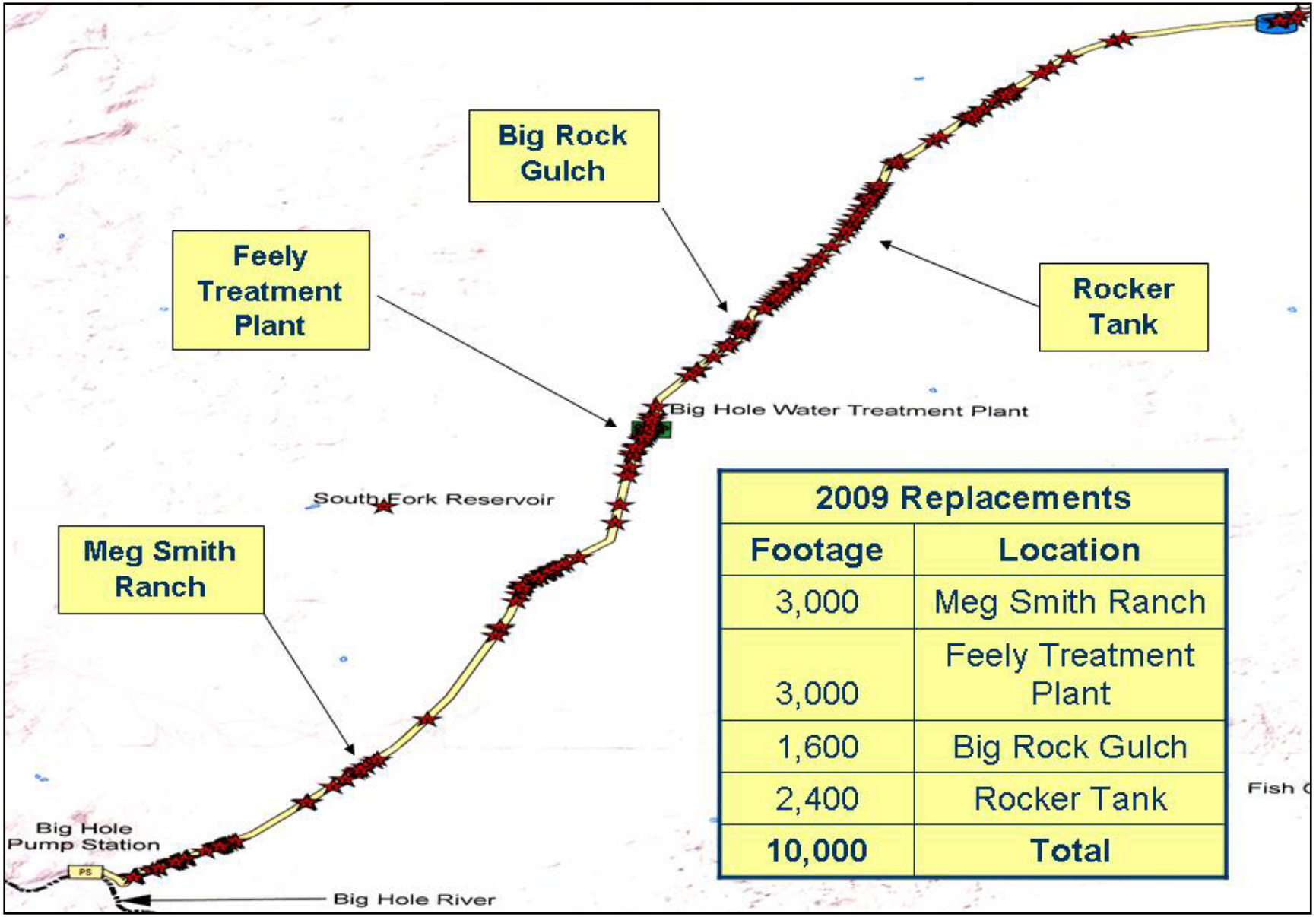
Project Summary

Butte Silver Bow City/County (B-SB) proposes to replace 10,000 feet of dilapidated water transmission lines that carry water from the Big Hole River to Butte. Approximately 60% to 80% of Butte's water supply comes from the Big Hole River, which is 22 miles south of Butte. The Big Hole is also Rocker's main water source. Total project costs are $2,155,405, with $1,650,542 requested in Restoration Funds and $497,133 cash and $7,730 in-kind matching funds.

Butte's bedrock aquifer is so severely injured that natural recovery will not occur for thousands of years, as concluded by the State's 1995 Restoration Determination Plan and by EPA's 1994 Record of Decision. Restoration of the bedrock aquifer is infeasible, thus the aquifer's drinking water storage, storage capacity, and transport services have been lost for thousands of years. The State's 1995 Restoration Determination Plan considered upgrading Butte's antiquated water system as a viable restoration alternative for the bedrock groundwater injuries in Butte. This proposal will enhance the water supply from an unaffected source, thus compensating the public for some of the lost use of groundwater that Butte has suffered due to the inability to tap clean bedrock groundwater in much of the City.

This proposal is the second year of funding for replacement of 10,000 feet of Big Hole transmission line. The Governor approved last year's replacement project for $1,644,722 in Restoration Funds, with a total project costs of $2,192,963 project. Work on last year's project will occur in 2008. B-SB estimates that the total costs for replacing the entire transmission pipeline is $35 million.

Figure 4: Map of Big Hole Transmission Line



2009 Replacements	
Footage	**Location**
3,000	Meg Smith Ranch
3,000	Feely Treatment Plant
1,600	Big Rock Gulch
2,400	Rocker Tank
10,000	**Total**

Summary of RPPC Criteria Evaluation for Big Hole Transmission Line Replacement: Year 2 Applicant: Butte Silver Bow County	
Project Summary	Butte-Silver Bow City/County (B-SB) proposes to replace 10,000 feet of corroded transmission water lines from the Big Hole River, which is the main water source for the City of Butte and community of Rocker. Total project costs are $2,155,405, with $1,650,542 requested in Restoration Funds and $497,133 cash and $7,730 in-kind matching funds. Overall Application Quality: Good
Final Funding Decision and Funding Conditions	The Governor approved full funding of this project for the requested $1,650,542, with no additional funding conditions.
Criteria Evaluation	
1. Technical Feasibility	Reasonably Feasible: The proposed design and construction tasks are technically feasible and the selected approach is likely to achieve the stated objectives. B-SB will use county crews to replace the waterline and employ standard construction methods and materials to implement the project. B-SB has the needed experience with replacement of waterlines to complete this project.
2. Costs:Benefits	Net Benefits: This project offers substantial benefits to Butte and Rocker residents. The pipeline is in need of repair, and the project would fix 10% of the total line in four sections that have some of the worst leaks. Benefits include improved delivery of a reliable drinking water source; reduced demand on water resources; reduced water pumping, treating, and transportation costs; reduced repair costs; and improved flows and fire protection. Given the substantial benefits and the 23% cash match, the NRDP considers the project to be of net benefit.
3. Cost-Effectiveness	Cost-Effective: B-SB provided a thorough analysis of the selected alternative by comparing costs and feasibility of utilizing different pipe sizes, lining of the pipe, and alternative water supplies. Based on this analysis, B-SB concluded that cost savings could be achieved by downsizing the diameter of the transmission pipe. The NRDP believes that completing this project as proposed is a cost-effective alternative to addressing problems with the water distribution system that are specific to the Big Hole transmission lines. B-SB proposes to use its own crews for all needed labor in order to provide matching funds and have the needed controls associated with the treatment plant. Based on similar work conducted in-house, this approach appears cost-effective.
4. Adverse Environmental Impacts	No Significant Adverse Impacts: The project will have potential minor short-term adverse impacts to aesthetics and vegetation associated with excavation impacts. B-SB will reclaim disturbed areas.
5. Human Health and Safety	No Significant Adverse Impacts: B-SB will adequately address any impacts to the human environment during construction, such as worker accidents, dust, and noise, by following safety guidelines of the Montana Public Works and Standard Specifications.
6. Results of Response Actions	Consistent: The project will not interfere or duplicate the results of any known EPA Superfund action.
7. Natural Recovery Potential	No Effect on Recovery Period: This replacement project will not affect Butte's aquifer recovery time.

Summary of RPPC Criteria Evaluation for Big Hole Transmission Line Replacement: Year 2 Applicant: Butte Silver Bow County	
8. Applicable Policies and Laws	Consistent/Sufficient Information Provided: The applicant has provided sufficient information on the applicable requirements needed to complete this project.
9. Resources of Special Interest	No Impact: This project is not likely to impact natural resources of special interest or concern to the Tribes or DOI. The Tribes have indicated that they do not object to the funding of this project and noted the potential for encountering buried cultural features and/or artifacts during excavation. If funded, the grant agreement would require proper consultation with the Tribes in such situations. The DOI does not object to funding this project.
10. Project Location	Partly Outside the Basin but Serves the Basin: About half the Big Hole transmission line is in the Basin and about half is south of the Basin boundary at the Continental Divide. Although a portion of the project is located outside of the Basin, the pipeline services water users that reside in the UCFRB and it, in effect, replaces natural resources that cannot be restored in the Basin.
11. Actual Restoration of Injured Resources	No Restoration: This project replaces services of injured groundwater resources that cannot be restored and thus constitutes compensatory restoration.
12. Service Loss/Restored & Service Restoration	Same: The project replaces lost services to property owners and other members of the public in Butte who could utilize the bedrock aquifer if it was not injured.
13. Public Support	21 Support Comments: from two individuals and 19 entities, including support letters from Mainstreet uptown Butte, Pioneer Technical Services, Water & Environmental Technologies, B-SB Sheriff, Butte Local Development Corporation, Community Development Services, B-SB Chief Executive, B-SB Fire Services, B-SB Health Department, MERDI, NorthWestern Energy, Port of Montana, B-SB Public Works Department, B-SB Planning Department, B-SB Office of Emergency Management, Harrington Surgical Supply, B-SB Chamber of Commerce, B-SB County Attorney, and Butte Public Schools.
14. Matching Funds	23% cash match and 0.4% in-kind match: B-SB will contribute a cash match of $497,133 for labor and $7,730 in-kind match for indirect costs, with a total match of $504,863.
15. Public Access	Not Applicable
16. Ecosystem Considerations	Positive: The project will conserve water and therefore reduce power requirements for pumping and treating water.
17. Coordination & Integration	Coordinates/Integrates: The project coordinates with other B-SB water system improvement projects.
18. Normal Government Functions	Within but Augments Normal Government Functions: The proposed waterline repairs are the responsibility of B-SB since the County owns the water system. The NRDP considers this project as one that augments, not replaces, normal government function because communities typically rely on a combination of grant funds and user fees to fund such projects and because the proposal is an effective way to compensate the community for the pervasive and extensive injuries to the groundwater resources underlying Butte that were covered under Montana v. ARCO.

Butte-Silver Bow County
Water Metering and Public Awareness Project

Project Summary

Butte-Silver Bow Local Government (B-SB) proposes to initiate the first year of a ten year incremental, voluntary water metering and public awareness program to enhance water conservation efforts in Butte. Currently, only 43% of B-SB's water service connections are metered. The water metering has been projected to save between 10% and 40% in water use per user, thereby conserving water and reducing water treatment and pumping costs. B-SB is requesting $273,600 in Restoration Funds, to be used with $32,743 cash matching funds and $18,818 in-kind matching funds, for a project total of $325,161.

Butte's bedrock aquifer is contaminated throughout a six square mile area of the City and these distribution lines overlay that aquifer. This aquifer is so severely injured that natural recovery will not occur for thousands of years, as concluded by the State's 1995 Restoration Determination Plan and by EPA's 1994 Record of Decision. Restoration of the bedrock aquifer is infeasible, thus the aquifer's drinking water, storage capacity, and transport services have been lost for thousands of years. This proposal constitutes replacement of lost services to some of the thousands of property owners and other members of the public in Butte that could use the aquifer if it was not injured by initiating water conservation activities.

The State's 1995 Restoration Determination Plan considered upgrading Butte's antiquated water system as a viable restoration alternative for the bedrock injuries in Butte. This proposal will reduce water use from an unaffected source, thus compensating the public for some of the lost groundwater use suffered by Butte, due to the inability to tap clean groundwater.

Summary of RPPC Criteria Evaluation for Water Metering and Public Awareness Project **Applicant: Butte-Silver Bow City County Government (B-SB)**	
Project Summary	Butte-Silver Bow Local Government (B-SB) proposes to initiate the first year of a ten year incremental, voluntary water metering and public awareness program to enhance water conservation efforts in Butte. Total project costs are $325,161, with $273,600 requested in Restoration Funds, to be used with $32,743 cash matching funds and $18,818 in-kind matching funds. Overall Application Quality: Good
Final Funding Decision and Funding Conditions	The Governor approved full funding of this project for the requested amount of $273,600, with the funding condition that Restoration Funds will reimburse B-SB for installed meters.
Criteria Evaluation	
1. Technical Feasibility	Reasonably Feasible: B-SB's installation of meters will be conducted primarily in conjunction with future waterline replacement projects. Even if these replacement projects were not funded, meters will be installed upon request and as a part of new service connections. B-SB has conducted this type of activity in the past and is fully capable of continuing to do so. There are also no uncertainties with the technical feasibility of the public outreach portion of the proposal, which involves a consultant conducting public awareness activities.
2. Costs:Benefits	Potential Net Benefits: B-SB proposes to install up to 500 additional water meters in Butte, resulting in a water savings of 10% to 40% per user compared to the water use without meters. This request for 500 meters would supply 7% of the 7,669 water meters needed for Butte to have a fully metered water system. Since Restoration Funds will be on a reimbursement basis, as per the NRDP's funding condition, the cost will be incurred only when the meters are installed, which assures that the Funds will go towards water conservation. However, installation is voluntary and the amount of benefit in water savings will depend upon the amount of participation and the actual amount of water savings. The public awareness portion ($25,000) of the project also has some uncertainty in the amount of benefit because of the volunteer approach to project implementation. The amount of water savings could be significant if this public awareness program is successful and all 500 meters are installed.
3. Cost-Effectiveness	Likely Cost-Effective: B-SB's first year of meter installation, as well as their ten year plan to complete the metering of the entire system, are both reasonable. Since metering is voluntary, however, completion of either plan within these timeframes is uncertain. There could be other alternatives that would attain the goal of increased water savings in a timely manner, such as mandatory incremental water metering, which was not fully evaluated. Combining metering with other water system improvements is a positive improvement over the approach of past projects that did not have this component. Though a limited alternative analysis was provided, the selected alternative is likely to be cost-effective.
4. Adverse Environmental Impacts	No Adverse Impacts: This project will have no adverse impact to the environment and it will potentially benefit water conservation.

Summary of RPPC Criteria Evaluation for Water Metering and Public Awareness Project Applicant: Butte-Silver Bow City County Government (B-SB)	
5. Human Health and Safety	No Adverse Impacts: This proposal does not present any adverse impacts to the human environment. Installation of meters will involve only a small amount of construction activity.
6. Results of Response Actions	Consistent: The project will not interfere or duplicate the results of any known EPA Superfund actions.
7. Natural Recovery Potential	No Effect on the Recovery Period: This replacement project will not affect the groundwater recovery period.
8. Applicable Policies and Laws	Consistent/Sufficient Information Provided: There are no permits or other regulatory approvals needed for this project.
9. Resources of Special Interest	No Impact: The project involves installation of meters and will not adversely impact resources of special interest to the Tribes or DOI. The Tribes have commented in support of project funding. The DOI does not object to funding this project.
10. Project Location	Within Basin and Proximate: The project study area is within Butte and within injured groundwater resource areas.
11. Actual Restoration of Injured Resources	No Restoration: This project replaces lost services because it conserves drinking water in the area where contamination cleanup is infeasible. It thus constitutes compensatory restoration.
12. Service Loss/Restored & Service Restoration	Same: This project replaces drinking water services lost due to injured groundwater resources that limit B-SB's potential sources for water development, thus making conservation of existing sources an effective means of enhancing its water resources.
13. Public Support	10 Support Comments: from the B-SB Public Works, B-SB Manager of the Water Treatment Plant, B-SB Public Health Department, B-SB Planning Department, MERDI, three area businesses, and two individuals.
14. Matching Funds	10% Cash Match, 6% In-kind Match: B-SB proposes a cash match of $32,743 for installation of the meters and in-kind match of $18,818 for administration and coordination of the project.
15. Public Access	Not Applicable
16. Ecosystem Considerations	Positive: The proposed metering program and public outreach should lead to water conservation and reduced power requirements for pumping and treating water, which are broad ecosystem concepts that improve natural resources.
17. Coordination & Integration	Coordinates/Integrates: The proposal coordinates and potentially integrates well with B-SB's other water saving actions, such as waterline and transmission line replacement.
18. Normal Government Functions	Augments Normal Government Functions: Water system improvements, such as metering, are B-SB's responsibility since the county owns the water system. The NRDP considers this proposal as one that augments, not replaces, normal government function because communities typically rely on grant funds to assist in funding such work and also because the proposal is an effective way to compensate the community for pervasive and extensive injuries to the groundwater resources underlying Butte that were covered under Montana v. ARCO.

Cottonwood Creek Project Development Grant
Watershed Restoration Coalition

Project Summary

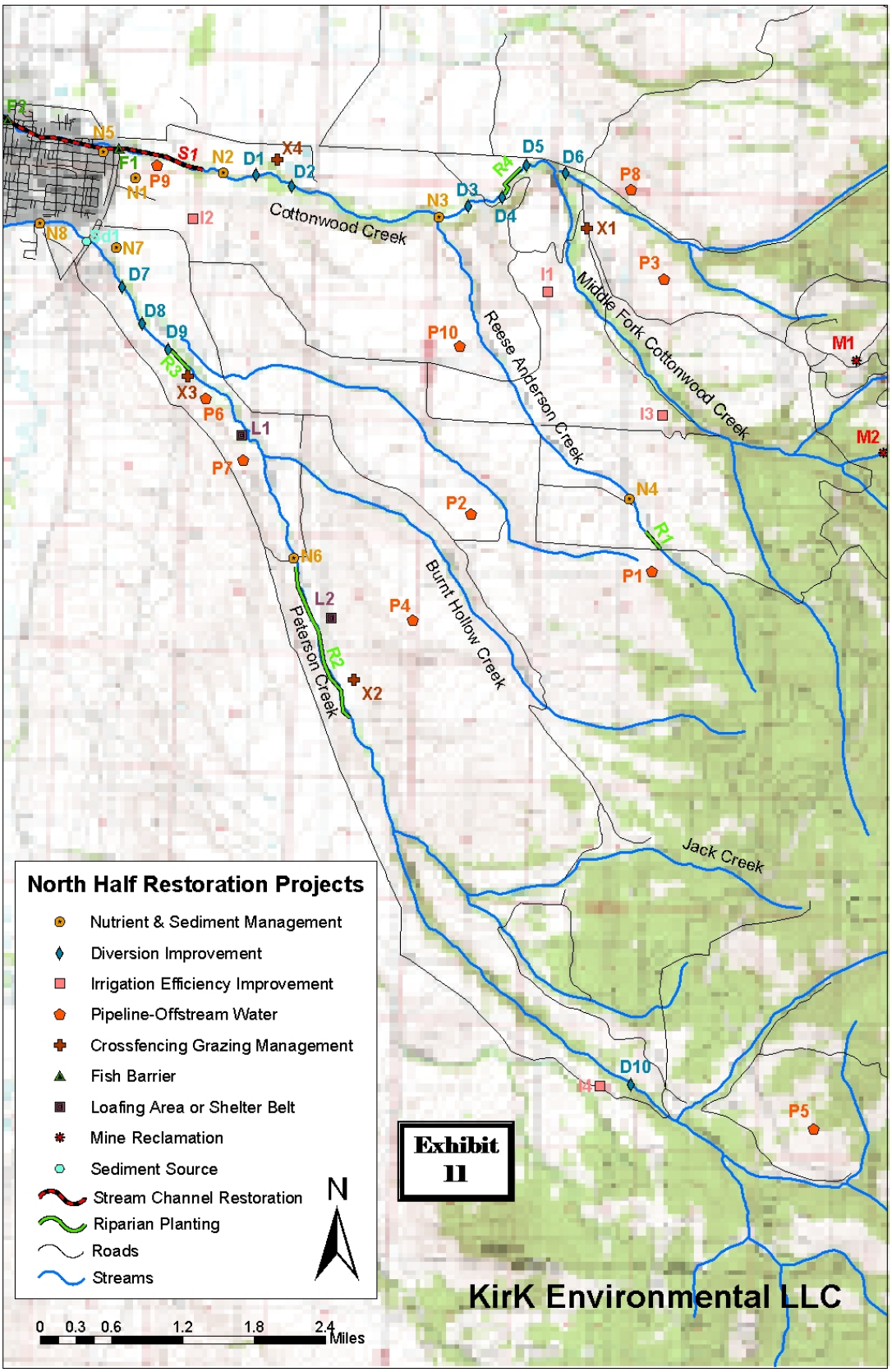
The Cottonwood Creek project development grant (PDG) submitted by the Watershed Restoration Coalition (WRC) proposes to gather water rights, stream and irrigation flow, and fish habitat data to better understand some critical elements of the flow regime, fish entrainment issues, and fish barriers on a tributary to the Clark Fork River and to develop projects to address these problems. The project area is located east of Deer Lodge on sections of Cottonwood Creek that range from ¼ mile to 2 miles upstream of the confluence with the Clark Fork River. The results of these efforts will likely lead to a future proposal for funding of a full project. The goals of the full project, if implemented, would be to: improve water quality through better land management practices, increase water quantity through water leasing, improve fish passage, and enhance riparian habitat.

As proposed, the project costs totaled $163,222, with $138,042 requested in Restoration Funds, $9,180 proposed as cash matching funds, and $16,000 proposed as in-kind matching funds. Through its evaluation process, however, the NRDP identified areas where this budget could be reduced to better reflect the level of effort and budget needed to complete the proposed project development activities. The reductions involved transferring parts of several tasks from contracted services to the WRC for completion and deleting the 15% contingency. The WRC agreed to NRDP's recommended budget reductions totaling $47,665, or 29% less than the WRC's proposed budget,[8] thus resulting in a revised overall project totaling $115,557, with $90,377 requested in Restoration Funds. The amount of matching funds does not change with this revised budget, however, because of the decrease in overall budget, the matching percentages increase from 10% to 14% for the in-kind match and from 6% to 8% for the cash match. The NRDP's evaluation of this proposal is based on this revised budget.

The WRC is a coalition of four conservation districts, one county commissioner, and two weed board supervisors. The conservation districts involved with the WRC include the Mile High Conservation District, Deer Lodge Conservation District, Granite Conservation District, and Missoula Conservation District. As a part of the WRC's 2001 East Valley Grant, Cottonwood Creek was sampled and some potential nutrient, flow, fish barrier, and riparian habitat problems were identified. This proposal is a continuation of that effort to fill data gaps and to develop and design projects to address the problems.

[8]This concurrence is indicated in a 6/20/08 e-mail from Renee Myers of the WRC to Tom Mostad of the NRDP.

Figure 5: Map of Cottonwood Creek



Summary of RPPC Criteria Evaluation for Cottonwood Creek Project Development Grant (as revised) Applicant: Watershed Restoration Coalition (WRC)	
Project Summary	The Cottonwood Creek project development grant (PDG) proposes to gather water rights, stream and irrigation flow, and fish habitat data to better understand some critical elements of the flow regime, fish entrainment, and fish barriers on a tributary to the Clark Fork River. The goals of the overall project, if implemented, would be to: improve water quality through improved water and land management practices, increase water quantity through water leasing, improve fish passage, and enhance riparian habitat. As revised by the NRDP with the concurrence of the WRC, total project costs are $115,557, with $90,377 requested in Restoration Funds, $9,180 proposed as cash matching funds and $16,000 proposed as in-kind matching funds. Application Quality: Fair. The application lacked adequate cost justification for some tasks.
Final Funding Decision and Funding Conditions	The Governor approved full funding of this project for the requested $90,377, with a funding condition that a Restoration Fund grant application is completed for one or more of the projects to be developed via this PDG in addition to the other deliverables for this project.
Criteria Evaluation	Note: Since this proposal is a PDG, whenever possible, this criteria evaluation covers both the development activities proposed in the PDG application and the State's understanding of the project that is the final goal of the PDG.
1. Technical Feasibility	Reasonably Feasible: The proposed tasks are typical for this kind of proposal and should attain the project goals to better understand critical elements of the stream and irrigation flow and fish habitat. The applicant has demonstrated that they have the management skills necessary to successfully coordinate tasks with FWP and to gain acceptance and cooperation from area landowners, both of which are key aspects of this proposal. There is some uncertainty as to the feasibility of future projects because they will depend on the investigation results and the amount of landowner participation. Even if there is limited landowner participation, the information produced by this PDG will nonetheless be used by agencies to make further resource management decisions.
2. Costs:Benefits	Net Benefits: The data gathered as part of this project will be valuable to understanding the relationship of water rights, irrigation practices, stream flow, and fish movement. This data could also lead to better water and land management practices and to water leases to augment streamflow, both of which could contribute to the restoration of injured natural resources and or other information valuable to restoration activities elsewhere in the UCFRB. The NRDP's recommended funding condition adds the benefit of a completed restoration application as a part of this project, which increases its benefits. Given the high benefit to restoration planning in the Basin from the information to be obtained from this project, and the likelihood that the project will lead to future projects that could contribute significantly to restoration of injured natural resources, the NRDP considers this project to be of net benefit.

Summary of RPPC Criteria Evaluation for Cottonwood Creek Project Development Grant (as revised) Applicant: Watershed Restoration Coalition (WRC)	
3. Cost-Effectiveness	Likely Cost-Effective: The proposal involves outreach and education, water rights research, stream flow and irrigation diversion measurements, fish shocking and tagging, fish barrier identification, and the development of a sampling plan and an application for a full project. These activities seem to be the most cost effective alternative to accomplish the goals to develop future restoration activities in the area, though no other alternatives were offered by the applicant other than the no action alternative, which would not meet project goals.
4. Adverse Environmental Impacts	No Adverse Impacts: This project will have no adverse impact to the environment. If implemented, the full project will potentially benefit water quality and water quantity to the stream and improve fish and riparian habitat.
5. Human Health and Safety	No Adverse Impacts: This proposal does not present any adverse impacts to the human environment. Installation of flow measuring devices involves only a small amount of hand-tool type construction activity.
6. Results of Response Actions	Consistent: The project will not conflict with any Superfund response actions.
7. Natural Recovery Potential	No Effect: The tasks associated with the project will have no effect on the recovery of natural resources of the Clark Fork River as it involves data collection. It may lead to future projects that, if implemented, may reduce the recovery period of the river fishery.
8. Applicable Policies and Laws	Consistent: It is unlikely that any permits will be required as a part of the project. Permission for access will be sought and it is reasonable to assume that it can be obtained from participating landowners.
9. Resources of Special Interest	Potential Beneficial Impact: In their comments on the 2008 grant projects, the Tribes and DOI indicated their support for this project. There will be no ground disturbance associated with this project that would impact natural resources of special interest to the Tribes or DOI. The project could potentially benefit such resources.
10. Project Location	Within Basin and Proximate: The project is located on Cottonwood Creek, a tributary to the Clark Fork River. It will cover segments of the Creek located approximately 1/4 to 2 miles from its confluence with the Clark Fork River.
11. Actual Restoration of Injured Resources	May Contribute to Restoration: This proposal gathers data that may assist in future restoration activities of the fishery of Cottonwood Creek. If these future projects are implemented, they may also have a positive effect of the fishery of the Clark Fork River, which is an injured resource addressed under Montana v. ARCO.
12. Service Loss/Restored & Service Restoration	Same: This PDG fills some of the data gaps that are necessary for successful implementation of potential future restoration projects within the Basin that could improve resources and services considered substantially equivalent to the injured resources and services covered under Montana v. ARCO, such as fish habitat and fishing.

Summary of RPPC Criteria Evaluation for Cottonwood Creek Project Development Grant (as revised) Applicant: Watershed Restoration Coalition (WRC)	
13. Public Support	5 Support Comments: from the Powell County Commission and four individuals.
14. Matching Funds	8% Cash Match, 14% In-kind Match: The WRC proposes a cash match of $9,180 (8%) for some of the outreach and education, project management, and landowner negotiation tasks and an in-kind match of $16,000 (14%) for FWP staff efforts to shock and tag fish and to assist with negotiating instream flow leasing and also for landowner time to participate in these activities.
15. Public Access	Not Applicable
16. Ecosystem Considerations	Positive: The data collected should lead to restoration activities that would improve multiple natural resources and be planned from the perspective of the entire Cottonwood Creek watershed.
17. Coordination & Integration	Coordinates: The proposed tasks are a continuation of data gathering activities that were started by the WRC in 2002 that cumulatively should lead to project-specific activities in the future.
18. Normal Government Functions	Outside Normal Government Functions: No governmental entity is currently obligated or funded to conduct the proposed data collection activities. The data gathered could lead to better water and land management practices, to water leases to augment streamflow, or to other restoration activities that would enhance fish and riparian habitat. Implementing these types of improvements is dependant upon the participation of local landowners and water users and not an obligation of any governmental entity.
21. Overall Scientific Program	Coordinates: The project is a continuation of past sampling initiated in 2002 by the WRC as a part of the East Valley Project. It focuses on gathering data on existing data gaps and in areas of concern that need more study.
22. Assistance with Restoration Planning	Major Benefits: The project will supply information that currently does not exist and will be of major benefit to future restoration planning efforts.

State of Georgetown Lake
Granite Conservation District, Granite Headwaters Watershed Group, Georgetown Lake Homeowners Association, and UCFRB Steering Committee

Project Summary

The Granite Conservation District, Granite Headwaters Watershed Group, Georgetown Lake Homeowners Association, and UCFRB Steering Committee (hereafter referred to as co-applicants) propose jointly to implement a three-year study of Georgetown Lake's aquatic resources in order to obtain needed information to protect and possibly improve these resources. The proposed study would: 1) assess the current conditions of the lake's water quality, aquatic habitat, and fisheries; 2) assess whether these conditions have changed over time; 3) provide a baseline for future assessments; and 4) provide a plan for future monitoring. Total projects costs are $150,755, with $109,463 requested in Restoration Funds, $40,192 proposed cash matching funds, and $1,100 proposed in-kind matching funds.[9]

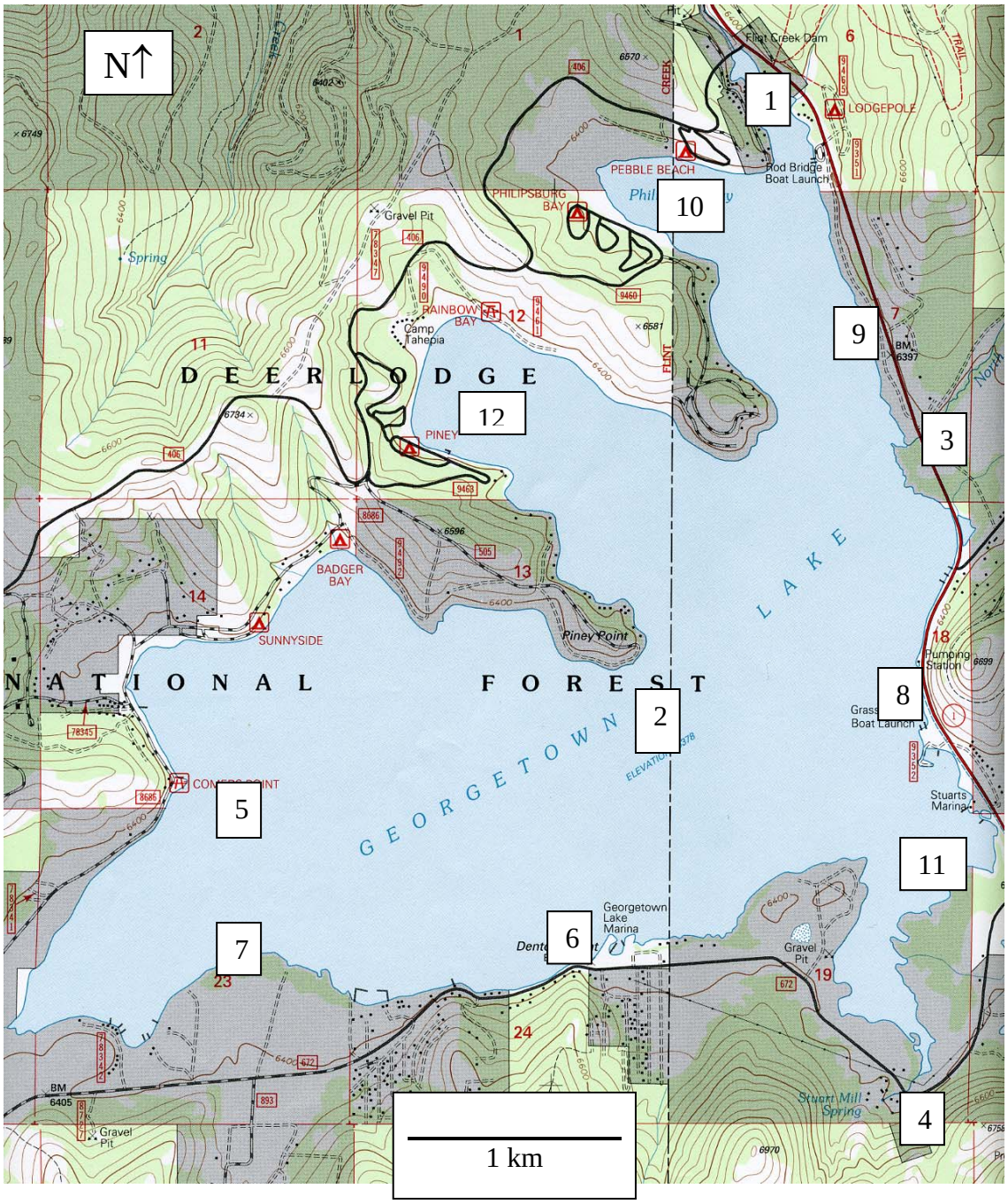
Georgetown Lake is located approximately 17 miles west of Anaconda and eight miles south of Philipsburg. About half of the lake is in Granite County and half is in Anaconda-Deer Lodge County. The lake is a reservoir formed by the Flint Creek Dam, which is owned and operated by Granite County. Discharge from the lake is the source of water for Flint Creek below the dam; Flint Creek is a critical source of water for Flint Creek Valley irrigators.

At 2,800 acres, Georgetown Lake is the largest lake in the UCFRB. It is a popular recreation area for boating, fishing, camping, and other recreational uses. It supports an outstanding recreational fishery for rainbow trout, brook trout, and kokanee salmon and offers substantial fishery-related recreational services year-round. It is one of the most heavily fished lakes in the state on a per-acre basis. The lake is a high altitude, relatively shallow lake that is nutrient rich. Concerns about increased lakeside development adversely affecting the lake's water quality triggered this proposal.

The proposed study plan was developed pursuant to an approved 2007 project development grant (PDG) in coordination with local stakeholder groups and state resource agencies. To achieve project goals, the co-applicants identified 11 specific project objectives that focus on collecting current information on nutrients, dissolved oxygen, phytoplankton, macrophytes, bacteria, septic discharges and angler use. The three year study will involve field collections from May 2009 to April 2011, data analysis from September 2010 to August 2011, and development of a final report by December 2011.

[9] This is a revised budget due to a math error in the original budget.

Figure 6: Georgetown Lake detail map with sampling sites. 1 = Deep Hole year round sampling site, 2 = Piney Point year round sampling site, 3 = NF Flint Creek year round nutrient sampling site, 4 = Stuart Mill Creek year round nutrient sampling site, 5 = Comers Point winter dissolved oxygen sampling site, 6 = Dentons Point winter dissolved oxygen sampling site, 7 = Jericho Bay macrophyte coverage site, 8 = Pump House macrophyte coverage site, 9 = between Red Bridge Day Use Area and the Inlet of NF Flint Flint Creek macrophyte coverage sites, 10 = Philipsburg Bay macrophyte biomass site, 11 = Stuart Mill Bay macrophyte biomass site, and 12 = Rainbow Bay macrophyte biomass site.



Summary of RPPC Criteria Evaluation for the "State of Georgetown Lake" Grant Application Co-Applicants: Granite Conservation District, Granite Headwaters Watershed Group, Georgetown Lake Homeowners Association, and UCFRB Steering Committee	
Project Summary	The co-applicants propose to implement a plan to study Georgetown Lake's aquatic resources in order to obtain information needed to protect and possibly improve these resources. Total projects costs are $150,755, with $109,463 requested in Restoration Funds, $40,192 proposed cash matching funds, and $1,100 proposed in-kind matching funds. Application Quality: Very Good; the application included thorough details on and justification for the proposed sampling plan and budget.
Final Funding Decision and Funding Conditions	The Governor approved full funding of this project for the requested $109,463, with no additional funding conditions.
Criteria Evaluation	
1. Technical Feasibility	Reasonably Feasible: There are no significant uncertainties with the implementation of the study plan and the project is likely to accomplish its goals. Comprehensive lake studies such as the one proposed have been conducted successfully for major lakes in Montana and nationwide and university aquatic ecology experts will implement the study. The study plan was developed in coordination with local stakeholder groups and state natural resource agencies, which contributes greatly to its likelihood of success.
2. Costs:Benefits	Net Benefits: The implementation of the proposed study plan would provide important information needed to protect and possibly improve the aquatic resources of Georgetown Lake. Providing a basis to assess and protect the lake's water quality will also benefit human users of the lake, such as the recreating public, local homeowners, and downstream irrigators. Given the high value of the lake's fishery and associated recreational resources, the study's reasonable costs and the significant matching funds of 27%, the NRDP believes the project benefits outweigh its costs.
3. Cost-Effectiveness	Cost-Effective: The proposed approach, level of effort, and project costs are reasonable. The co-applicant's identified alternatives include the proposed action, no action, or implementation by other entities. The information to be gained from the project is needed to protect and possibly improve the Georgetown Lake's aquatic resources. The no-action alternative is not considered cost-effective because it would delay efforts to protect these resources and protection of resources is more cost-effective than having to later restore degraded resources. Implementation by other entities would not offer the advantages that come with the proposed use of university experts whom have, through the 2007 PDG effort, developed a cooperative relationship with local stakeholder groups and acquired a substantial knowledge of the lake's aquatic resources and past data. The proposed study plan involves a sound approach, with field collection sites and sampling methodologies selected in order to maximize site-specific comparisons with historic work and to provide geographic coverage of the reservoir. The NRDP considers the proposed combination of having co-applicants that represent a broad range of Georgetown Lake interests coordinating the project and university aquatic ecology experts implementing this well-designed study plan and conducting the needed scientific analyses to be an optimal approach.

Summary of RPPC Criteria Evaluation for the "State of Georgetown Lake" Grant Application Co-Applicants: Granite Conservation District, Granite Headwaters Watershed Group, Georgetown Lake Homeowners Association, and UCFRB Steering Committee	
4. Adverse Environmental Impacts	No Adverse Impacts: The project will have a beneficial impact on the environment by determining long-term environmental trends and providing a baseline for future lake management activities.
5. Human Health and Safety	No Adverse Impacts: The proposed septic discharge information to be collected with the use of DEQ matching funds may facilitate waste water management decisions as development occurs near the lake.
6. Results of Response Actions	Consistent: The study relates to resources outside of areas undergoing response actions.
7. Natural Recovery Potential	No Effect on Recovery Period: The proposed study will not affect the time frame for recovery of injured natural resources.
8. Applicable Policies and Laws	Consistent: The co-applicants developed the proposed study plan in consultation with local and state entities that are involved in managing the lake's aquatic and recreational resources. The study plan provides for following applicable agency sampling protocols.
9. Resources of Special Interest	Potential Beneficial Impact: The proposed study has the potential to benefit aquatic resources of special interest to the Tribes and DOI. It does not involve any ground disturbance activities that would impact these resources. The DOI supports funding the project. The Tribes indicated they do not object to funding the project.
10. Project Location	Within the Basin: Georgetown Lake is about 12 miles from injured areas surrounding the Anaconda Smelter and at the headwaters of Flint Creek, which is a major tributary to the Clark Fork River.
11. Actual Restoration of Injured Resources	No Restoration: This project will not restore injured natural resources but may ultimately result in their replacement.
12. Service Loss/Restored & Service Restoration	Similar: The replacement ecological and recreational services associated with the aquatic resources of Georgetown Lake are not the same as, but are considered substantially equivalent to those lost or impaired services addressed under Montana v. ARCO since they involve services tied to a reservoir fishery.
13. Public Support	6 Support Comments: from the Town of Philipsburg, Granite County Commissioners, Montana Wildlife Federation and three individuals. The four co-applicants sponsoring the project represent a wide range of stakeholder interests.
14. Matching Funds	26.7% cash match; 0.7% in-kind match: The DEQ will provide $40,192 (26.7%) in 319 grant funds for the research associated with septic plumes and nutrient inflow into the lake and FWP will provide $1,100 as an in-kind match for the FWP's staff time to assist with analyzing existing fisheries data on Georgetown Lake. In addition, the university will be assessing a 5% indirect rate, which is substantially less than the university's applicable federally-approved indirect rate of 33%.
15. Public Access	Not Relevant
16. Ecosystem Considerations	Positive: Georgetown Lake can be considered as a major headwater stream for Flint Creek. Investigation of the conditions of the lake's aquatic resources will offer useful information to planning aquatic resource restoration efforts in the Flint Creek drainage. The study may beneficially affect water management and ecosystems downstream of the lake as well as the lake itself.

Summary of RPPC Criteria Evaluation for the "State of Georgetown Lake" Grant Application Co-Applicants: Granite Conservation District, Granite Headwaters Watershed Group, Georgetown Lake Homeowners Association, and UCFRB Steering Committee	
17. Coordination & Integration	Coordinates: The study effort will be coordinated with the other sampling activities at Georgetown Lake and in the Flint Creek Watershed being conducted by state and local entities that is described under criterion #18.
18. Normal Government Functions	Augments Normal Government Function: Currently no government entity is funded or obligated to implement the proposed comprehensive study, but several governmental entities have some management responsibilities tied to the lake's aquatic resources. FWP evaluates the fishery population of the lake via gill netting every other year. DEQ has collected data from Georgetown Lake in the past, is currently collecting nutrient data on the two streams that feed the lake and on the lake's discharge for the TMDL on Flint Creek, and has committed to funding the proposed nutrient stream sampling and research on septic plumes that are proposed in the study plan. Granite County is also sampling nutrients in the lake's discharge. These on-going state and local sampling efforts are not of the comprehensive nature proposed for funding.
MONITORING AND RESEARCH CRITERIA	
21. Overall Scientific Program	Coordinates: Through the PDG effort, this proposed study was designed to build on findings of past studies of Georgetown Lake and to coordinate with and augment other on-going but more limited sampling efforts (identified under criterion #18) of the aquatic resources of the lake and the Flint Creek watershed.
22. Assistance with Restoration Planning	Moderate Benefit: The study will obtain critically needed information on the aquatic resources of Georgetown Lake that will assist future efforts to protect and improve those resources. The data collected will also be useful to restoration planning efforts in the Flint Creek watershed, and Flint Creek is a significant tributary to the Clark Fork River.

Anaconda-Deer Lodge County
Front and Alder Street Water Main Replacements – Year 7

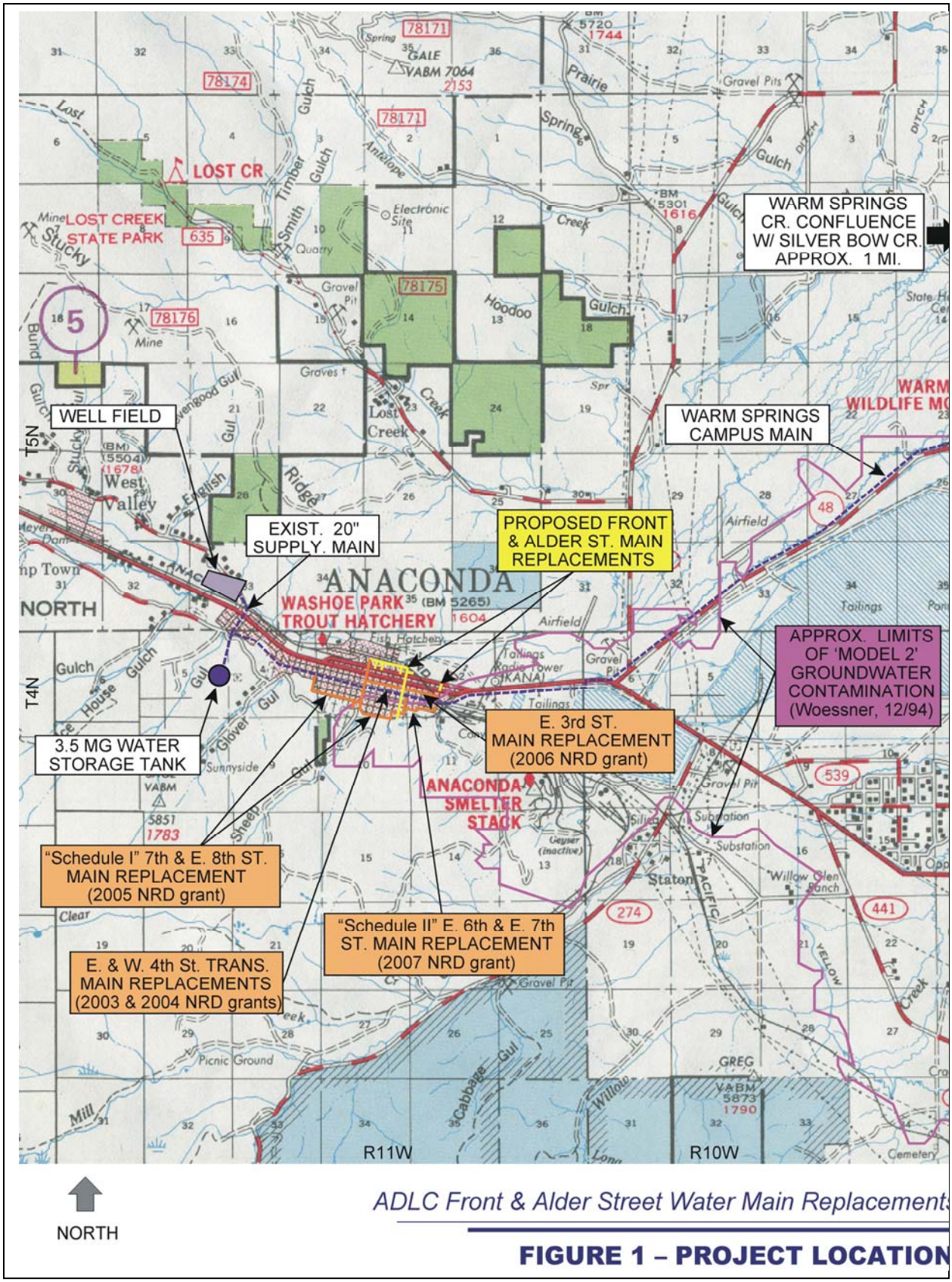
Project Summary

Anaconda-Deer Lodge City County (ADLC) proposes to replace 7,382 feet of leaking, century old waterlines on Front and Alder streets in the City of Anaconda. This proposal is a replacement project that will conserve water for the City of Anaconda through the installation of a new water main in place of a leaking water system. It is projected to save up to 193,000 gallons of water per day. The total cost is $1,862,833, with $1,742,169 requested in Restoration Funds and $105,788 in cash and $14,876 in-kind matching funds.

Anaconda is located adjacent or partially within the 40 square miles of groundwater contamination associated with the Anaconda Regional Water, Waste, and Soils Operable Unit. Groundwater resources are somewhat limited because the upper portion of the alluvial groundwater aquifer east of Anaconda is contaminated with metals associated with past mining activities at levels above water quality standards. The 1995 State of Montana Anaconda Groundwater Injury Assessment Report supports this claim of groundwater contamination east of Anaconda. Also, the 1998 Anaconda Regional Water, Waste, and Soils Operable Unit Record of Decision indicates about 30 square miles of contaminated bedrock groundwater to the north and south of the City.

This request is the seventh year of what ADLC has indicated will be a multi-year funding request to replace the waterline system, with $8,911,482 in Restoration Funds approved and/or spent for 36,831 feet of waterline replacement. Over 32,000 feet of pipe have been replaced to date and the remainder planned for construction in 2008. ADLC estimated in a November 2007 memo to the Trustee Restoration Council that over 44,000 feet of waterline still remains to be addressed in future projects, which are likely to cost over $7 million. ADLC has not indicated what portion of those costs would be sought in Restoration funds.

Figure 7: Anaconda Waterline



Summary of RPPC Criteria Evaluation for Anaconda Front and Alder Street Water Distribution Replacement – 2008 Applicant: Anaconda Deer Lodge County (ADLC)	
Project Summary	Anaconda-Deer Lodge City County (ADLC) proposes to replace about 7,382 feet of leaking, century old waterlines in Front and Alder streets in the City of Anaconda that serve 174 users. The total cost is $1,862,833, with $1,742,169 requested in Restoration Funds and $105,788 in cash and $14,876 in-kind matching funds. Overall Application Quality: Good; the application is compete and accurate.
Final Funding Decision and Funding Conditions	The Governor approved full funding of this project for the requested $1,742,169 with no additional funding conditions.
Criteria Evaluation	
1. Technical Feasibility	Reasonably Feasible: This proposal involves the replacement of dilapidated waterline, using standard engineering practices, conforming to Montana Public Works Standards and DEQ requirements. ADLC proposes the same level of effort and approach used to complete past NRDP-funded water main projects since 2002. ADLC has successfully completed 67,000 feet of water main replacement projects since 1994 with both Restoration Grant Funds and non-grant funds.
2. Costs:Benefits	Commensurate Benefits: ADLC estimates the proposed replacement waterline will save about 193,000 gallons of water loss per day. However, ADLC recently completed a leak study that suggests that water savings may be less than predicted.[10] Nonetheless, the project offers substantial benefits to the Anaconda public by reducing water treatment, property damage, and repair costs associated with leaks, reducing the need to seek additional water supplies, offering greater fire protection, and conserving water. The project constitutes compensatory restoration for extensive injuries to the aquifers surrounding Anaconda.
3. Cost-Effectiveness	Likely Cost-Effective: Based on current information and past similar efforts, the project is likely cost-effective for the stated goal of reducing leakage and water conservation. It is unclear, however, whether replacing waterlines is the most cost-effective way to conserve water when compared to system-wide water metering. ADLC will complete water metering and computer modeling studies in 2008 that should provide better information for future alternatives analysis, so a more definitive selection of alternatives can be made.
4. Adverse Environmental Impacts	No Significant Adverse Impacts: Replacing waterline presents no significant adverse impacts to the environment. Water conservation is an environmental benefit that will likely result.
5. Human Health and Safety	No Significant Adverse Impacts: ADLC has proposed mitigation measures to alleviate these adverse impacts associated with construction activities, such as dust and noise. The project can have beneficial impacts to human health and safety by improving fire protection, reducing road hazards, and increasing the availability of water otherwise lost to leakage.

[10] The Water System Leakage Reevaluation Report, April 2, 2008, by Morrison-Maierle, Inc., an ADLC consultant, states that waterline replacement of 32,000 feet of pipe since 2002 has reduced leakage by approximately 303,000 gallons per day.

Summary of RPPC Criteria Evaluation for Anaconda Front and Alder Street Water Distribution Replacement – 2008 Applicant: Anaconda Deer Lodge County (ADLC)	
6. Results of Response Actions	Consistent: The project will not interfere or duplicate the results of any known EPA Superfund actions.
7. Natural Recovery Potential	No Effect on the Recovery Period: This replacement project will not affect the groundwater recovery period.
8. Applicable Policies and Laws	Consistent/Sufficient Information Provided: ADLC indicates they will submit the required drawings to DEQ for review, to coordinate with DEQ/EPA if contamination is encountered, and follow Montana Public Works Specifications. ADLC currently has an "Interim Development Permit System" that outlines the procedure to dispose of wastes encountered during construction and this disposal would not be funded with Restoration Funds.
9. Resources of Special Interest	No Impact: The project is not likely to adversely impact natural resources of special interest to these entities. The Tribes have indicated that they do not object to the funding of this project and noted the potential for encountering buried cultural features and/or artifacts during excavation. If funded, the grant agreement would require proper consultation with the Tribes in such situations and the application provides for such consultation. The DOI does not object to funding this project.
10. Project Location	Within Basin and Proximate: The project will occur in Anaconda, which is within and adjacent to injured groundwater resource areas.
11. Actual Restoration of Injured Resources	No Restoration: This project replaces drinking water services lost in the area as a result of contamination where cleanup is infeasible and thus constitutes compensatory restoration.
12. Service Loss/Restored & Service Restoration	Same: This project replaces services lost; injured groundwater resources somewhat limit ADLC's potential sources for water development, thus making conservation of existing sources an effective means of enhancing its water resources.
13. Public Support	70 Support Comments: from the Anaconda Local Development Corporation, Anaconda Main Street Program, and 68 individuals.
14. Matching Funds	5.7% Cash & 0.8% In-kind: ADLC proposes a cash match of $105,788 and $14,876 of in-kind match.
15. Public Access	Not Applicable
16. Ecosystem Considerations	Positive Impacts: An estimated 193,000 gallons of water per day will be conserved, reducing water treatment and energy requirements for pumping and treating.
17. Coordination & Integration	Coordinates/Integrates: This project coordinates with ADLC's 2004 Preliminary Engineering Report, which proposes replacement of waterlines on a priority basis, and also with other funded ADLC waterline projects.
18. Normal Government Functions	Augments Normal Government Functions: Waterline installations and repairs are part of ADLC's responsibilities, because the county owns the water distribution system. The NRDP considers this project as one that augments, not replaces, normal government function, because communities typically rely on grant funds to assist in funding such work and also because the replacement of severely leaking waterlines is an effective way to compensate the community for the pervasive and extensive injuries to the Anaconda area groundwater resources that were covered under Montana v. ARCO.

Butte-Silver Bow Local Government
Big Hole River Diversion Dam Replacement Project

Project Summary

Butte Silver Bow County (B-SB) proposes to replace the antiquated Big Hole River Diversion Dam that diverts river water to a pump station for transmission to Butte for domestic water uses. Approximately 60% to 80% of Butte's water supply comes from the Big Hole River, which is 26 miles south of Butte and located outside of the Clark Fork River Basin. The Big Hole is also Rocker's main water source. Total project costs are $4,155,845, with $3,714,833 requested in Restoration Funds to be used with $412,760 cash matching funds and $28,252 in-kind matching funds.[11]

The Big Hole Dam was constructed around 1930. The diversion dam consists of a concrete dam wall with a vertical upstream face, approximately five feet high and 10 feet wide at the bottom. The downstream apron of the dam is approximately 12 feet wide and constructed of 12-foot long 6x6-inch timbers. The total width of the dam is 190 feet. The dam diverts water to an intake settling basin that then diverts water to the pump station building.

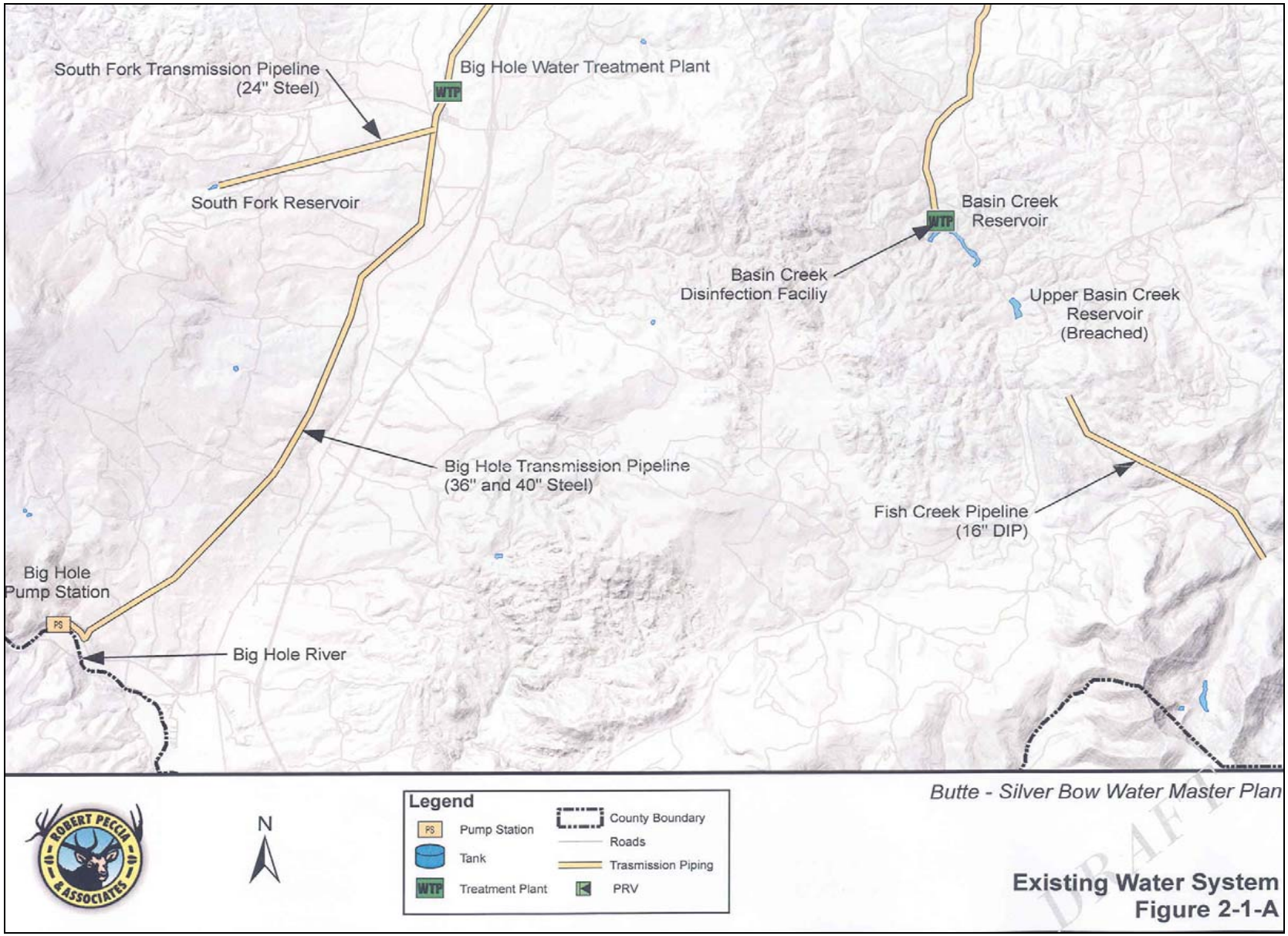
The existing structure is in very poor condition due to its age. The main problems with the dam are: 1) the timber apron dam is in a deteriorated condition, resulting in the base of the dam being undercut; 2) icing problems in the winter have caused plugging of the intake gates and structure; 3) the concrete in the abutment walls, settling basin walls, and intake structure have deteriorated; 4) the dam is barely high enough to meet section head requirements of the pump building; and 5) the existing suction piping that connects to the section header of the new vertical turbine pumps is old and needs to be replaced. B-SB is at great risk of losing its main supply of water, should the dam fail or the intake become plugged with ice for an extended period of time. The existing dam has had to twice undergo emergency repairs to prevent the dam from failing.

Grant funds would be used to address these main problems through the following improvements: 1) increasing dam height; 2) installing a fish ladder; 3) designing a new intake and installing an air diffuser system to deflect ice away from the intake structures; 4) coating inlet control structures to prevent icing; and 5) installing control gates to facilitate removal of sediment and ice from intake and settling structures. The first phase, to be completed in 2009, includes engineering and environmental planning, design, and permitting, which is estimated to cost $913,826. The second phase that involves construction may begin in late 2009 and go through 2010 at an estimated cost of $3,242,018.

Butte's bedrock aquifer is so severely injured that natural recovery will not occur for thousands of years, as concluded by the State's 1995 Restoration Determination Plan and by EPA's 1994 Record of Decision. Restoration of the bedrock aquifer is infeasible, thus the aquifer's drinking water, storage capacity, and transport services have been lost for thousands of years. The State's 1995 Restoration Determination Plan considered upgrading Butte's antiquated water system as a viable restoration alternative for the bedrock groundwater injuries in Butte. This proposal will enhance the water supply from an unaffected source, thus compensating the public for some of the lost use of groundwater that Butte has suffered due to the inability to tap clean bedrock groundwater in much of the City.

[11] The budget is revised from the budget in the grant application, which had math errors.

Figure 8: Map of Big Hole Diversion Dam



Summary of RPPC Criteria Evaluation for the Big Hole River Diversion Dam Replacement Project Applicant: Butte Silver Bow City/County (B-SB)	
Project Summary	Butte Silver Bow County (B-SB) proposes to replace the antiquated Big Hole River Diversion Dam that diverts river water to a pump station for transmission to Butte and Rocker for domestic water uses. The Big Hole is the main source of water supply for the City of Butte and the community of Rocker. Total project costs are $4,155,845, with $3,714,833 requested in Restoration Funds to be used with $412,760 cash matching funds and $28,252 in-kind matching funds. Overall Application Quality: Good
Final Funding Decision and Funding Conditions	The Governor approved full funding of this project for the requested $3,714,833, subject to an additional funding condition requiring NRDP approval of any changes in proposed improvements that result from the environmental assessment process.
Criteria Evaluation	
1. Technical Feasibility	Reasonably Feasible: The proposed design and construction tasks are technically feasible and the selected approach is likely to achieve the stated objectives. Through a competitive procurement process, B-SB will select a general contractor for the construction of the project and an engineering firm to provide planning, design, permitting, and construction oversight. B-SB has the needed experience with large water infrastructure projects of this type to complete the project. There are some uncertainties associated with the yet-to-be initiated environmental review/permitting process as noted under criteria #4 and #5 below; however, these can likely be resolved.
2. Costs: Benefits	Net Benefits: The proposed replacement of the Big Hole dam offers substantial benefits to Butte and Rocker residents. The dam is at risk of failing in the near future and such failure would result in B-SB losing its main source of water, which would severely impact the communities of Butte and Rocker. In B-SB's recently completed draft Water Master Plan, this project ranked as highest priority on the list of recommended capital water system improvements over the next 10 years.
3. Cost-Effectiveness	Likely Cost-Effective: B-SB provided a limited analysis of alternatives that compared the proposed project with placement of collector wells at the diversion area. That alternative would cost $15.7 million more than the preferred dam replacement alternative. In addition to this analysis, B-SB consultant provided supplemental information to the NRDP on the reasons for reconstructing the dam in a similar configuration and depth in response to inquiries about an alternate design that would accommodate recreational boaters.[12] Via supplemental

[12] Information provided in a 7/21/08 email from Gary Swanson of Peccia and Associates to Greg Mullen of the NRDP.

Summary of RPPC Criteria Evaluation for the Big Hole River Diversion Dam Replacement Project Applicant: Butte Silver Bow City/County (B-SB)	
	information, B-SB adequately justified why this project should not be presented as a multi-year project.[13] Based on the costs outlined in the application and in B-SB's draft Water Master Plan, the proposed approach appears cost-effective. A more thorough analysis of alternatives will be provided through the environmental assessment process and will include further analysis of an alternative for boat passage (see criterion #4).
4. Adverse Environmental Impacts	Short-term Adverse Impacts with Mitigation: The project does not appear to pose any significant adverse environmental impacts. The application provides a preliminary analysis of potential adverse environmental impacts and indicates B-SB will perform an environmental impact statement or an environmental assessment for this project. There are multiple agencies that would be involved in the permitting and associated environmental review of this proposal, including FWP, DNRC, DEQ, and the U.S. Army Corp of Engineers. Based on 7/24/08 field visit by representatives of these agencies, a team approach to the environmental review analysis is anticipated. Since the environmental analysis may result in changes in the project as it is proposed in the application, the NRDP recommends a funding condition requiring NRDP approval of any such changes. This project may have potentially adverse effects to surface water quality due to turbidity caused during construction. Settling basins may have to be constructed to control sediment discharge and keep discharge water turbidities within discharge permit limits. There will also be a potentially adverse effect on aquatic species and habitat around the construction project. The existing dam does not have a fish ladder and currently blocks fish passage for small fish. B-SB will design and install a fish ladder that will allow the travel of fish above and below the dam, which will be beneficial to native fish, including the artic grayling. The area FWP fish biologist favors construction of the fish ladder.[14] B-SB indicates that any measures that are required for the protection of the fluvial artic grayling, a species of concern, will be implemented.
5. Human Health and Safety	Short-Term Adverse Impacts with Mitigation: The application indicates B-SB will mitigate potentially adverse short term impacts to the human environment that may occur during construction, such as dust and noise. Similar to environmental impacts, impacts to human health and safety will be more thoroughly analyzed as part of the project environmental review/permitting process. The analysis will evaluate ways to mitigate impacts of the

[13] A 5/13/08 e-mail from Cindy McIlveen of B-SB to Greg Mullen of NRDP indicates that B-SB chose not to propose this grant as a two-year application because of the integral connection between the planning and implementation phases of the project and the need for funding to be secured to plan the entire project. Since this project does not clearly fit within the Trustee's multi-year policy, the entire funding request is considered under the 2008 funding cap rather than a subsequent year's funding cap.

[14] Based on information provided in phone conversation between Greg Mullen of the NRDP and Jim Olsen, FWP area fisheries biologist.

Summary of RPPC Criteria Evaluation for the Big Hole River Diversion Dam Replacement Project Applicant: Butte Silver Bow City/County (B-SB)	
	proposed improvements to recreational boaters. Based on a 9/08 update from B-SB, initial indications are favorable concerning the feasibility and costs of a boat chute option.[15]
6. Results of Response Actions	Consistent: The project will not interfere or duplicate the results of any known EPA Superfund actions.
7. Natural Recovery Potential	No Effect on Recovery Period: This replacement project will not affect Butte's aquifer recovery time.
8. Applicable Policies and Laws	Consistent/Sufficient Information Provided: The applicant has provided sufficient information on the applicable requirements needed to complete this project, including identification of the seven federal or state permits that may be needed to accomplish this project. If funded, the grant agreement would require compliance with all applicable requirements, including the public review processes.
9. Resources of Special Interest	Potentially Beneficial Impact: The Tribes and DOI have indicated that they do not object to the funding of this project. This project is not likely to adversely impact natural resources of special interest or concern given the required environmental analysis and permitting process and the planned consultation with the FWP and the U.S. Fish and Wildlife Service regarding mitigation measures to minimize fishery impacts and protect fluvial grayling. The construction of the fish ladder can positively benefit the native fish.
10. Project Location	Outside the Basin but Serves the Basin: The Big Hole Dam is located 26 miles southwest of Butte and is south of the Continental Divide, which is the Basin boundary. Although the project will be located outside of the Basin, it services water users that reside in the UCFRB and it replaces injured natural resources that cannot be restored in the Basin. All proposed improvements that are a legal requirement associated with the improvements to the dam needed for water supply purposes are eligible for Restoration Funds. If B-SB chooses to make any ancillary improvements that are not legally required, then B-SB must cover the costs of such ancillary improvements through its matching funds or other funding sources. The funding condition requiring NRDP approval of any proposed changes that result from the environmental review process provides for the needed assurance on this issue.
11. Actual Restoration of Injured Resources	No Restoration: This project replaces services of injured groundwater resources that cannot be restored and thus constitutes compensatory restoration.
12. Service Loss/Restored & Service Restoration	Same: The project replaces lost services to property owners and other members of the public in Butte who could utilize the bedrock aquifer if it was not injured.

[15] Information provided in a 9/8/08 e-mail from Cindy McIlveen of B-SB to Greg Mullen of the NRDP indicates that an initial evaluation by an engineering firm with expertise in boat chutes concluded that the flow volume seems to be conducive to boat passage for a large portion of the year using a multi-use passage.

Summary of RPPC Criteria Evaluation for the Big Hole River Diversion Dam Replacement Project Applicant: Butte Silver Bow City/County (B-SB)	
13. Public Support	23 Support Comments: from two individuals and 21 entities, including Pioneer Technical Services, Water & Environmental Technologies, B-SB Sheriff, Butte Local Development Corporation, Community Development Services, B-SB Chief Executive, B-SB Fire Department, B-SB Health Department, MERDI, Port of Montana, B-SB Public Works Department, Mainstreet Uptown Butte, B-SB Chamber of Commerce, B-SB County Attorney, B-SB Council of Commissioners, Port of Montana, Peccia and Associates, B-SB Planning Department, Skyline Sportsman Group, Anaconda Sportsman Group, Public Lands/Water Access Association.
14. Matching Funds	10% cash match and 1% in-kind match: B-SB will contribute a $412,760 cash match for contracted engineering and construction services and a $28,252 in-kind match for indirect costs, for a total match of $441,012. A possibility exists that B-SB may receive some federal funds through a congressional appropriation for this project. If such funding is obtained, B-SB would apply these funds as an additional match and the Restoration Fund portion of the project would be proportionately reduced.[16]
15. Public Access	Not Applicable
16. Ecosystem Considerations	Not Relevant
17. Coordination & Integration	Coordinates/Integrates: The project coordinates with other B-SB water system improvement projects.
18. Normal Government Functions	Within but Augments Normal Government Functions: The proposed dam repairs are the responsibility of B-SB since the County owns the water system. The NRDP considers this project as one that augments, not replaces, normal government function because communities typically rely on a combination of grant funds and user fees to fund such projects and because the proposal is an effective way to compensate the community for the pervasive and extensive injuries to the groundwater resources underlying Butte that were covered under Montana v. ARCO.

[16] Information provided by Cindy McIlveen of B-SB in a 7/7/08 phone conversation with Greg Mullen.

Restoring Native Plant Diversity in the Upper Clark Fork Basin: A demonstration project using novel techniques to produce sustainable and weed resistant natural plant communities

Project Summary

Montana Tech of the University of Montana proposes to demonstrate innovative ways to restore native plant species diversity in the upland areas of Butte and Anaconda that were impacted by past mining activities. Total project costs are $770,247,[17] with $628,175 requested in Restoration Funds and $142,072 in-kind matching funds. Montana Tech is presently building a nursery on campus with funding from a 2007 DNRC grant.

This three-year demonstration project has two main objectives. The first is to develop ways to place diverse plant communities, mainly forbs, in degraded upland situations. This will be accomplished by developing easily transplantable forb sods and increasing the number of available forb species by seed collection, tissue culture, and propagation. The $392,619 budgeted for this objective is mainly for a nursery technician over a three year period and for supplies and materials to produce the sod mats. The second objective is to develop weed resistant native plants and deploy them in various areas in Butte and Anaconda injured upland areas. The $235,556 budgeted for this objective is mainly for University of Missoula personnel to establish demonstration plots in the UCFRB over a three-year period. The project seeks to develop dozens of species of forbs beyond those already commercially available. The project also has a small education component that involves student involvement in nursery activities to be coordinated through the Clark Fork Watershed Education Program.

Through its initial evaluation process, the NRDP identified areas in the scope and budget of the University of Missoula weed research component that could be reduced to focus the work more directly on the restoration needs of the UCFRB rather than on general weed research. Based on discussions with the NRDP, the applicant reduced the original budget for this project component by $47,237 and clarified the connection between the proposed use of native plant species and the actual restoration needs in the basin, especially in the Anaconda area.[18] Since issuance of the August 2008 *Pre-Draft Work Plan*, the NRDP conducted additional consultation with the applicant and review of the proposal specifics as a result of additional public input on the project. In addition, further clarifications occurred with regards to the coordination between the applicants and Butte-Silver Bow and Butte-Silver Bow's commitments for this project. These additional considerations led to an additional $172,832 reduction in the requested UCFRB Restoration Funds for this project.[19] The revised total project costs are $770,247, with $142,072 to be provided in matching funds. The NRDP's evaluation of this proposal is based on this revised budget.

[17] This amount is $220,069 less than what was in the original application.
[18] Information provided in a 5/23/08 e-mail from Ray Callaway of the University of Montana to Greg Mullen of NRDP.
[19] Information provided in a 9/7/08 e-mail from Rick Douglass of MT Tech to Greg Mullen of the NRDP.

Summary of RPPC Criteria Evaluation for Restoring Native Plant Diversity in the Upper Clark Fork Basin: A demonstration project using novel techniques to produce sustainable and weed resistant natural plant communities Applicant: Montana Tech of the University of Montana	
Project Summary	Montana Tech of the University of Montana seeks $628,175 to demonstrate novel ways to restore native plant species diversity, mostly forbs, in the Upland areas of Butte and Anaconda that were impacted by past mining activities. As revised, total project costs for this three year project are $770,247, with $628,175 requested in Restoration Funds and $142,072 offered as in-kind matching funds. Overall Application Quality: Good. However, numerous application clarifications were requested from the applicant.
Final Funding Decision and Funding Conditions	The Governor approved full funding of this project for the requested $628,175, with a funding condition that the applicant have an end of each year progress meeting with NRDP to discuss and specifically outline the accomplishments and the next year's goals and activities and commit to incorporate NRDP recommendations into future year activities, if funding allows.
Criteria Evaluation	
1. Technical Feasibility	Uncertain Feasibility: Because this project is a research demonstration project that uses novel techniques to establish diverse plant communities, particularly forbs, in degraded upland areas, the feasibility of achieving these goals is uncertain. This uncertainty is recognized by the applicants as well as the revegetation experts who assisted with the application review. Forbs are especially sensitive to high metal and low pH conditions, which persist in many areas needing restoration in the Basin. The applicant has shown that some of the project components, such as growing forb sod mats, evaluating the use of weed resistant plants, and seed collection, are feasible. However, the rate at which these sod mats spread in upland areas, the viability of the seed, and the actual weed resistance of plants in the field demonstration plots to be located in the Butte and Anaconda areas cannot be ascertained until the three year project has produced its findings. The applicants note that seed collection of native forb plants is currently limited due to the lack of seed produced and the low seed viability of these plants and that finding the correct growth media for the sod mats and establishing forbs in contaminated areas will be difficult. In addition, the use of tissue culture to propagate native forbs is a technique that is rarely used and the success of this technique is largely unknown. A final uncertainty involves the needed maintenance of the forb planting areas and potential impact of herbicides. The nature of these uncertainties is somewhat inherent in all research projects. The project applicants state that they will utilize readily available data during the study and make appropriate adjustments to increase the likelihood of success. They will also coordinate with Butte-Silver Bow to assure that demonstration plots are properly maintained and not impacted by herbicides, and Butte-Silver Bow has committed to the needed initial watering.[20] To help direct the project in a way that will best assist with reclamation needs of contaminated lands in the UCFRB, the NRDP recommends a funding condition that the applicant have an end of year progress meeting with NRDP to discuss and

[20] Butte-Silver Bow's commitment to and support of the project is covered in a 9/5/08 letter from Tom Malloy of Butte-Silver Bow to Greg Mullen.

Summary of RPPC Criteria Evaluation for Restoring Native Plant Diversity in the Upper Clark Fork Basin: A demonstration project using novel techniques to produce sustainable and weed resistant natural plant communities Applicant: Montana Tech of the University of Montana	
	specifically outline the accomplishments and the next year's project goals and activities and commit to incorporate NRDP recommendations into future year activities, if funding allows.
2. Costs:Benefits	Commensurate: Through a 2007 DNRC grant, a nursery is being built at Montana Tech; however, funding to staff the nursery and grow plants for reclamation in the Butte area is not presently available. This proposal will fund the needed staff and supplies to grow plants, which are an important component of restoration, for three years. Having a local nursery facility where plants can be "hardened off" during the growing season will be beneficial for the success of plants in Butte's harsh climate, will be useful for easy access for local seed collection and plant establishment, and will provide for local presence personnel who are both knowledgeable and involved in maintaining plantings in the UCFRB. If the novel techniques to increase native plant species diversity being tested in this research project prove to be successful, the project will result in substantial benefits to injured natural resources in the UCFRB. Currently, there is a lack of forbs and shrubs in the mining-impacted areas of Butte, Anaconda, and other UCFRB communities. If the project increases the availability of forb and shrub seed, then benefits to wildlife habitat and reclamation in the entire UCFRB should occur. If diverse forb/shrub islands are established, they should provide sources of seed to disperse into surrounding habitats. Also, an establishment of a diverse plant community should enhance resistance to weed invasion, as shown by the researcher's past findings. This would be particularly beneficial for the State's restoration efforts in the injured Smelter Hill Upland area, which has severe weed problems. The proposed strategy of creating forb seed orchards to increase the quantity of seed and species with seed available is expected to be beneficial. Even without successful results, the proposed research will advance the scientific knowledge about revegetation of contaminated areas. Given the known benefits that will be derived from funding the nursery staff and the substantial potential benefits that could result from the proposed research, the NRDP considers the project benefits to be at least commensurate with its costs.
3. Cost-Effectiveness	Potentially Cost-Effective: The applicant states that the no action alternative of not trying to enhance forb/shrub dispersal would result in a continuation of minimal plant diversity in the impacted areas, which is not an optimal restoration condition. The applicants also note that both major components of the project, the forb mat component and the weed resistant component, are together critical in order to establish diverse and knapweed resistant native communities. NRDP agrees with the applicant's conclusions on these two points. The applicant could have chosen to focus on just revegetation work in Butte or Anaconda for this project, but both areas are a major focus of restoration efforts, so it is logical to do this work in both areas, and this work can be applied to other locations in the UCFRB. The applicant makes a reasonable case that three years of time is required to ascertain the results of the proposed research. The revised project costs are reasonable. Due to the uncertainty with the project's feasibility, the NRDP considers this project to be potentially cost-effective. The NRDP's recommended funding condition will increase the project's cost-effectiveness throughout its duration.

Summary of RPPC Criteria Evaluation for Restoring Native Plant Diversity in the Upper Clark Fork Basin: A demonstration project using novel techniques to produce sustainable and weed resistant natural plant communities Applicant: Montana Tech of the University of Montana	
4. Adverse Environmental Impacts	No Adverse Impacts: This project does not present any adverse impacts on the environment. Long term beneficial impacts to the environment with enhanced vegetation should result from this project.
5. Human Health and Safety	No Adverse Impacts: The project does not present any adverse impacts to human health or safety.
6. Results of Response Actions	Positive Coordination: This project positively coordinates with and augments remedial actions by potentially enhancing the vegetation diversity of previously capped waste areas on Butte Hill and diversifying the seed mixes that can be used in the remedial actions for the Smelter Hill Uplands, the Clark Fork River, and Silver Bow Creek.
7. Natural Recovery Potential	May Reduce Recovery Period: If the project is successful, the recovery time of injured wildlife habitat in the Smelter Hill Uplands Area, Silver Bow Creek, and Clark Fork River sites can be reduced through the proposed additional diversity in vegetation and increased seed availability. Although the previously reclaimed areas on Butte Hill are not part of the State's terrestrial injured areas, the increased diversity may assist in restoration of these areas to reduce potential contaminated surface water runoff to Silver Bow Creek.
8. Applicable Policies and Laws	Consistent/Sufficient Information Provided: No permits would be required for the proposed work and the applicant has planned for the necessary coordination with Butte-Silver Bow.
9. Resources of Special Interest	Beneficial Impacts: The DOI strongly supports funding this project. The Tribes support this project, which is expected to benefit natural resources of special interest to the Tribes and DOI, due to improvements to wildlife habitat.
10. Project Location	Within Basin and Proximate: All research activities associated with this proposal will be conducted in the UCFRB, except for the forb sod seed orchard work, which will be in Arlee, Montana. All research activities will directly benefit the UCFRB.
11. Actual Restoration of Injured Resources	May Contribute to Restoration: The results of this research proposal, if successful, may aid in restoring injured areas in the Basin by enhancing native vegetative communities and thereby enhancing wildlife habitat.
12. Service Loss/Restored & Service Restoration	Same: Through its potential to improve wildlife habitat in injured areas, the project will improve associated ecological services provided by wildlife habitat that are the same or substantially similar to those covered under Montana v. ARCO.
13. Public Support	15 Support Comments; 3 Opposition Comments: The NRDP has received 15 support comments from Butte-Silver Bow, Butte Restoration Alliance, Montana State Extension Service, Bridger Plant Materials Center, Butte Kiwanis, Calypso Chapter of the Montana Native Plant Society, DEQ, EPA, CFWEP, and Missoula Parks and Recreation, Skyline Sportsman, Anaconda Sportsmen, Public Land/Water Access Association, and two individuals. The NRDP has received 3 letters in opposition to funding this project from three individuals.
14. Matching Funds	18% in-kind match: The applicant's match of $142,072 includes university in-kind labor, labor from the Native Plant Society, and labor and supplies from Butte-Silver Bow. The applicant notes that, although not formally part of a match, Montana Tech is also providing land and a greenhouse.

Summary of RPPC Criteria Evaluation for Restoring Native Plant Diversity in the Upper Clark Fork Basin: A demonstration project using novel techniques to produce sustainable and weed resistant natural plant communities Applicant: Montana Tech of the University of Montana	
15. Public Access	Not Applicable
16. Ecosystem Considerations	Positive: The project could result in vegetation improvements in the UCFRB that will address multiple resource problems by restoring ecological processes, improving soil stability and weed resistance, and reducing erosion.
17. Coordination & Integration	Coordinates/Integrates: This project will coordinate with the seed production activities of the Bridger Plant Materials Center and the Clark Fork Watershed Education Program.
18. Normal Government Functions	Outside of Normal Government Function: None of the project activities entail those that a governmental entity is obliged by law to conduct or would normally conduct. While the proposed research is not required, it will assist the state and local government entities conducting restoration.
Monitoring & Research Criteria	
21. Overall Scientific Program	Coordinates: The project will augment and not duplicate past and on-going scientific work. It will coordinate with and not duplicate the already funded Bridger Plant Material seed production project through its intended use of some of the successful grass and forb releases and shrub seed from the Bridger seed orchards and through the intended sharing of information between the project team of both projects. The Bridger project focuses of the establishment of shrubs, grasses, and some forbs from the Anaconda area for restoration work in the Anaconda area whereas this proposal focuses primarily with the propagation and establishment of forbs.
22. Assistance with Restoration Planning	Moderate Benefits: The Butte Nursery Research project will derive moderate benefits to future restoration planning efforts in terms of providing information about and products for improving the plant diversity of revegetation efforts in injured areas. Although forbs and shrub seeds are presently not a major component in UCFRB reclamation, the present grass and forb species utilized in many reclamation seed mixes have proven to hold soil in place and provide somewhat of a diverse habitat. This project should assist in restoration by enhancing diversity and possibly providing seed mixes which are resistant to knapweed. Also, the proposed collection of local seed species adapted to specific harsh climate regimes in Butte and Anaconda is expected to enhance plant success and thereby assist in restoration in those areas, as well as along Silver Bow Creek and the Clark Fork River. In particular, the project can assist with the restoration planning in Butte pursuant to the NRDP's November 2007 *Butte Area One Restoration Planning Process and Draft Conceptual Restoration Plan* that proposes an alternative involving further reclaiming and/or capping of waste areas in Butte.

Butte-Silver Bow Local Government
Drinking Water Infrastructure Replacement – Year 8

Project Summary

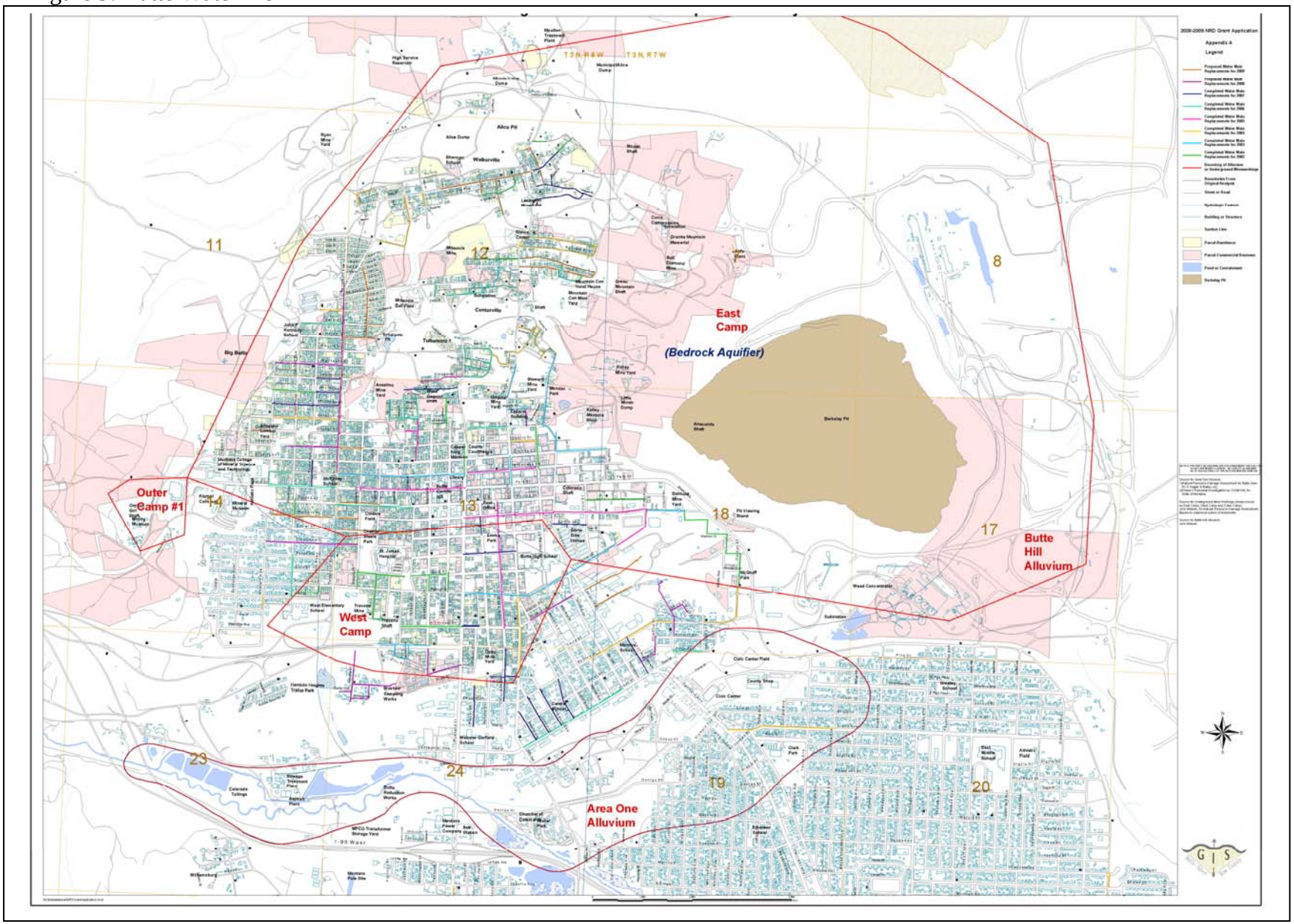
Butte-Silver Bow City-County (B-SB) proposes to replace inadequate water distribution lines in the city of Butte. The proposal is to replace approximately 17,900 feet of waterline in 2009 at a total cost of $2,729,071, with $2,414,424 requested in Restoration Funds and $306,917 in cash and $7,730 in-kind matching funds.

Butte's bedrock aquifer is contaminated throughout a seven square mile area of the City and these distribution lines overlay that aquifer. This aquifer is so severely injured that natural recovery will not occur for thousands of years, as concluded by the State's 1995 Restoration Determination Plan and by EPA's 1994 Record of Decision. Restoration of the bedrock aquifer is infeasible, thus the aquifer's drinking water, storage capacity, and transport services have been lost for thousands of years. The State's 1995 Restoration Determination Plan considered upgrading Butte's antiquated water system as a viable restoration alternative for the bedrock groundwater injuries in Butte. This proposal will enhance the water supply from an unaffected source, thus compensating the public for some of the lost use of groundwater that Butte has suffered due to the inability to tap clean bedrock groundwater in much of the City.

This proposal is Year 8 of an intended 15-year funding request to the NRDP by B-SB for waterline replacement. The Governor has approved funding for year 1 through year 7 totaling $10,435,756 and about 98,233 feet of waterline has been replaced. If all 15 years of the plan are implemented, B-SB estimates the cost to the Restoration Fund to be about $30 million; however, there are indications that the costs could be higher.[21] This evaluation does not address that long-term plan in depth and if B-SB seeks further funding beyond this year's proposal, it will need to do so through a separate application(s).

[21] Butte-Silver Bow Water Main Replacement Update, November 6, 2007, submitted to the Trustee Restoration Council by B-SB.

Figure 9: Butte Waterline



Summary of RPPC Criteria Evaluation for Butte Waterline Applicant: Butte-Silver Bow City County Government (B-SB) – Year 8	
Project Summary	Butte-Silver Bow City-County (B-SB) proposes to replace 17,900 feet of inadequate water distribution lines in the city of Butte that serve 266 households. Total project costs are $2,729,071, with $2,414,424 requested in Restoration Funds and $306,917 in cash and $7,730 in-kind matching funds. Overall Application Quality: Good
Final Funding Decision and Funding Conditions	The Governor approved full funding of this project for the requested amount of $2,414,424, with no additional funding conditions.
Criteria Evaluation	
1. Technical Feasibility	Reasonably Feasible: The project will replace leaking waterlines using standard engineering and construction practices. B-SB has successfully conducted similar work over the last decade in Butte.
2. Costs:Benefits	Commensurate Benefits: This proposal will benefit and compensate a large public for some of the lost use of groundwater that Butte has suffered due to the inability to use bedrock groundwater in much of the City. Benefits include improved fire protection; reduced pumping, treatment, repair, and property damage costs that result from reduced leakage; a reduced potential for the distribution system becoming contaminated through leaky and failing pipes; and water conservation.
3. Cost-Effectiveness	Likely Cost-Effective: While a thorough alternatives analysis was not provided, partly because B-SB's master plan update is not finalized, this proposal is likely to be a cost-effective alternative to addressing problems with the water distribution system and meeting B-SB's specific goal of replacing deteriorated, undersized water mains and conserving water. It appears that this project, along with the proposed water metering project and the Big Hole transmission line and dam replacement projects are the most viable alternatives to conserving water and/or upgrading the delivery of the Butte water system.
4. Adverse Environmental Impacts	No Significant Adverse Impacts: B-SB has adequately recognized and planned for potentially short-term adverse impacts that are typically associated with construction activities.
5. Human Health and Safety	No Significant Adverse Impacts: B-SB plans to implement adequate safety measures during construction. The project can have beneficial impacts to human health and safety by improving fire protection, reducing road hazards caused by leaking water and ice, and increasing the availability of water otherwise lost to leakage.
6. Results of Response Actions	Consistent: The project will not interfere or duplicate the results of any known EPA Superfund actions.
7. Natural Recovery Potential	No Effect on Recovery Period: This replacement project will not affect the bedrock aquifer's recovery period.
8. Applicable Policies and Laws	Consistent/Sufficient Information Provided: The applicant identified and adequately planned for necessary permits.

Summary of RPPC Criteria Evaluation for Butte Waterline Applicant: Butte-Silver Bow City County Government (B-SB) – Year 8	
9. Resources of Special Interest	No Impact: The project is not likely to impact these resources of special interest to the Tribes or DOI, since work will occur on already constructed and paved streets. The Tribes have indicated that they do not object to the funding of this project and noted the potential for encountering buried cultural features and/or artifacts during excavation. If funded, the grant agreement would require proper consultation with the Tribes in such situations. The DOI does not object to funding this project.
10. Project Location	Within Basin and Proximate: The project overlies the injured Butte Hill groundwater resource.
11. Actual Restoration of Injured Resources	No Restoration: The project replaces services of injured groundwater resources that cannot be restored and thus constitutes compensatory restoration.
12. Service Loss/Service Restored	Same: This proposal replaces lost services to property owners and other members of the public in Butte that could use the bedrock aquifer if it was not injured.
13. Public Support	23 Support Comments: from B-SB Office of the Chief Executive, B-SB Director of Fire Services, B-SB Director of Public Health, B-SB Council of Commissioners, B-SB Planning Department, B-SB Water Treatment Manager, B-SB Office of Emergency Management, B-SB County Attorney, B-SB Water Utility Division Manager, Main Street Uptown Butte, B-SB Chamber of Commerce, Butte Local Development Corporation, Community Development Services of Montana Butte Public Schools Superintendent, Butte EPA, Port of Montana, six area businesses, and two individuals.
14. Matching Funds	11.2% Cash Match & 0.3% In-kind Match: B-SB will contribute $306,917 cash for construction costs and $7,730 for in-kind labor, for a total match of $314,647.
15. Public Access	Not Applicable
16. Ecosystem Considerations	Positive: Conserving water and reducing power needs for pumping and treating water fits within a broad ecosystem concept.
17. Coordination & Integration	Coordinates: This proposal coordinates with other Butte waterline replacement projects, the Big Hole transmission line and dam replacement projects, and other water system improvement projects, like the proposed metering project that, if funded, will conserve water and/or reduce maintenance and improve the delivery of drinking water.
18. Normal Government Functions	Augments Normal Government Functions: Waterline system installation and repairs are part of B-SB's responsibilities, since the county owns the water distribution system. The NRDP considers this project as one that augments, not replaces, normal government function because communities typically rely on a combination of grant funds and user fees to fund such projects, and because the proposal is an effective way to compensate the community for the pervasive and extensive injuries to the groundwater resources underlying Butte that were covered under Montana v. ARCO.

Vanisko Ranch Conservation Easement
Montana Fish Wildlife and Parks

Project Summary

Montana Fish, Wildlife & Parks (FWP) seeks $5,655,000 of Restoration Funds to pay for placement of a conservation easement on 7,140 acres[22] of the Vanisko Ranch located about seven miles southeast of Deer Lodge and to purchase fee title of two forest in-holdings, totaling 196 acres. One in-holding is close to the easement area near Orofino Creek (63 acres). The other in-holding is on the west-side of the Valley along one mile of Racetrack Creek (133 acres). Of the $5,655,000 requested in Restoration Funds, $4,960,000 would be for an easement on 7,140 acres of the main Vanisko Ranch, $195,000 would be for acquisition of the Orofino in-holding and $500,000 would be for acquisition of the Racetrack in-holding. FWP proposes $27,031 in-kind matching funds, for a total project cost of $5,682,031.

Under this proposal, FWP would hold and monitor the conservation easement on the main Vanisko Ranch in perpetuity. The primary purpose of the easement is to obtain lasting protection for priority fish and wildlife habitats on the Ranch. The easement would also provide for limited and managed public access for hunting and other recreational purposes. Also under this proposal, FWP would acquire the two in-holdings, with the intent to subsequently trade them to the U.S. Forest Service (USFS) for federal lands adjacent to the Lost Creek Wildlife Management Area (WMA) located near Anaconda. Because the trade of the in-holdings to the USFS would require many additional land transaction steps that have yet to be started, this evaluation considers only the public acquisition of these parcels. Evaluation of any future trade would be subject of a separate environmental assessment and public review process to be coordinated through FWP and the USFS and be subject of NRDP approval after consultation with the Advisory Council and Trustee Restoration Council.

The main Vanisko Ranch is a large contiguous property, which includes portions of several drainages (Peterson, Orofino, Caribou, and Spring creeks) near the headwaters of the Clark Fork River. The property has multiple springs, native bunchgrass communities, aspen stands, and forest communities dominated by Douglas fir. In total, 15 miles of steams and riparian areas exist on the property, plus almost a mile of Racetrack Creek on the Racetrack in-holding. Peterson Creek and Orofino Creek support a genetically pure strain of westslope cutthroat, and bull trout have been reported in Racetrack Creek near the proposed in-holding. Native habitat types on the ranch are representative of their historic composition with grasslands transitioning into dry forest communities as elevation climbs from 5,050 feet to 7,480 feet.

The Vanisko Ranch borders public lands on three sides and possesses a diversity of wildlife habitat that FWP considers to be exceptional. The property's mixture of healthy grassland, forest, and wetland/riparian communities creates ideal habitat for a diversity of wildlife species, providing four season habitat for elk, including elk winter range and calving habitat, mule deer, white-tailed deer, moose, and numerous other non-game species. The property has been open to public hunting via FWP's Block Management Program since the Program's inception in 1998, with a notably strong elk harvest and an average of 237 hunters using the property per season. All Vanisko Ranch lands lie within the FWP's Deer Lodge Valley Tier 1 Terrestrial Focus Area, identified as a priority for conservation.

[22] Since FWP submitted the application, FWP has revised the estimate of the easement acreage from 7,140 acres to 7,046 acres. This evaluation is based on the 7,140 acres since that is the basis for the proposal budget, with the understanding that total cost of the project, if funded, may be slightly less should the easement acreage be lower.

A 2007 Project Development Grant (PDG) funded a baseline conservation inventory, appraisal of the ranch, and initial negotiations with the Berg family, the Vanisko Ranch owners. The proposed easement terms generally involve a prohibition on subdivision, restrictions on certain land management activities, and provisions for limited and managed public access for hunting and other recreational purposes. While final easement negotiations are still being conducted, as currently drafted for purposes of NRDP's evaluation of this project and pre-draft funding recommendation, it is assumed that the easement would, in perpetuity:

- limit subdivision of the property to one split with a maximum of two house sites;
- provide for limited and managed public access that would provide a minimum 800 hunter-days during hunting season each year and a minimum 400 recreational access days for fishing, hiking, and wildlife viewing each year;[23]
- require timber harvest activities to be conducted pursuant to a plan approved by FWP;
- require grazing management activities to be conducted in a manner that maintains or improves range conditions from the conditions documented in the baseline inventory and does not significantly deteriorate streambanks, wetlands, riparian vegetation, or water quality; and
- prohibit the destruction of riparian vegetation, native rangelands, wetlands or riparian areas, commercial outfitting, minerals exploration and development, commercial feedlots, industrial activities, and other activities that would degrade the property's conservation values.

[23] One hunter on the property on one day is considered to be one "hunter-day" and one person conducting recreational activities other than hunting on the property on one day is considered to be one "recreational access day." It is possible that the easement terms would allow moving unused recreational-access days to hunter-days and vice versa.

Figure 10: Vanisko Easement Property

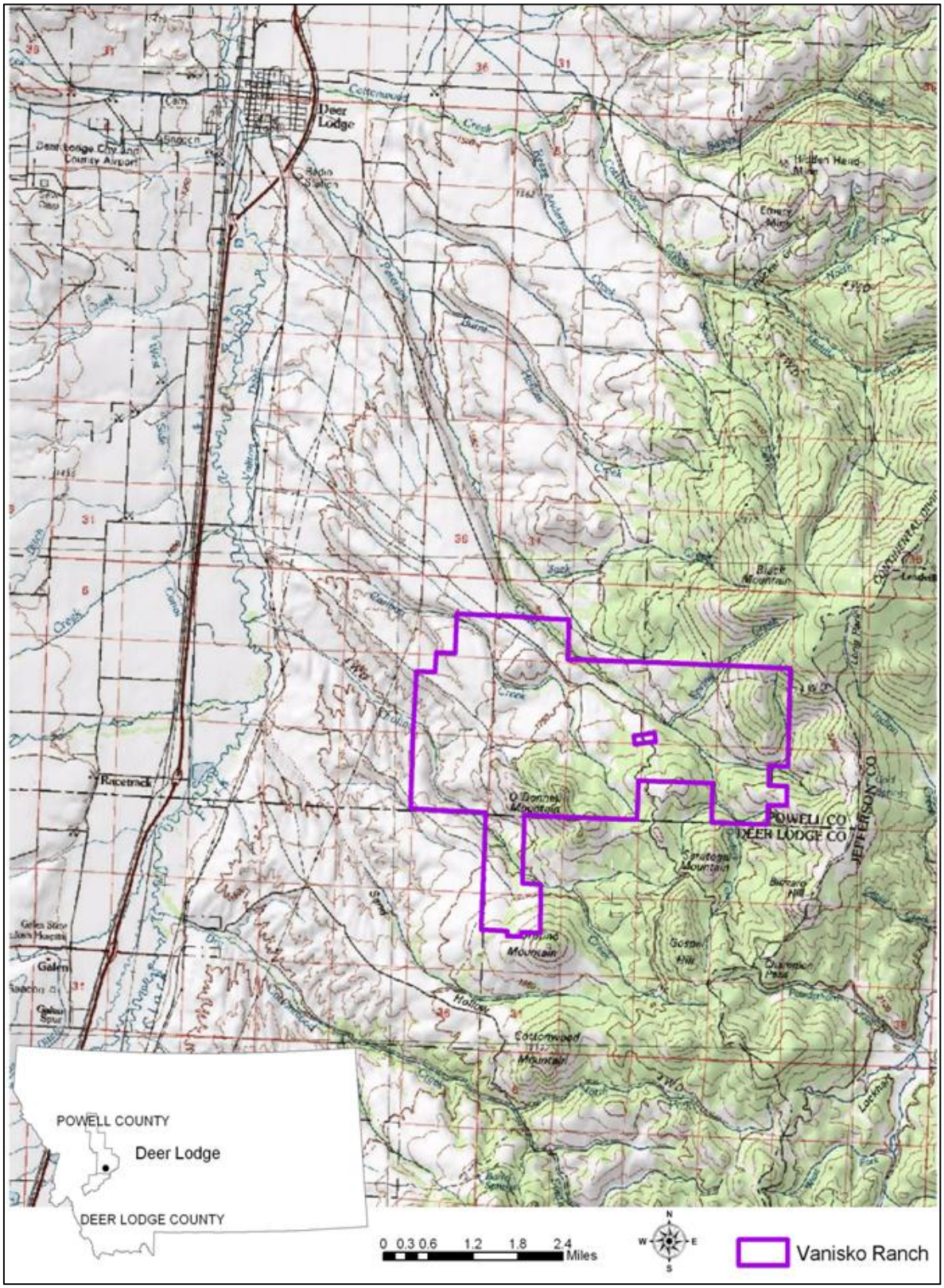
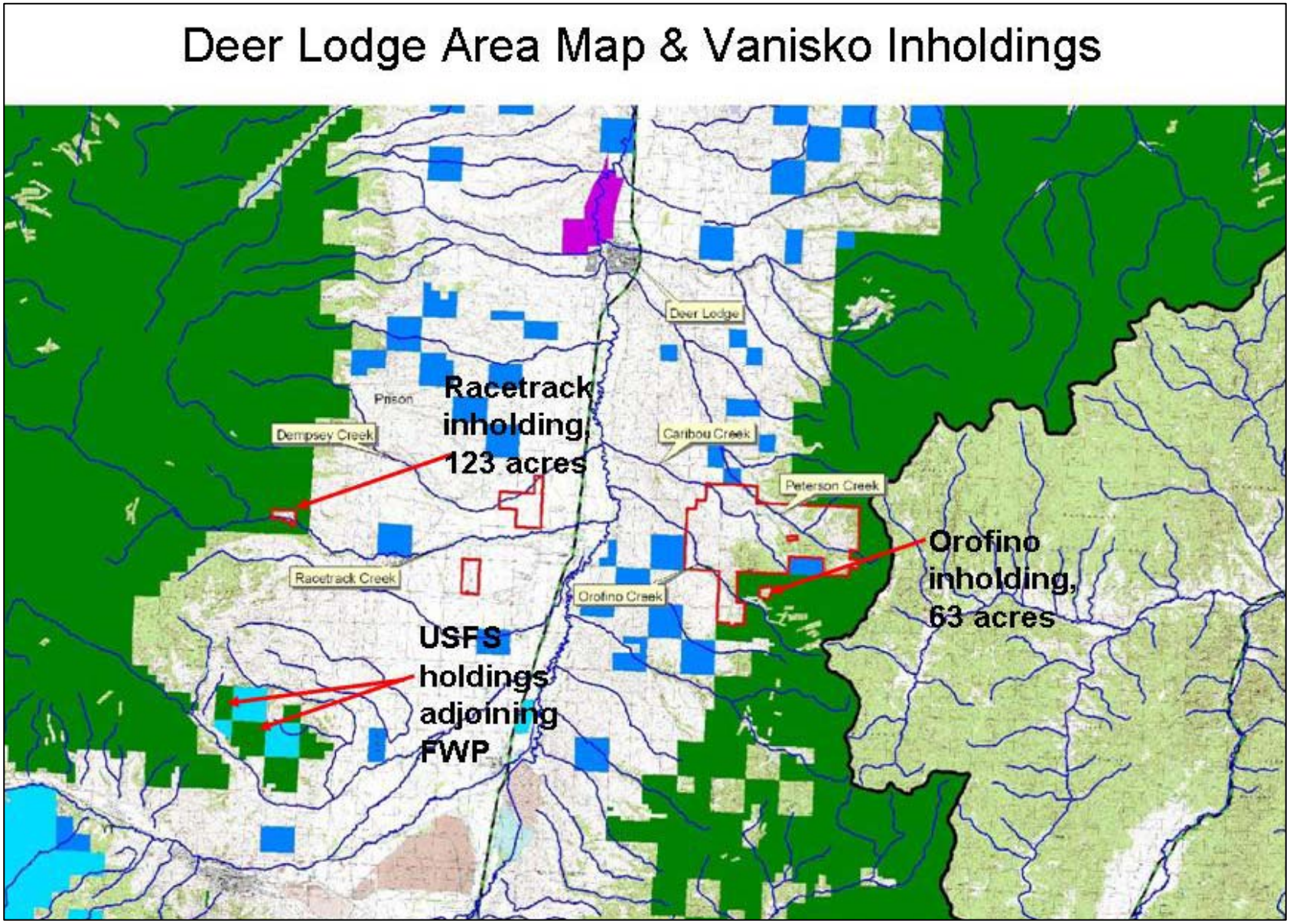


Figure 11: Vanisko in-holding acquisition property



Summary of RPPC Criteria Evaluation for the Vanisko Conservation Easement Applicant: Montana Fish, Wildlife and Parks (FWP)	
Project Summary	Montana Fish, Wildlife & Parks (FWP) seeks $5,655,000 of Restoration Funds to pay for placement of a conservation easement on 7,140 acres of the Vanisko Ranch located about seven miles southeast of Deer Lodge and to purchase fee title of two forest in-holdings, totaling 196 acres. Of the $5,655,000 requested in Restoration Funds, $4,960,000 would be for an easement on 7,140 acres of the main Vanisko Ranch, $195,000 would be for acquisition of the 63 acre Orofino in-holding, and $500,000 would be for acquisition of the 132 acre Racetrack in-holding. FWP proposes $27,031 in-kind matching funds, for a total project cost of $5,682,031. Overall application quality: Fair. While the application had thorough information about the property's conservation values, some major land acquisition tasks remain to be completed, such as final easement negotiations and title work, thus requiring supplemental information and the necessity of funding conditions tied to uncertainties.
Governor's Decision -- Deferred	The Governor deferred a funding decision on this proposal, consistent with the final recommendation of the TRC and a funding condition in the *Draft Work Plan* that provided for an alternate funding decision timeframe, pending results of a second appraisal, as indicated in the following draft funding recommendation from the *Draft Work Plan*: "The TRC seeks public comment on a draft funding recommendation to fund this project at a maximum amount of $5,655,000, subject to the following funding conditions: 1) that a second appraisal of the conservation easement be conducted to determine the easement value; 2) that an alternative timeframe be allowed for a final decision on the project, provided it remains within this funding cycle (which may mean a final decision on this project may not occur until next year); 3) that the acquisition not be consummated if the mineral title search indicates a third party owns a significant portion of the mineral rights and the right of surface entry and those rights are not subsequently purchased or subordinated to prevent future mineral development; and 4) that the NRDP approve of the final easement terms and the other land transaction documents that remain to be completed, the one allowed subdivision of the easement property, and any future trade of the two in-holdings to the USFS." The TRC will consider the results of the second appraisal in making a final recommendation to the Governor, who will make the final funding decision on this proposal.
Criteria Evaluation	
1. Technical Feasibility	Potentially Feasible: FWP seeks to accomplish its goal of obtaining lasting protection for priority fish and wildlife habitats on the Vanisko Ranch. Easement and acquisitions can be effective tools to conserve fish and wildlife habitat, open space, recreational amenities, and agricultural landscapes. FWP has considerable experience in the successful development, acquisition, and management of conservation easements, with the acquisition of lands statewide, and with land exchanges with the USFS, such as that contemplated for the two in-holdings to be acquired. FWP has conducted a baseline inventory, appraisal, title work, and initial landowner negotiations for the easement and appraisal and title work for the in-holding acquisitions. Some additional land transaction steps still remain to be completed, however, which lends some uncertainty to the project. The steps that remain to be completed for both the easement and the in-holding acquisitions include mineral title work, an environmental assessment, approval by the FWP Commission and Land Board, and closing. Additional steps to be completed on the easement include final negotiations with the landowners of the easement terms and review and

Summary of RPPC Criteria Evaluation for the Vanisko Conservation Easement Applicant: Montana Fish, Wildlife and Parks (FWP)	
	approval by the NRDP of those final terms, county review of easement terms, and further review by the NRDP of the appraisal. A limited evaluation of the mineral development potential of the easement and acquisition properties by the Montana Bureau of Mines and Geology[24] that did not involve an on-the-ground survey indicated a remote potential for mineral development on the Racetrack Creek in-holdings whereas the easement property has some large areas that could become the subject of mineral development that made it ineligible for consideration of an IRS tax deduction for conservation easements. In July 2008, FWP ordered a mineral title search at the recommendation of the NRDP. In August 2008, the FWP provided information indicating that it does not appear mineral rights present a problem for the proposed easement transaction for the 91% portion of the easement property that is in Powell County. Results of the mineral rights ownership on the 9% portion of the easement property in Deer Lodge County are pending. The NRDP's recommended funding conditions are based on the incomplete status of the mineral title search, easement negotiations, and other remaining land acquisition steps. Given these funding conditions and the substantive progress made in negotiations with the landowners and other work completed to date on this project, the NRDP considers this project to be potentially feasible.
2. Costs:Benefits	Commensurate Benefits: Given the easement property's exceptional wildlife resource values, its location adjacent to existing public lands and within a priority area identified for conservation by FWP, and the easement's provision for limited and managed public access of 800 hunter-days and 400 recreational access days to the property in perpetuity, the natural resource and recreation benefits of the easement are substantial. Acquisition of the two in-holdings also offer substantial resource and recreation benefits, particularly the Racetrack in-holding that includes one mile of the creek and may involve a water right that could offer some instream flow benefit,[25] and will provide for continuity of public ownership that will reduce the management and access problems associated with private in-holdings. Assuming that the conditions of approval are satisfactorily resolved, the NRDP considers the project benefits to be commensurate with its cost of $5,655,000, which is the total of the appraised fair market value of the easement and acquisitions. Had costs been substantially below the appraised price, it would have been considered as a project of net benefit.

[24] A 7/9/08 letter from Robin McCulloch of the Montana Bureau of Mines and Geology to Darlene Edge of FWP indicated that at least four sections (25,600 acres) of the easement property have some potential for mineral development.

[25] FWP is currently evaluating whether a 6.25 cfs water right with a seniority date of 1875 is tied to the Racetrack in-holding parcel. If this right would be acquired with the land, it may be of some instream flow benefit, but such a determination would require a detailed analysis of water rights and flows that is beyond the scope of this grant evaluation.

Summary of RPPC Criteria Evaluation for the Vanisko Conservation Easement Applicant: Montana Fish, Wildlife and Parks (FWP)	
3. Cost-Effectiveness	Potentially Cost-Effective: FWP offered three alternatives of: 1) no action, which would result in not accomplishing the project goals; 2) delaying the easement/acquisitions, which could result in the landowner pursuing other options or increased costs due to land appreciation values; or 3) pursuing other funding sources, which FWP did not consider likely to result in success since other funding sources are directed towards state or national priorities and are more competitive than Restoration Funds that are allocated to the Basin. The NRDP agrees with FWP's assessment of these alternatives and also considers the additional less-costly alternative of having an easement without limited and managed public access to be inferior to the proposal. Other alternatives that would involve a less restricted type of public access, or that would involve fee title acquisition, are not considered feasible as they are not alternatives the landowner is willing to consider at this time.[26] The NRDP considers this project to be potentially cost-effective pending further review of the easement appraisal.
4. Adverse Environmental Impacts	No Adverse Impacts: No adverse impact to the environment will result from this project, which will benefit natural resources through the protection of the easement and in-holding properties from potentially detrimental development or land management activities.
5. Human Health and Safety	No Significant Adverse Impacts: See criterion #19 regarding increased demand for governmental services.
6. Results of Response Actions	Consistent: Neither the easements nor acquisitions will duplicate or interfere with results of a completed, planned, or anticipated Superfund response action.
7. Natural Recovery Potential	No Effect on Recovery Period: The project will not change the timeframe for recovery of injured resources.
8. Applicable Policies and Laws	Consistent: FWP has extensive experience in accomplishing easements and acquisitions and is thus knowledgeable about the needed approvals and requirements to accomplish this project, which were identified in the application.
9. Resources of Special Interest	Beneficial Impact: Given that the easement would provide long-term protection for priority aquatic and terrestrial habitats and many terrestrial and aquatic species, including habitat for native species such as westslope cutthroat trout, it is likely to benefit resources of special interest to the Tribes and DOI. The Tribes have indicated their strong support for this proposal. The DOI supports funding this project.
10. Project Location	Within the Basin and Proximate: The Vanisko easement property is between two and seven miles east of the Clark Fork River. The Orofino in-holding is about five miles east and the Racetrack in-holding is about seven miles west of the Clark Fork River, respectively. Both the easement and acquisitions are considered proximate to the injured aquatic resources of the Clark Fork River.
11. Actual Restoration of Injured Resources	May Contribute to Restoration: The easement and in-holding acquisitions can protect terrestrial and aquatic resources in four tributary drainages to the Clark Fork River (Peterson, Caribou, Orofino, and Racetrack Creeks), and thereby contribute to the restoration of the Clark Fork River fishery, primarily by preventing potentially detrimental activities that could impair water quality downstream. Several of the streams that traverse the easement and acquisition properties provide spawning and rearing habitat for resident and possibly migratory fish found in the mainstem of the Clark Fork River.

[26] Based on information provided by FWP.

Summary of RPPC Criteria Evaluation for the Vanisko Conservation Easement Applicant: Montana Fish, Wildlife and Parks (FWP)	
12. Service Loss/Restored & Service Restoration	Same: The replacement ecological and recreational services associated with the fish and wildlife habitat that would be protected and enhanced via the easement terms and via the in-holding acquisitions are considered substantially equivalent to those lost or impaired services addressed under Montana v. ARCO.
13. Public Support	63 Support Comments; 2 opposition letters: The NRDP received 63 support comments for funding the project from the landowners, Clark Fork River Technical Assistance Committee (2), Montana Wildlife Federation (2), Five Valleys Land Trust, Rocky Mountain Elk Foundation, the Foundation for North American Wild Sheep (Montana Chapter), Safari Club International (Five Valleys Chapter) (2), Public Lands/Public Water Access Association (2), Skyline Sportsmen's Association, Anaconda Sportsmen's Club (2), Deer Lodge Snow Mobile Club, Friends of Two Rivers, Powell County Commissioners, and 44 individuals. The NRDP received 2 letters of opposition to funding this project from two individuals.
14. Matching Funds	0.5% (in-kind): FWP will provide $27,031 as in-kind matching funds, for FWP's staff time, supplies communication, and travel and closing costs needed to complete the proposed easement and acquisitions ($19,531) and for easement monitoring costs over five years at $1,500 year or $7,500 total.
15. Public Access	Increased Limited and Managed Public Access for Easement Property: The Vanisko Ranch has participated on a volunteer basis in the FWP Block Management Program, which allows for public hunting access via annual agreements, since its inception in 1998. From 1998 – 2006, an average of 237 hunters logged 1,554 hunter days annually on the ranch property. The easement terms would provide for limited and managed public access of at least 800 days per year for hunting and 400 days per year for fishing, hiking, and wildlife viewing on the 7,140 easement acres on a permanent basis under a system where access would be managed similar to how it is now managed under the Block Management Program, which currently involves those seeking access to contact the landowner. The landowner may deny access to or expel from the land any person for unsafe, unruly, illegal, or reckless behavior and may manage the distribution of hunters and recreationists on the property for safety reasons. Increased Public Access for Acquisition Properties: The in-holding acquisitions will provide unrestricted public access to 186 acres currently under private ownership and provide continuity of public access to national forest lands.
16. Ecosystem Considerations	Positive: The easement would benefit aquatic, riparian, and terrestrial resources in a headwaters area of the UCFRB. The proposed easement area is within the Deer Lodge Valley Tier 1 Terrestrial Focus Area identified as a priority for conservation via easements and other conservation strategies in FWP's *2005 Comprehensive Fish and Wildlife Conservation Strategy (CFWCS)*. The property includes an abundance of habitat types identified by the *CFWCS* as community types of greatest conservation need (56% intermountain grass/shrublands and 5% wetland/riparian). FWP states in the application that the agency is confident the property would be identified as in need of conservation through its upcoming terrestrial assessment and prioritization process.
17. Coordination & Integration	Coordinates/Integrates: The easement integrates with FWP's *CFWCS* and coordinates with the Watershed Restoration Coalition's conservation efforts being conducted in the East Deer Lodge Valley through various projects funded through Restoration Fund grants approved in 2001 and 2003, as well as projects funded through other grants.

Summary of RPPC Criteria Evaluation for the Vanisko Conservation Easement Applicant: Montana Fish, Wildlife and Parks (FWP)	
18. Normal Government Functions	Outside Normal Government Function: Neither FWP nor any other governmental entity is specifically responsible for nor funded for acquiring the Vanisko easement or any other conservation easements in the UCFRB. While the FWP *CFWCS* indicates that FWP has a clear obligation to use its resources to implement conservation actions that provide benefits to identified Tier 1 focus areas, species, and communities, it also indicates the need for leveraging of collective resources of multiple entities and programs to accomplish needed conservation priorities.
LAND ACQUISTION CRITERIA	
19. Desirability of Public Ownership	Replacement Beneficial: The project would primarily benefit replacement resources and services, and those benefits are considered to be substantial, as noted through evaluation of other criteria. FWP would pay taxes for the easement property and the acquisition properties that would be the same as the current tax revenue, but the tax revenue under a development scenario would be greater than tax revenue under this proposal. The project would involve an increase in governmental services associated with FWP's oversight of the compliance easement terms on the easement property and management by FWP or the USFS of the in-holdings. The NRDP considers the benefits of the public easement and acquisition to outweigh these impacts.
20. Price	Fair Market Value (subject of further review): The total request for funding of $5,655,000 is based on the sum of three independent appraisals conducted on behalf of FWP by a qualified appraiser according to the Uniform Standards of Professional Appraisal Practice. The total value of the ranch was appraised at $8 million with the loss in value attributed to placement of this conservation easement at 62%, resulting in a fair market value of the conservation easement at $4,960,000 million ($695/acre). The Racetrack in-holding appraised at $500,000 ($4,100/acre) and the Orofino in-holding appraised at $195,000 ($3,075/acre). Inconsistent with the provisions of the PDG, the easement appraisal was completed without NRDP review prior to its submission with the application. Given the complexities involved with an appraisal of easements, particularly ones that involve provisions for public access, and some potential problems judged from the NRDP's review of the easement appraisal, the TRC recommends seeking a second appraisal for the easement value.

Section 4.0 Project Criteria Comparisons

This section compares the projects pursuant to each criterion, summarizing the similarities and differences between the projects that were determined through a comparison of the project evaluations provided in Section 3.0. There are two criteria that apply specifically to land acquisition and research projects, respectively. The twelve projects being compared are:

Anaconda Waterline
Big Hole Diversion Dam
Big Hole Pipeline
Butte Metering
Butte Nursery Research
Butte Waterline
Cottonwood Creek Flow Study
Georgetown Lake Study
Milltown Acquisition
Silver Bow Creek Greenway
Stucky Ridge/Jamison Acquisition
Vanisko Easement

Stage 1 Criteria Required by Legal Considerations

#1 Technical Feasibility

This criterion evaluates the degree to which a project employs well-known and accepted technologies and the likelihood that a project will achieve its objectives. It considers both the technology and management aspects of the project in judging whether each of the proposed project elements have a reasonable chance of successful completion in an acceptable period of time. The State will not fund projects considered technologically infeasible or insufficiently planned.

- Reasonable Feasibility: All of the projects except for the Vanisko Easement and Butte Nursery Research projects are all considered reasonably feasible as proposed and likely to achieve the stated objectives. There are no uncertainties associated with the technical and administrative feasibility of the three waterline/pipeline projects: the Butte Metering, the Cottonwood and Georgetown Lake studies, and the Milltown Acquisition projects. There are some uncertainties associated with the yet-to-be initiated environmental review/permitting process for the Big Hole Diversion Dam project; however, these can likely be resolved. The Silver Bow Creek Greenway project depends upon the acceptance of the design by DEQ and Rarus Railroad, both of whom are supportive of the project at this time, and on a previously-approved land acquisition. An alternate trail options exists if the needed land acquisition is not completed. There are uncertainties associated with the remaining title, survey, and mineral rights ownership work to be done on the Stucky Ridge/Jamison property, but given that the Phase I acquisition has already been completed, there is a reasonable likelihood Phase II can be successfully completed.

- Potentially Feasible: The Vanisko Easement project is considered potentially feasible because of the incomplete status of the mineral title search, easement negotiations, and other remaining acquisition steps, which resulted in several recommended funding conditions.

- Uncertain Feasibility: Because the Butte Nursery Research project is a research demonstration project that uses novel techniques to establish diverse plant communities, particularly forbs, in degraded upland areas, the feasibility of achieving these goals is uncertain, as recognized by the applicants.

#2 Relationship of Expected Costs to Benefits

This criterion evaluates the degree to which project costs are commensurate with project benefits. While it is possible to quantify most costs, quantifying benefits is more difficult. Thus, application of this criterion is not a straight cost:benefit analysis. Because this criterion involves a weighing of all public benefits expected to be derived from a project against all costs associated with the project, it is essentially a summation of results of all other criteria.

While no project had costs that were considered to exceed the value of the benefits, the cost:benefit relationship varies for the projects, based on the magnitude of the benefits and whether matching funds or cost savings are offered that would improve the relationship of the benefits compared to costs. The NRDP judged the relationship of expected benefits to expected costs for the twelve projects as follows:

- High Net Benefits (benefits significantly outweigh costs): Milltown Acquisition and Stucky Ridge/Jamison Acquisition projects

- Net Benefits (benefits outweigh costs): Big Hole Diversion Dam, Big Hole Pipeline, Butte Metering, Cottonwood Creek Flow Study, Georgetown Lake Study, and Silver Bow Creek Greenway projects

- Commensurate Benefits (benefits are generally equal to costs): The Anaconda Waterline, Butte Nursery Research, Butte Waterline, and Vanisko Easement projects

#3 Cost-Effectiveness

This criterion examines whether a particular project accomplishes its goals in the least costly way possible, with preference given to projects with demonstrated cost-effectiveness. Applicants were to address this criterion through the analysis of alternatives and justification of the selected alternative.

- Cost-Effective: The NRDP considers the Big Hole Pipeline, Milltown Acquisition, and Stucky Ridge/Jamison Acquisition projects to be cost-effective based on sufficient information on alternatives to demonstrate the proposed approach to be the best alternative for accomplishing the project goals.

- Likely Cost-Effective: The NRDP considers the Anaconda Waterline, Big Hole Diversion Dam, Butte Metering, Butte Waterline, Cottonwood Flow Study, Silver Bow Creek Greenway, and Stucky Ridge/Jamison Acquisition projects as likely cost-effective based on a limited analysis of alternatives or other available supporting information. Of these, there is a greater level of supporting documentation to justify the selected approach for the Butte Metering, Cottonwood Flow Study, Silver Bow Creek Greenway, and Stucky Ridge/Jamison Acquisition projects than for the Anaconda Waterline, Big Hole Diversion Dam, and Butte Waterline projects. A more thorough analysis of alternatives for the Big Hole Diversion Dam project will be completed through the planned environmental review/permitting process.

- Potentially Cost-Effective: The NRDP considers the Butte Nursery Research project as potentially cost-effective due to the uncertainty associated with its feasibility and the Vanisko Easement project as potentially cost-effective because of the need for further review of the appraisal.

#4 Adverse Environmental Impacts

This criterion evaluates whether and to what degree the proposal will have an adverse impact on environmental resources. None of the projects will cause significant adverse impacts to the environment. All of the projects will have long-term benefits to the environment.

- No Adverse Impacts: The following projects will have no adverse impacts on the environment: Butte Metering, Butte Nursery Research, Cottonwood Creek Flow Study, Georgetown Lake Study, Milltown Acquisition, Stucky Ridge/Jamison Acquisition, and Vanisko Easement.

- No Significant Adverse Impacts: The following projects will have some impacts to the environment that are not considered to be significant: Anaconda Waterline, Big Hole Pipeline, and Butte Waterline.

- Short-term Adverse Impacts with Mitigation: There will be short-term environmental impacts associated with construction of the Big Hole Diversion Dam and Silver Bow Creek Greenway projects; however, the applicants properly plan to mitigate such impacts. A more thorough environmental review process will be conducted on the Big Hole Diversion Dam tied to permitting requirements.

#5 Human Health and Safety

This criterion evaluates whether and to what degree the proposal will have an adverse impact on human health and safety. None of the projects will have any significant adverse impacts on human health and safety.

- No Adverse Impacts: The following projects are considered to have no adverse impacts to human health and safety: Butte Metering, Butte Nursery Research, Cottonwood Creek

Flow Study, Georgetown Lake Study, Milltown Acquisition, Stucky/Jamison Acquisition, and Vanisko Easement.

- No Significant Adverse Impacts: The Anaconda Waterline, Big Hole Pipeline, Butte Waterline, and Silver Bow Creek Greenway projects have potential impacts associated with construction or field activities, but none are deemed significant and mitigative measures are appropriately planned. The three waterline/pipeline projects can also have beneficial impacts to human health and safety by improving fire protection, reducing road hazards caused by leaking water and ice, and increasing the availability of water otherwise lost to leakage.

- Short-term Adverse Impacts with Mitigation: The Big Hole Diversion Dam project will have short-term adverse impacts of dust and noise associated with construction activities that the applicant is prepared to mitigate. Through the more detailed environmental analysis that is planned, an evaluation will be made of the ways to mitigate the impacts of the proposed improvements to recreational boaters.

#6 Results of Response Actions

This criterion examines the relationship between projects and completed, planned, or anticipated Superfund response actions. The State will tend to favor projects that build on response actions rather than those that undo an effective response action.

- Positive Coordination: The following projects involve positive coordination with remedial actions: Butte Nursery Research, Milltown Acquisition, Silver Bow Creek Greenway, and Stucky Ridge/Jamison Acquisition. Of these, the Milltown and Silver Bow Creek Greenway projects coordinate with remediation to the greatest extent since they involve integrating restoration with remediation.

- Consistent: All the other projects are considered consistent with remedial actions. They will not interfere with or duplicate the results of these actions.

#7 Natural Recovery Potential

This criterion evaluates whether and to what degree a project affects the time frame for natural recovery of the injured resources to their baseline conditions. Reduction of the recovery period benefits a project's overall ranking. This criterion also evaluates the potential for natural recovery of injured resources. If a resource is expected to recover on its own in a short period of time, a restoration action may not be justified.

- Reduces Recovery Period: The Milltown Acquisition and Silver Bow Creek Greenway projects will reduce the recovery period of injured natural resources. The Butte Nursery Research project may reduce the recovery period if project results are positive and lead to implementation of the products.

- No Effect on the Recovery Period: The other projects will not affect the recovery period of injured natural resources.

#8 Applicable Policies, Rules, and Laws

This criterion evaluates to what degree the proposal is consistent with all applicable policies of state, federal, local, and tribal government and in compliance with applicable laws and rules. Consistency with applicable policies, rules, and laws benefits a project's overall ranking.

The NRDP concludes that all twelve projects can be implemented in compliance with applicable laws and rules. If applicable, all applications identified the needed permits and plans for obtaining them. The three land acquisition projects will need to meet specific weed inspection and management requirements that apply to public purchases of property. The counties appropriately plan to follow the Montana Public Works specifications for the waterline and pipeline projects. The Georgetown Lake Study project will be required to follow applicable sampling protocols.

#9 Resources of Special Interest to the Tribes and Department of Interior

Pursuant to a Memorandum of Agreement (MOA), the State is to address natural resources of special interest to the Confederated Salish and Kootenai Tribes (Tribes) and the Department of Interior (DOI) in its restoration planning process. Projects that may cause potential negative impacts to resources of special interest require special consideration, according to provisions of the MOA.

Appropriate historical and cultural database inquiries have been or will be conducted for all the projects that entail disturbance activities and the project applicants will consult with appropriate entities should historic or cultural resources be discovered during project implementation.

- Beneficial Impact: The Butte Nursery Research, Milltown Acquisition, Silver Bow Creek Greenway, Stucky Ridge/Jamison Property Acquisition, and Vanisko Easement projects are likely to benefit natural resources of special interest to these entities. The Big Hole Diversion Dam and the Georgetown Lake Study projects could have potential beneficial impacts to resources of special interest.

- No Impact: The Anaconda Waterline, Big Hole Pipeline, Butte Metering, Butte Waterline, and Cottonwood Creek Flow Study projects will not have any impact to resources of special interest.

Input from the Tribes: Appendix B contains the Tribe's comment letter on the projects. The Tribes strongly support the Milltown Acquisition, Stucky Ridge/Jamison Acquisition, and Vanisko Easement projects. They support the Butte Metering, Butte Nursery Research, Cottonwood Creek Flow Study, and Silver Bow Creek Greenway projects. They do not object to funding the Anaconda Waterline, Big Hole Diversion Dam, Big Hole Pipeline, Butte Waterline, and Georgetown Lake Study projects.

As indicated in their comment letter, the Tribes consider Butte, Anaconda, and Deer Lodge areas as regions that are Tribal traditional use areas and contain recorded prehistoric sites. The Tribes thus encourage the applicants for the Anaconda Waterline, Big Hole Pipeline, Butte Waterline, and Silver Bow Creek Greenway projects to be aware of the potential for encountering buried cultural features and/or artifacts during excavations. The Tribes also state in their comment letter that the Milltown Land Acquisition will restore a portion of the Tribes' treaty-reserved right to access and utilize the Clark Fork and Blackfoot fishery.

Input from DOI: Appendix B contains the DOI's comment letter on the projects. The DOI supports funding of all 12 projects. The DOI strongly supports funding of the Butte Nursery Research project. They support funding of the Cottonwood Creek Flow Study, Georgetown Lake Study, Milltown Acquisition, Silver Bow Creek Greenway, Stucky Ridge/Jamison Acquisition, and Vanisko Easement projects. The DOI does not object to funding of the Anaconda Waterline, Big Hole Diversion Dam, Big Hole Pipeline, Butte Metering, and Butte Waterline projects.

#10 Project Location

This criterion evaluates the proximity of the proposal to the injured resources it restores or replaces. The *RPPC* expresses a preference for restoration projects that occur at or near the site of injury.

All the projects except for the Georgetown Lake Study and the two Big Hole projects are within the UCFRB and proximate to injured resources. The Butte Nursery Research, Milltown Acquisition, and Silver Bow Creek Greenway projects involve work in injured areas. The Butte Metering and Butte Waterline projects overlie the injured Butte aquifers and the Anaconda Waterline project is adjacent to the injured Anaconda area groundwater resources. The Cottonwood Creek Flow Study, Stucky Ridge/Jamison Acquisition, and Vanisko Easements projects are reasonably near injured resources. The Georgetown Lake Study project is within the Basin but not proximate to injured areas. While a portion of the Big Hole Pipeline and the entire Big Hole Diversion Dam project is outside of the Basin, they service water users that reside in the Basin.

#11 Actual Restoration of Injured Resources

This criterion evaluates whether and to what extent a project actually restores an injured resource. A preference exists for those projects that constitute actual restoration (i.e., they operate directly on the injured resources). For those projects that do not constitute actual restoration, a preference can be given to those that may or will indirectly contribute to restoration of injured natural resources over those that do not so contribute.

- Restoration/Other: The proposed stream restoration component of the Silver Bow Creek Greenway project constitutes actual restoration of injured resources. The other project components, such as trail construction, contribute to restoration.

- Contributes to Restoration: The Milltown Acquisition project will contribute to the restoration of aquatic resources at the site because it will help ensure the protection of the remediation and restoration investment at the site. The Butte Nursery Research, Cottonwood Creek Flow Study, Stucky Ridge/Jamison Acquisition, and Vanisko Easement projects may contribute to restoration.

- No Restoration: The five water system improvement projects are considered replacement projects and will not restore or contribute to the restoration of injured resources; however, these projects replace services of injured groundwater resources that cannot be restored and constitute compensatory restoration. The Georgetown Lake Study project will not restore or contribute to the restoration of injured natural resources, but may ultimately result in their replacement.

#12 Relationship between Service Loss and Service Restoration

This criterion examines the connection between the services that a project seeks to address and the services that were lost or impaired. Projects that focus on providing the same or similar services as those lost or impaired will be favored over projects that focus on providing dissimilar services.

- Same or Substantially Equivalent: The Milltown Acquisition and Silver Bow Creek Greenway projects will provide for ecological habitat services and some recreational services that are the same as those covered under Montana v. ARCO. The five water system projects provide for replacement drinking water services that are closely linked to the injured groundwater resources of the Butte and Anaconda areas. The Stucky Ridge/Jamison and Vanisko land projects protect wildlife habitat and associated ecological and recreational services that are considered substantially equivalent to those lost or impaired services addressed under Montana v. ARCO. The Butte Nursery Research and Cottonwood Creek Flow Study projects have the potential to improve resources and services considered substantially equivalent to the injured resources and services covered under Montana v. ARCO.

- Similar: The replacement of ecological and recreational services associated with the aquatic resources of the Georgetown Lake Study project are considered similar to but not the same as those lost or impaired services addressed under Montana v. ARCO since they involve services tied to a reservoir fishery.

#13 Public Support

This criterion assesses the level of public support based on information provided to the State between application submittal in April 2008 and the time of this draft report. The following lists the projects in order from those with the highest demonstrated public support to those with the lowest demonstrated public support based on submitted comments. In addition to receiving comments in support of funding, the NRDP received comments in opposition to funding of two projects (Butte Nursery Research and Vanisko Easement).

Anaconda Waterline: 70 support comments from 2 entities and 68 individuals
Vanisko Easement: 63 support comments from 17 entities and 4 individuals; 2 opposition comments from 2 individuals
Butte Waterline: 23 support comments from 21 entities and 2 individuals
Big Hole Diversion Dam: 23 support comments from 21 entities and 2 individuals
Big Hole Pipeline: 21 support comments from 19 entities and 2 individuals
Stucky Ridge/Jamison Acquisition: 17 support comments from 14 entities and 3 individuals
Butte Nursery Research projects: 15 support comments from 13 entities and 2 individuals; 3 opposition comments from 3 individuals
Butte Metering: 10 support comments from 9 entities and 2 individuals
Georgetown Lake Study: 6 support comments from 3 entities and 3 individuals
Silver Bow Creek Greenway: 5 support comments from 3 entities and 2 individuals
Cottonwood Flow Study: 5 support comments from one entity and 4 individuals
Milltown Acquisition: 3 support comments from 1 entity and 2 individuals

#14 Matching Funds

This criterion evaluates the extent to which a project entails cost sharing. A preference exists for those projects that have a cash match rather than in-kind contributions.

Matching funds will be provided on ten of the twelve projects. The following identifies the matching funds to be provided on the projects in order of highest percentage cash match to lowest percentage cash match:

Table 4-1. Matching Funds Summary

Project	Cash Match	In-kind Match	Total Match
Georgetown Lake Study	$40,192 (26.7%)	$1,100 (0.7%)	$41,292
Big Hole Pipeline	$497,133 (23%)	$7,730 (0.4%)	$504,863
Butte Waterline	$306,917 (11.2%)	$7,730 (0.3%)	$314,647
Butte Metering	$32,743 (10%)	$18,818 (6%)	$51,561
Big Hole Diversion Dam	$412,760 (10%)	$28,252 (1%)	$441,012
Cottonwood Creek Flow Study	$9,180 (8%)	$16,000 (14%)	$25,180
Anaconda Waterline	$105,788 (5.7%)	$14,876 (0.8%)	$120,664
Stucky Ridge/Jamison Acquisition	$4,408 (1.6%)	$1,080 (0.4%)	$5,488
Butte Nursery Research	$0	$142,072 (18%)	$142,072
Vanisko Easement	$0	$27,031 (0.5%)	$27,031
Milltown Acquisition and Silver Bow Creek Greenway	No matching funds		

While the Milltown Acquisition and Silver Bow Creek Greenway projects have no matching funds, the Milltown land acquisition is 64% below the appraised fair market value and the Silver Bow Creek Greenway project will obtain substantial cost savings through coordination with remedy. In addition to the recognized match for the Stucky Ridge/Jamison Acquisition project, FWP and other groups contributed $840,000 towards the purchase of the adjoining 220 acre Phase I property, which is 74% of the entire Jamison acquisition.

#15 Public Access

This criterion evaluates whether a project will affect public access and the positive or negative aspects of any increased or decreased public access associated with the project. Public access is not required for every project, nor is it relevant to all projects.

The Milltown Acquisition will provide for permanent public access to 415 acres. The Stucky Ridge/Jamison Acquisition project will provide for permanent public access to the Phase II 76 acres, as well as to the Phase I 220 acres of the project, for a combined total of 296 acres. The Vanisko Easement will provide for permanent, limited, and managed access of at least 800 hunter days and 400 recreational access days on 7,140 acres and for permanent, unrestricted access on 186 acres that are current private in-holdings in national forest lands. The Silver Bow Creek Greenway project provides for four miles of trail on lands acquired or to be acquired in public ownership through previously approved Silver Bow Creek Greenway grants. Public access is not a component of the other eight projects.

#16 Ecosystem Considerations

This criterion examines the relationship between the project and the overall resource conditions of the UCFRB. The State will favor projects that fit within a broad ecosystem concept in that they improve a natural resource problem(s) when viewed on a large scale, are sequenced properly from a watershed management approach, and are likely to address multiple resource problems.

Eleven of the twelve projects positively fit within the broad ecosystem context and are sequenced properly from a watershed management approach. The Milltown Acquisition, Silver Bow Creek Greenway, Stucky Ridge/Jamison Acquisition, and Vanisko Easement projects will benefit multiple natural resources. The Cottonwood Creek Flow Study project will obtain valuable information for planning future restoration projects that can benefit multiple resources. The Georgetown Lake Study project may beneficially affect water management and ecosystems downstream of the lake as well as the lake itself. The Butte Nursery Research project could result in vegetation improvements in the UCFRB that will address multiple resource problems by restoring ecological processes, improving soil stability and weed resistance, and reducing erosion.

The Anaconda Waterline, Big Hole Pipeline, and Butte Waterline projects will conserve water and reduce power requirements of pumping and treating water. The Butte Metering project should lead to similar ecosystem benefits.

This criterion is not relevant to the Big Hole Diversion Dam project, which does not involve water conservation.

#17 Coordination and Integration

This criterion examines whether, how, and to what extent a restoration project is coordinated and integrated with other on-going or planned actions in the UCFRB, besides the coordination with

Superfund remedial actions addressed under Criterion #6. Restoration projects that can be efficiently coordinated with other actions may achieve cost savings.

All projects coordinate/integrate with other actions in the UCFRB. The Milltown Acquisition project considers and coordinates with the other restoration actions the State is proposing at the Milltown site, the County's redevelopment plan, and the Clark Fork Coalition's land ownership plans for the area. The Silver Bow Creek Greenway is consistent with the priorities established in the *Silver Bow Creek Watershed Restoration Plan* and addresses needs ranked as very high priority. The Stucky Ridge/Jamison and Vanisko Easement projects do not directly coordinate with other ongoing or planned restoration, but they do complement and coordinate with FWP wildlife management priorities in the UCFRB. The Cottonwood Creek Flow and Georgetown Lake studies are continuations of earlier studies that will likely lead to future projects. The water system improvement projects coordinate with other approved water system improvement projects and county water master plans. The Butte Nursery Research project coordinates with seed production activities of the previously-funded Bridger Plant Materials Center and the education activities of the Clark Fork Watershed Education Program.

#18 Normal Government Functions

As set forth in the *RPPC*, the State, through its restoration program, will not fund activities for which a governmental entity would normally be responsible or that would receive funding in the normal course of events. Restoration Funds may be used to augment funds normally available to government agencies to perform a particular project if such cost sharing would result in implementation of a restoration project that would not otherwise occur through normal agency function.

- Outside Normal Government Function: The Butte Nursery Research, Cottonwood Creek Flow Study, Milltown Acquisition, Silver Bow Creek Greenway, Stucky Ridge/Jamison Acquisition, and Vanisko Easement projects all involve efforts for which no governmental entity is responsible for or normally funded to conduct.

- Within/Augments Normal Government Function: Due to its comprehensive nature, the Georgetown Lake Study project augments and exceeds the current limited sampling conducted by FWP, DEQ's TMDL program, and Granite County. The five water system improvement projects augment government function because communities typically rely on a combination of grant funds and user fees to fund such projects and because of the extensive injuries to groundwater resources. All five projects constitute compensatory restoration for extensive injuries to the bedrock aquifer underlying Butte Hill and the shallow alluvial aquifer in areas surrounding Anaconda that were covered under Montana v. ARCO. Restoration of these injured groundwater resources is technically infeasible, which is one reason these communities sought to augment their existing supplies from uncontaminated sources. Two factors to consider in determining the extent to which these infrastructure projects augment normal government function is the amount of matching funds (see table under criterion #14) and the proportionate amount of improvements being funded by Restoration Funds versus other funds. Based on these two factors, these infrastructure projects rank in the following order from those of the

greatest county contribution to those of the least county contribution: Big Hole Pipeline, Butte Metering, Butte Waterline, Big Hole Diversion Dam, and Anaconda Waterline.

Stage 2 Land Acquisition Criteria

These criteria apply to the Milltown Acquisition, Stucky Ridge/Jamison Acquisition, and Vanisko Easement projects.

#19 Desirability of Public Ownership

This criterion involves evaluating the potential benefits and detriments associated with putting privately owned land, or interests in land, under public ownership.

The acquisition components of all three projects will provide substantial natural resource and recreational benefits. The Milltown and Stucky Ridge acquisitions are considered to offer high net benefits compared to cost and the Vanisko project is considered to offer benefits commensurate with costs. The Milltown project will benefit injured natural resources whereas the other two projects will primarily benefit replacement natural resources.

A negative aspect common to all the acquisition projects is the potential loss of increased tax revenues that would be generated under a development scenario and an increased demand in governmental services associated with the acquisitions. In addition, the acquisition of the water rights with the Milltown lands has created concerns regarding potential impacts to upstream irrigators with junior water rights. The positive benefits of these acquisitions are considered to outweigh these potential or perceived negative impacts associated with these acquisitions.

#20 Price

This criterion evaluates whether the proposed land acquisitions and easements are being offered for sale at fair market value.

- Below Fair Market Value: Both the Milltown and Stucky Ridge/Jamison acquisition projects are being offered below the appraised fair market value. The purchase price of the Milltown property is substantially below (64%) the appraised fair market value. The purchase price of the Stucky Ridge/Jamison project is slightly below (2%) the appraised fair market value.

- At Fair Market Value (subject to review): The Vanisko easement and in-holding acquisitions are being offered at the fair market value determined through appraisals conducted on behalf of FWP that were not reviewed by the NRDP prior to application submittal. Given the complexities involved with an appraisal of easements, particularly ones that involve provisions for public access, and some potential problems judged from the NRDP's review of the easement appraisal, the Governor deferred a funding decision pending completion of a second appraisal for the easement value.

Stage 2 Monitoring and Research Criteria

These criteria apply to any research activity and to projects for which monitoring is a significant focus of the project. These criteria only apply to Cottonwood Creek and Georgetown Lake Study projects and the Butte Nursery Research project.

#21 Overall Scientific Program

The criterion considers the extent to which the proposed monitoring and research efforts coordinate or integrate with other scientific work in the UCFRB. Greater benefits can be achieved when monitoring and research projects can use and assist other projects.

All three of the projects are continuations of on-going scientific work focusing on existing data gaps and research needs and coordinate with other scientific work in the UCFRB.

#22 Assistance with Restoration Planning

Under this criterion, the State will consider whether the knowledge that might be gained from a monitoring or research project will directly assist with future restoration efforts.

The Cottonwood Creek Flow Study project will derive major benefits in terms of information needed for future fish habitat and stream restoration efforts. The Butte Nursery Research project will derive moderate benefits to future restoration planning efforts in terms of providing information about and products for improving the plant diversity of revegetation efforts in injured areas. The Georgetown Lake Study project will derive moderate benefits in terms of needed information to assist with the future protection and possible restoration efforts at Georgetown Lake and restoration efforts in the Flint Creek watershed.

5.0 PROJECT RANKING and FINAL FUNDING RECOMMENDATIONS

This section summarizes the Governor's final funding decisions and specific funding conditions.

This section also indicates the NRDP's overall ranking of projects. The project ranking is based on the criteria evaluations in section 3.0 and the project criteria comparisons contained in section 4.0. The *RPPC* does not rank criteria in terms of importance, noting that "each criterion as applied to individual projects will vary in its importance depending on the nature of the project and unique issues it raises." A project does not need to meet all of Stage 1 and Stage 2 criteria in order to be considered worth funding. A project may rank poorly compared to others for a particular criterion, but that criterion may be inapplicable or relatively unimportant for that type of project. Or, the merits of a project based on some number of criteria may significantly outweigh its deficiencies noted for a particular criterion or multiple criteria. The adequacy and quality of an application affects how well the NRDP judges that a project meets certain *RPPC* criteria and, consequently, affects the project's overall ranking as well.

Since the funding cap was not a constraint to funding recommendations this year, rather than rank each project individually, the NRDP ranked the projects into three broad categories of: 1) highly ranked projects; 2) medium ranked projects; and 3) lower ranked projects. There is no additional ranking process applied, thus the projects are listed in alphabetic order by project order within each broad category.

1. Highly Ranked Projects: Milltown Acquisition, Silver Bow Creek Greenway, and Stucky Ridge/Jamison Acquisition projects

Ranking Rationale: These three projects are considered to be of high net benefit or net benefit. The Milltown Acquisition and Silver Bow Creek Greenway projects will derive significant benefits to injured natural resources and lost services and rank the best of all the projects for the multiple criteria that give priority to restoration over replacement projects. While both projects have no matching funds, the Milltown Acquisition project is 64% below the appraised fair market value and the Silver Bow Creek Greenway project will obtain substantial cost savings through coordination with remedy. Although the Stucky Ridge/Jamison Acquisition project is a replacement and not a restoration project, given that it is of high net benefit and that the majority of the acquisition has already been accomplished with other funding sources, it is highly ranked.

2. Medium Ranked Projects: Big Hole Pipeline, Butte Metering, Cottonwood Creek Flow Study, and Georgetown Lake Study

Ranking Rationale: These projects are considered to be of net benefit and they do not involve any significant uncertainties. They generally rank lower than the three projects in category #1 because they are replacement rather than restoration projects. Also, while these projects are all considered to provide substantial benefits, they do not involve the substantial match or cost savings that resulted in a more favorable benefit:cost relationship of the three higher ranked projects.

3. Lower Ranked Projects: Anaconda Waterline, Big Hole Diversion Dam, Butte Nursery Research, and Butte Waterline

Ranking Rationale: Except for the Big Hole Diversion Dam project, the other projects in this category are judged to have benefits considered to be commensurate with their costs, and thus ranked lower than projects in the higher ranking categories. Although the Big Hole Diversion Dam project is judged to be of net benefit, there are some uncertainties associated with the project related to the incomplete environmental review/permitting processes, thus resulting in the lower ranking. The uncertainties associated with the Butte Nursery Research project also contributed to the lower ranking of this project. Also, the three water system improvement projects in this category augment normal governmental function to a greater extent than the other two water systems projects that ranked higher.

4. Deferred Funding Decision: Vanisko Easement project

The Governor deferred a funding decision on the Vanisko Conservation Easement proposal consistent with the final recommendation of the TRC and a funding condition in the *Draft Work Plan* that provided for an alternate funding decision timeframe tied to completion of a second appraisal. In the *Draft Work Plan*, the NRDP had ranked this project in the lower ranking category due to the uncertainties associated with this project summarized in the criteria evaluation contained in Section 3.0.

Table 5-1 summarizes the Governor's final funding decisions and funding conditions. Two funding conditions apply to all projects. First, as required by the *RPPC*, funding should be contingent on the NRDP's approval of the final design for various components of the projects. Second, the proportionate share of matching funds recognized by the NRDP in the project-specific criteria narrative will apply to project implementation, and adequate documentation of both in-kind and cash matches will be required.

Table 5-1. Summary of the Governor's Final Funding Recommendations and Conditions that a subject to public comment:

Project	Recommended Restoration Funding	Funding Condition
		General Funding Conditions for all projects requiring: 1) NRDP's approval of the final design; and 2) that approved matching funds will apply proportionately to project implementation and require adequate documentation.
1. Highly Ranked Projects Approved for Funding: (Projects in this category are listed in alphabetical order and not in any ranking order)		
Milltown Acquisition	$ 586,200	no additional funding conditions
Silver Bow Creek Greenway	$2,173,444	no additional funding conditions
Stucky Ridge/Jamison Acquisition	$ 265,335	that if the mineral title search indicates a third party owns a significant portion of the mineral rights and the right to surface entry, that the acquisition not go forward unless those rights are purchased by the owner and conveyed to the State or subordinated to the State's surface rights as the fee owner (i.e., no right of surface entry).
2. Medium Ranked Projects Approved for Funding: (Projects in this category are listed in alphabetical order and not in any ranking order)		
Big Hole Pipeline	$1,650,542	no additional funding conditions
Butte Metering	$ 273,600	that Restoration Funds will reimburse B-SB for installed meters.
Cottonwood Creek Flow Study	$ 90,377	that a Restoration Fund grant application is completed for one or more of the projects to be developed via this PDG in addition to the other deliverables for this project.
Georgetown Lake Study	$ 109,463	no additional funding conditions
3.Lower Ranked Projects Approved for Funding: (Projects in this category are listed in alphabetical order and not in any ranking order)		
Anaconda Waterline	$1,742,169	no additional funding conditions
Big Hole Diversion Dam	$3,714,833	that the NRDP approve of any changes in proposed improvements that result from the environmental assessment process.
Butte Nursery	$ 628,175	that the applicant have an end of each year progress meeting with NRDP to discuss and specifically outline the accomplishments and the next year's goals and activities and commit to incorporate NRDP recommendations into future year activities, if funding allows.
Butte Waterline	$2,414,424	no additional funding conditions
Total Approved Funding	**$13,648,562**	
Vanisko Easement	Deferred Decision	The Governor deferred a funding decision on this proposal, consistent with the final recommendation of the TRC and a funding condition in the *Draft Work Plan* that provided for an alternate funding decision timeframe, pending the results of a second appraisal, as indicated in the following draft funding recommendation from the *Draft Work Plan*: "The TRC seeks public comment on a draft funding recommendation to fund this project at a maximum amount of $5,655,000, subject to the following funding conditions: 1) that a second appraisal of the conservation easement be conducted to determine the easement value; 2) that an alternative timeframe be allowed for a final decision on the project, provided it remains within this funding cycle (which may mean a final decision on this project may not occur until next year); 3) that the acquisition not be consummated if the mineral title search indicates a third party owns a significant portion of the mineral rights and the right of surface entry and those rights are not subsequently purchased or subordinated to prevent future mineral development; and 4) that the NRDP approve of the final easement terms and the other land transaction documents that remain to be completed, the one allowed subdivision of the easement property, and any future trade of the two in-holdings to the USFS." The TRC will consider the results of the second appraisal in making a final recommendation to the Governor, who will make the final funding decision on this proposal.

APPENDIX A

PROJECT BUDGET
SUMMARY TABLES

Milltown Acquisition

2008 Application		BUDGET DETAIL FORM				
EXPENSE CATEGORY		UCFRB RESTORATION GRANT FUND	MATCHING FUNDS			TOTAL
			Cash	In-Kind	Subtotal	
1	SALARIES AND WAGES (List all worker salaries)					
	SALARIES AND WAGES SUBTOTAL					
2	FRINGE BENEFITS					
	FRINGE BENEFITS SUBTOTAL					
3	CONTRACTED SERVICES (LIST BY TYPE)					
	CONTRACTED SERVICES SUBTOTAL					
4	SUPPLIES AND MATERIALS					
	SUPPLIES AND MATERIALS SUBTOTAL					
5	COMMUNICATIONS					
	COMMUNICATIONS SUBTOTAL					
6	TRAVEL					
	TRAVEL SUBTOTAL					
7	RENT AND UTILITIES					
	RENT AND UTILITIES SUBTOTAL					
8	EQUIPMENT					
	EQUIPMENT SUBTOTAL					
9	MISCELLANEOUS	$586,200				$586,200
	MISCELLANEOUS SUBTOTAL					
ALL CATEGORIES SUBTOTAL		$586,200				$586,200

TABLE 1 - DETAILED 2008 GRANT COST ESTIMATE

Area / Item Description	Quantity	Unit	Unit Price	Total	Notes
ACCESS FEATURES					
Subarea 3					
Aggregate Base Course, 14' wide, 6" depth w/fabric	3310	LF	$13.50	$44,685.00	Engineers Estimate, MDT Bid Tabulations
Trail Bridge	1	EA	$90,000.00	$90,000.00	Engineers Estimate, Manufacturer Quote
Box Culvert 12'x8' Pre Cast RCP Box	1	EA	$212,000.00	$212,000.00	Engineers Estimate, Manufacturer Quote
Culverts with end sections	2	EA	$1,950.00	$3,900.00	Engineers Estimate, MDT Bid Tabulations
Trailside picnic tables	1	EA	$3,900.00	$3,900.00	Engineers Estimate
Trailside benches and pads	1	EA	$3,200.00	$3,200.00	Engineers Estimate
Misc. access control signage	0.7	miles	$5,000.00	$3,500.00	Engineers Estimate
Trail Entrance Gate	1	EA	$2,500.00	$2,500.00	Engineers Estimate
Subtotal				**$363,685.00**	
Subarea 4					
Asphalt, 10' wide, 3" thick	21,800	LF	$22.00	$479,600.00	Engineers Estimate, MDT Bid Tabulations
Aggregate Base Course, 14' wide, 6" depth w/fabric	21,800	LF	$13.50	$294,300.00	Engineers Estimate, MDT Bid Tabulations
Culverts with end sections	11	EA	$1,950.00	$21,450.00	Engineers Estimate, MDT Bid Tabulations
Trailside picnic tables	5	EA	$3,900.00	$19,500.00	Engineers Estimate
Trailside benches and pads	5	EA	$3,200.00	$16,000.00	Engineers Estimate
Misc. access control signage	4.2	miles	$5,000.00	$21,000.00	Engineers Estimate
Trail Entrance Gate	5	EA	$2,500.00	$12,500.00	Engineers Estimate
Subtotal				**$864,350.00**	
ECOLOGICAL AND HABITAT IMPROVEMENTS					
Subarea 3					
Box Culvert 12'x'6 Pre Cast RCP Double Box	1	EA	$206,000.00	$206,000.00	North Alignment, Under Rarus, Engineers Estimate
Additional Stream Channel Length	4800	LF	$60.00	$288,000.00	Based on Confluence Length Estimate
Floodplain regrading	19	Acres	$2,000.00	$38,000.00	Engineers Estimate
Subtotal				**$532,000.00**	
DESIGN					
Access Features Design (15%)	1	LS	$184,205.25	$184,205.25	Investigation, Design, and Construction Oversight
Ecological Features Design (10%)	1	LS	$53,200.00	$53,200.00	Includes Coordination Cost Savings
Subtotal				**$237,405.25**	
2008 Cost Totals					
Subtotals					
Access Features				$1,228,035.00	
Ecological and Habitat Improvements				$532,000.00	
Contingency (5%)				$88,001.75	
Project Administration and Oversight (5%)				$88,001.75	GSD costs
Design				$237,405.25	Percentages provided above
TOTAL 2008 COSTS				**$2,173,443.75**	

Stucky Ridge/Jamison Acquisition

2008 Application		BUDGET SUMMARY FORM				
EXPENSE CATEGORY		UCFRB RESTORATION FUND	MATCHING FUNDS			TOTAL
			Cash	In-Kind	Subtotal	
1	SALARIES AND WAGES		$1,960.00	$1,080.00	$3,040.00	$3,040.00
2	FRINGE BENEFITS		$348.00		$348.00	$348.00
3	CONTRACTED SERVICES		$2,100.00		$2,100.00	$2,100.00
9	MISCELLANEOUS	$265,335.00				$265,335.00
TOTAL		$265,335.00	$4,408.00	$1,080.00	$5,488.00	$270,823.00

Big Hole Pipeline

2008 Application	BUDGET SUMMARY FORM				
EXPENSE CATEGORY	UCFRB RESTORATION FUND	MATCHING FUNDS			TOTAL
		Cash	In-Kind	Subtotal	
1 SALARIES AND WAGES		$26,639.68		$26,639.68	$26,639.68
2 FRINGE BENEFITS		$12,008.92		$12,008.92	$12,008.92
3 CONTRACTED SERVICES	$1,650,542.72	$458,484.09		$458,484.09	$2,109,026.81
4 SUPPLIES AND MATERIALS					
5 COMMUNICATIONS					
6 TRAVEL					
7 RENT AND UTILITIES					
8 EQUIPMENT					
9 MISCELLANEOUS			$7,729.72	$7,729.72	$7,729.72
TOTAL	$1,650,542.72	$497,132.69	$7,729.72	$504,862.41	$2,155,405.13

In electronic form this spreadsheet will automatically calculate the expense totals from the Budget Detail Form.

Butte Metering

2008 Application	BUDGET SUMMARY FORM				
EXPENSE CATEGORY	UCFRB RESTORATION FUND	MATCHING FUNDS			TOTAL
		Cash	In-Kind	Subtotal	
1 SALARIES AND WAGES		$21,612.50	$6,594.56	$28,207.06	$28,207.06
2 FRINGE BENEFITS		$11,130.48	$2,489.73	$13,620.21	$13,620.21
3 CONTRACTED SERVICES	$25,000.00				$25,000.00
4 SUPPLIES AND MATERIALS	$248,600.00				$248,600.00
5 COMMUNICATIONS					
6 TRAVEL					
7 RENT AND UTILITIES					
8 EQUIPMENT					
9 MISCELLANEOUS			$9,734.20	$9,734.20	$9,734.20
TOTAL	$273,600.00	$32,742.98	$18,818.49	$51,561.47	$325,161.47

In electronic form this spreadsheet will automatically calculate the expense totals from the Budget Detail Form.

Cottonwood Creek Flow Study

Revised By NRDP with in put from WRC June 30, 2008

2008 Application		BUDGET SUMMARY FORM				
EXPENSE CATEGORY		UCFRB RESTORATION FUND	MATCHING FUNDS			TOTAL
			Cash	In-Kind	Subtotal	
1	SALARIES AND WAGES	$25,461.75	$3,600.00		$3,600.00	$29,061.75
2	FRINGE BENEFITS					
3	CONTRACTED SERVICES	$45,015.00	$5,580.00	$16,000.00	$21,580.00	$66,595.00
4	SUPPLIES AND MATERIALS					
5	COMMUNICATIONS					
6	TRAVEL	$4,500.00				$4,500.00
7	RENT AND UTILITIES					
8	EQUIPMENT	$14,400.00				$14,400.00
9	MISCELLANEOUS	$1,000.00				$1,000.00
TOTAL		$90,376.75	$9,180.00	$16,000.00	$25,180.00	$115,556.75

Georgetown Lake Study

2008 PROJECT BUDGET SUMMARY FORM (All Years)						
EXPENSE CATEGORY		UCFRB RESTORATION FUND	MATCHING FUNDS			TOTAL
			Cash	In-Kind	Subtotal	
1	SALARIES AND WAGES	$38,497.80	$12,090.00	$880.00	$12,970.00	$51,467.80
2	FRINGE BENEFITS	$11,800.65	$3,747.90	$220.00	$3,086.98	$15,768.55
3	CONTRACTED SERVICES	$29,568.00	$17,221.00		$17,221.00	$46,789.00
4	SUPPLIES AND MATERIALS	$2,305.00	$340.00		$340.00	$2,645.00
5	COMMUNICATIONS	$3,000.00	$695.00		$695.00	$3,695.00
6	TRAVEL	$3,484.80	$484.00		$484.00	$3,968.80
7	RENT AND UTILITIES	$3,720.00	$500.00		$500.00	$4,220.00
8	EQUIPMENT	$6,575.00	$2,900.00		$2,900.00	$9,475.00
9	MISCELLANEOUS	$5,298.81	$2,213.89		$2,213.89	$7,512.71
10	Granite CD Grant Administration Fee	$5,212.50				$5,212.50
YEAR 1 TOTAL		$45,105.93	$13,892.11		$13,892.11	$58,998.04
YEAR 2 TOTAL		$40,208.52	$19,978.25		$19,978.25	$60,186.76
YEAR 3 TOTAL		$24,148.12	$6,321.44	$1,100.00	$7,421.44	$31,569.55
ALL YEAR TOTAL		$109,462.57	$40,191.79	$1,100.00	$41,291.79	$150,754.36

Anaconda Waterline

2008 Application	BUDGET SUMMARY FORM - ADLC Front & Alder St. Water Main Replacements				
EXPENSE CATEGORY	UCFRB RESTORATION FUND	MATCHING FUNDS			TOTAL
		Cash	In-Kind	Subtotal	
1 SALARIES AND WAGES			$9,746.94	$9,746.94	$9,746.94
2 FRINGE BENEFITS			$2,729.14	$2,729.14	$2,729.14
3 CONTRACTED SERVICES	$1,742,169.02	$105,788.00	$2,400.00	$108,188.00	$1,850,357.02
4 SUPPLIES AND MATERIALS					
5 COMMUNICATIONS					
6 TRAVEL					
7 RENT AND UTILITIES					
8 EQUIPMENT					
9 MISCELLANEOUS					
TOTAL	$1,742,169.02	$105,788.00	$14,876.08	$120,664.08	$1,862,833.10

Big Hole Diversion Dam

2008 Application	BUDGET SUMMARY FORM				
EXPENSE CATEGORY	UCFRB RESTORATION FUND	MATCHING FUNDS			TOTAL
		Cash	In-Kind	Subtotal	
1 SALARIES AND WAGES			$19,980.88	$19,980.88	$19,980.88
2 FRINGE BENEFITS			$8,270.63	$8,270.63	$8,270.63
3 CONTRACTED SERVICES	$3,714,833.00	$412,760.00		$412,760.00	$4,127,593.00
4 SUPPLIES AND MATERIALS					
5 COMMUNICATIONS					
6 TRAVEL					
7 RENT AND UTILITIES					
8 EQUIPMENT					
9 MISCELLANEOUS					
TOTAL	$3,714,833.00	$412,760.00	$28,251.51	$441,011.51	$4,155,844.51

Butte Nursery Research

2008 Application	BUDGET SUMMARY FORM				
EXPENSE CATEGORY	UCFRB RESTORATION FUND	MATCHING FUNDS			TOTAL
		Cash	In-Kind	Subtotal	
1 SALARIES AND WAGES	$169,015.18		$38,702.00	$38,702.00	$207,717.18
2 FRINGE BENEFITS	$51,613.00				$51,613.00
3 CONTRACTED SERVICES	$235,556.00		$83,370.00	$83,370.00	$318,926.00
4 SUPPLIES AND MATERIALS	$86,910.00		$20,000.00	$20,000.00	$106,910.00
5 COMMUNICATIONS	$0.00				
6 TRAVEL	$1,500.00				$1,500.00
7 RENT AND UTILITIES					
8 EQUIPMENT	$17,393.00				$17,393.00
9 MISCELLANEOUS	$66,188.00				$66,188.00
TOTAL	$628,175.18		$142,072.00	$142,072.00	$770,247.18

Butte Waterline

2008 Application		BUDGET SUMMARY FORM				
EXPENSE CATEGORY		UCFRB RESTORATION FUND	MATCHING FUNDS			TOTAL
			Cash	In-Kind	Subtotal	
1	SALARIES AND WAGES		$26,639.68		$26,639.68	$26,639.68
2	FRINGE BENEFITS		$12,008.92		$12,008.92	$12,008.92
3	CONTRACTED SERVICES	$2,414,423.62	$268,269.30		$268,269.30	$2,682,692.92
4	SUPPLIES AND MATERIALS					
5	COMMUNICATIONS					
6	TRAVEL					
7	RENT AND UTILITIES					
8	EQUIPMENT					
9	MISCELLANEOUS			$7,729.72	$7,729.72	$7,729.72
TOTAL		$2,414,423.62	$306,917.90	$7,729.72	$314,647.62	$2,729,071.24

Vanisko Ranch Conservation Easement

2008 Application		BUDGET DETAIL FORM				
EXPENSE CATEGORY		UCFRB RESTORATION GRANT FUND	MATCHING FUNDS			TOTAL
			Cash	In-Kind	Subtotal	
1	SALARIES AND WAGES					
	Ray Vinkey, Wildlife Biologist			$3600.00		
	Darlene Edge, Land Conservation Specialist			$5000.00		
	Mike Thompson, Regional Wildlife Manager			$1500.00		
	SALARIES AND WAGES SUBTOTAL			$10000.00	$10000.00	$10000.00
2	FRINGE BENEFITS					
	FRINGE BENEFITS SUBTOTAL			$1800.00	$1800.00	$1800.00
3	CONTRACTED SERVICES (LIST BY TYPE)					
	CONTRACTED SERVICES SUBTOTAL			$13500.00	$13500.00	$13500.00
4	SUPPLIES AND MATERIALS			$250.00		
	SUPPLIES AND MATERIALS SUBTOTAL			$250.00	$250.00	$250.00
5	COMMUNICATIONS			$250.00		
	COMMUNICATIONS SUBTOTAL			$250.00	$250.00	$250.00
6	TRAVEL			$1231.00		
	TRAVEL SUBTOTAL			$1231.00	$1231.00	$1231.00
9	MISCELLANEOUS					
	Vanisko Conservation Easement	$4,960,000.00				
	Orofino inholding	$195,000.00				
	Racetrack inholding	$500,000.00				
	MISCELLANEOUS SUBTOTAL	$5,655,000.00				$5,655,000.00
ALL CATEGORIES SUBTOTAL		$5,655,000.00		$27,031	$27,031	$5,682,031.00

APPENDIX B

INPUT FROM THE:
ADVISORY COUNCIL,
DEPARTMENT OF INTERIOR, AND
CONFEDERATED SALISH AND
KOOTENAI TRIBES

Appointed Members of the Upper Clark Fork River Basin
Remediation and Restoration Advisory Council
January 2008

Name	Community	Representing
• Larry Curran, Chair	Butte	Silver Bow County
• Paul Babb	Butte	Silver Bow County
• Becky Guay	Anaconda	Deer Lodge County
• Dennis Daneke	Missoula	Missoula County
• Jim Dinsmore	Hall	Granite County
• Barbara Evans	Missoula	Missoula County
• Kathy Hadley	Deer Lodge	Deer Lodge County
• John Hollenback	Gold Creek	Powell County
• Sally Johnson	Missoula	Missoula County
• Milo Manning	Anaconda	Deer Lodge County
• Robbie Taylor	Butte	Silver Bow County
• James Yeoman	Anaconda	Deer Lodge County

In addition to the 12 citizen appointees, the following governmental representatives serve on the Advisory Council. (Note: the State representatives are non-voting members.)

Name	Representing
Mary Sexton	Montana Department of Natural Resources and Conservation (DNRC)
Jeff Hagener	Montana Department of Fish, Wildlife and Parks (MFWP)
Richard Opper	Montana Department of Environmental Quality (DEQ)
James Steele, Jr.	Confederated Salish and Kootenai Tribes
Laura Rotegard	U.S. Department of Interior (DOI)

Advisory Council Purpose

The purpose of the Council is to advise the Governor as trustee of the State's natural resources pursuant to the federal and state Superfund laws with respect to issues involving restoration, replacement, or acquisition of the equivalent of the injured natural resources that are the subject of the litigation in the Upper Clark Fork River Basin, including the use of any funds that have been recovered from settlement or trial of the litigation.

Members of the UCFRB Trustee Restoration Council

Governor's Chief of Staff
Attorney General[27]
DEQ Director
DNRC Director
MFWP Director
Advisory Council Chairman

[27] The Attorney General is a non-voting member

November 18, 2008 Advisory Council Draft Meeting Summary

All members present except for Jim Yeoman and Paul Babb.

Staff Updates: Carol Fox announced the Trustee Restoration Council (TRC) meeting to be held on Thursday, December 17, 2008 at 1:00 PM in the DEQ Director's conference room and provided updates on the Consent Decree, hiring of the Butte office position, Advisory Council appointments, the Vanisko easement appraisal, the road map document, and agenda items for the next Council meeting on December 9, 2008. The two major agenda items for the December meeting will be the Garrison Trails project development grant request and a radio-telemetry fishery study proposal from NRDP/FWP.

2008 Grant Cycle Projects

Staff Update: Kathy Coleman provided a summary presentation on and answered questions about the public comments received on the 2008 grant projects. The NRDP recommends the same funding recommendations and conditions as were reflected in the *Draft Work Plan*, except for deferral of any final funding recommendation for the Vanisko Easement project until the second appraisal is complete.

Public Comment: Larry next solicited public comment on any of the 2008 projects.

- Vanisko project: Rep. Jim Keane referenced his previously submitted letter and hearing comments in opposition to the Vanisko easement project.

- Big Hole Diversion Dam project: Cindy McIlveen of Butte-Silver Bow provided an update and handout on the design of a boat by-pass. She offered members the opportunity to attend a tour with the engineering firm selected to design the boat by-pass.

- Silver Bow Creek Greenway project: Milo Manning updated the Council on the history of the Greenway project. ARCO had obligations pursuant to the federal Historic Preservation Act associated with its remedial obligations. The outcome of those obligations in 1992 was the completion of a Regional Historic Preservation Plan that covers how to address historical site mitigation along the Silver Bow Creek corridor. The Greenway was established to implement that plan. Historic resources were identified. There is an obligation to complete this project either by remedy or restoration. That is why there are a number of historical-related access features in the Greenway design.

Council Deliberations and Action: Larry asked members for their input on whether to decide on all projects as a group, to vote on them individually, or to separate out the Vanisko. Sally Johnson offered her input on what had been discussed at the September TRC meeting on the waterline and Vanisko easement projects and on conservation easements in general. After discussing options, members elected to vote on all the projects as a group except for the Vanisko project.

Dennis Daneke made a motion to reaffirm the Advisory Council's draft funding recommendations on all projects except for the Vanisko project. Becky Guay seconded the motion. The motion passed unanimously 11-0.
Vanisko project: Kathy Hadley recommended a motion to reaffirm the Council's previous draft funding recommendation for the Vanisko project. Milo seconded the motion. Carol answered members questions on the Vanisko project and reviewed the Advisory Council's draft funding recommendation: **To move the project forward with the other projects to the TRC and out for public comment with a recommendation to approve funding, subject to staff funding conditions, including a provision for reappraisal, at a value not to exceed the lesser of $5,655,000 or the fair market value as determined by the staff's independent reappraisal**.

Council members discussed at length the choice of deferring a vote on a final recommendation for the Vanisko project versus making a final recommendation at this meeting. Mary Price explained that while the Tribes strongly supported the easement, she would vote against the motion as she had done previously because they supported the staff recommendation to have a second appraisal. John Hollenback and Robbie Taylor expressed their preference to know the results of the second appraisal before voting. Kathy Hadley offered her input on what she had heard at the TRC meeting about easements projects, what she had learned subsequently about the Montana Legacy project, and why she recommended going ahead with a favorable recommendation on the Vanisko project. Larry and Carol provided additional input about discussions at the TRC meeting concerning easements. Some members expressed a concern that a vote against the motion would be considered incorrectly as a position against the project when they actually supported the project. Sally suggested an option of having two votes, one part dealing with the concept of the easement and the second part dealing with the value. Laura Rotegard and Dennis Daneke spoke about the project benefits and expressed a concern about losing the opportunity for the project if the second appraisal came in too low. Carol suggested that members voting against the motion go on the record with their reasons for their vote.

The motion passed 7 to 4, with John, Mary, Laura, and Robbie voting against it. Mary reiterated the Tribe's position in support of the project and her previous e-mail explaining the draft vote (attached) as their position for the record. Robbie wanted to defer the decision until the second appraisal. Laura noted the DOI's preference to go ahead with the project as it was originally proposed. John noted his desire to wait for the second appraisal to allow more flexibility and expressed a concern that we were unnecessarily tying our hands by locking into the lower of the two values.

Funding Cap for 2009 grant cycle

Carol provided a summary of and answered questions about the fiscal handouts in the mailing packet and the staff's recommendation of an $8.5 million funding cap for next year. This recommendation stems from the staff's preference to maintain a conservative spending approach until funding priorities are established and from the need to focus next year's efforts on completing approved grant projects and on prioritizing and program planning. Carol reviewed a summary table on the financial status of the grant projects, noting many approved projects had yet to be completed and some had not started yet. There is about $20 million approved for grant projects but not spent, plus another $20 million proposed for approval this year.

Council Deliberations: Laura offered that if they were to consider the leftover interest to date along with the estimates of interest estimated to be earned in fiscal year 2009, the Council's choice of the cap would range from a low of $12.4 to $16.4 million. Members offered varying opinions on the cap issue. Members preferring a lower cap (Sally and Mary) generally expressed similar reasons as offered by the staff regarding the need to be conservative until a road map/priorities are determined and the economic stimulus that already existed with the approved projects. Members preferring a higher cap (Dennis, Becky, Barbara, Robbie, Laura, Kathy) offered reasons that generally focused on the good timing for greater funding due to poor economic conditions, that contractors are hungry for work and offering better deals, and the good opportunities that existed for this funding in the Basin. Discussion occurred about the option of a having a lower cap, but then raising it based on what comes in, similar to what occurred a year ago. Larry and Carol discouraged this approach.

Public Comment: Rep. Jim Keane, Cindy McIlveen of Butte-Silver Bow, Chris Brick of the Clark Fork Coalition, Peter Nielsen of Missoula County, and Alden Beard of BETA consulting all spoke in support of the higher cap, generally noting:

- the opportunity/need for projects to occur in the Basin now that there are no litigation constraints
- the benefits of jobs that will result from more projects
- the good timing for both new projects and for getting the backlog of projects completed, because contractors want work and recent bids have been competitive
- the greater cap provides greater flexibility for communities

Chris and Peter indicated their agreement with the staff's position regarding the need to focus on getting approved projects completed and prioritization efforts. Peter encouraged the leveraging of NRD funds with matching funds.

Additional Council Deliberations and Action: Mary Price likened the higher cap to letting the tail wag the dog. The roadmap has three priority areas. We know a lot about groundwater priorities but not aquatic and terrestrial priorities. The prioritization planning for these resources should be completed first. We are at a very important transition time. We do not want to be spending it all on infrastructure projects.

Dennis reiterated his earlier comments regarding contractors being hungry for work and the opportune timing in terms of construction work. He noted that the vote was about a cap for how much to <u>potentially</u> spend.

Laura commented that while the road map is critical, she has faith in community smarts and did not want to restrict opportunities for good projects.

Barb proposed a motion to recommend a funding cap of $15 million. Robbie second. Becky indicated she was voting for the motion, but preferred it be even higher. The motion passed 9-2, with Sally and Mary voting against it.

Kathy and Laura commented in support of additional staff or contractors to address the greater workload associated with more projects and with overseeing the projects to push to get the approved projects completed. Carol noted one idea the staff had for future grant cycle changes would be to set a time limit for project start-up and completion, similar to other grant programs. Robbie suggested discussing such ideas at the next meeting. Mary Price asked for an update of the Milltown Sediment removal project at the next meeting. Carol and Larry will work out that agenda for the next meeting. Larry adjourned the meeting. Copies of meeting handouts are available from the NRDP upon request.

From: Mary Price [mailto:maryp@cskt.org]
Sent: Thursday, September 11, 2008 3:09 PM
To: Fox, Carolyn A.
Cc: 'James Steele'; 'Hovenkotter Joe'
Subject: 2008 Clark Fork River Restoration Workplan - Vanisko Ranch Conservation Easement

Carol-

As you know the Confederated Salish and Kootenai Tribes strongly support the Vanisko Ranch Conservation Easement (letter of July 2, 2008 re: 2008 Upper Clark Fork River Restoration Work Plan). My vote on September 9 (no on the amended motion) was in response to the issues you discussed regarding the easement appraisal. Specifically I did not want to place a limit on the value of the conservation easement before all questions are answered. This was a difficult decision because I share the majority view that the easement is time-sensitive. However I choose to support the NRDP's request for additional time to seek a review or reappraisal of the easement property. I feel it's important to be certain about the appraisal so that the public and the landowner will have confidence in the easement's value. CSKT support for the Vanisko Ranch Conservation Easement remains strong. We think funding this easement is a worthwhile use of Clark Fork Restoration funds that will result in a significant contribution to Clark Fork River Basin wildlife habitat restoration goals for the benefit and enjoyment of Montana's citizens now and for future generations. We urge the NRDP to seek timely review or reappraisal of the property so that Montana Fish, Wildlife and Parks may proceed with securing the Vanisko Ranch.

Please share this message with the Advisory Council and the Trustee Restoration Council.

Best regards,

Mary Price, Staff Scientist
Confederated Salish and Kootenai Tribes
Legal Department
P.O. Box 278
Pablo, MT 59855
ph (406) 675-2700 ext 1167
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Upper Clark Fork River Basin
REMEDIATION AND RESTORATION ADVISORY COUNCIL

Larry Curran, Chair
Butte

Paul Babb
Butte

Becky Guay
Anaconda

Dennis Daneke
Missoula

Jim Dinsmore
Hall

Barbara Evans
Missoula

Kathy Hadley
Deer Lodge

John Hollenback
Gold Creek

Sally Johnson
Missoula

Milo Manning
Anaconda

Robbie Taylor
Butte

James Yeoman
Anaconda

Richard Opper,
Director
Dept. of
Environmental Quality

Jeff Hagener, Director
Dept. of Fish, Wildlife
and Parks

Mary Sexton, Director
Dept. of Natural
Resources and
Conservation

James Steele, Jr.
Confederated Salish &
Kootenai Tribes

Laura Rotegard
U.S. Dept of Interior

TO: Trustee Restoration Council

FROM Larry Curran, Advisory Council Chairman

DATE: September 12, 2008

RE: Advisory Council Preliminary Recommendations

The Remediation and Restoration Advisory Council considered input on the twelve 2008 grant projects at their May, June, and August 2008 meetings, and visited the project sites during their June and July meetings. At their September 9, 2008 meeting, the Council voted to advance a recommendation to fund all the proposals to the Trustee Restoration Council and out for public comment as indicated in the following summary.

Milltown Land Acquisition: A motion to approve the project for $586,200 as recommended by staff passed unanimously (10-0).

Silver Bow Creek (SBC) Greenway: A motion to approve the project for $2,173,444 as recommended by staff passed unanimously (10-0).

Stucky Ridge/Jamison Acquisition: A motion to approve the project for $265,335 as recommended by staff passed unanimously (10-0).

Big Hole Transmission Line: A motion to approve the project for $1,650,542 as recommended by staff passed unanimously (10-0).

Butte Metering: A motion to approve the project for $273,600 as recommended by staff passed unanimously (10-0).

Cottonwood Creek PDG: A motion to approve the project for $90,377 as recommended by staff passed unanimously (10-0).

Georgetown Lake Study: A motion to approve the project for $109,463 as recommended by staff passed unanimously (11-0).

Anaconda Waterline Year 7: A motion to approve the project for $1,742,169 as recommended by staff passed unanimously (11-0).

Butte Waterline Year 8: A motion to approve the project for $2,414,424 as recommended by staff passed unanimously (11-0).

Big Hole River Diversion Dam: A motion to approve the project for $3,714,833 as recommended by staff passed unanimously (11-0).

Butte Nursery Research: A motion to approve the project for $628,175 as recommended by staff passed unanimously (11-0).

Vanisko Easement Proposal: A motion to move the project forward with the other projects to the Trustee Restoration Council and out for public comment with a recommendation to approve funding, subject to staff funding conditions, including a provision for reappraisal, at a value not to exceed the lesser of $5,655,000 or the fair market value as determined by the staff's independent reappraisal passed 8-3. This motion passed after two previous motions failed based on a majority vote.

Attached is a more detailed summary of the input received, deliberations, and actions taken by the Council on the each of the twelve grant proposals at their September meeting. Significant discussions occurred on the Butte Nursery Research and Vanisko Conservation Easement proposals.

September 9, 2008 UCFRB Advisory Council Meeting Summary

The following summary is for the discussions and actions taken at the Advisory Council's September 9, 2008 meeting that were specific to the twelve 2008 grant cycle proposals.

All Council members were present except for Barbara Evans and Robbie Taylor. Karen Nelson served as proxy for Laura Rotegard.

Larry Curran provided a summary of the meeting purpose and logistics. Projects would be handled on an individual basis, with staff updates, public comment, and then council discussion/action on their draft funding recommendations.

Milltown Land Acquisition

Staff update: no new information

Public Comment: Peter Nielsen of Missoula County spoke in support of the project.

Council Action: Milo M. motioned to approve the project for $586,200 as recommended by staff. Kathy H. seconded. There was no additional discussion. The motion passed unanimously (10-0).

Silver Bow Creek (SBC) Greenway

Staff update: no new information

Public Comment: none

Council Action: Dennis D. motioned to approve the project for $2,173,444 as recommended by staff. Milo M. seconded. There was no additional discussion. The motion passed unanimously (10-0).

Stucky Ridge/Jamison Acquisition

Staff update: FWP provided recent information that the mineral rights would go to FWP.

Public comment: none

Council Action: Sally J. motioned to approve the project for $265,335 as recommended by staff. Jim Y. seconded. There was no additional discussion. The motion passed unanimously (10-0).

Big Hole Transmission Line

Staff update: no new information

Public comment: none

Council Action: Milo M. motioned to approve the project for $1,650,542 as recommended by staff. Paul B. seconded. There was no additional discussion. The motion passed unanimously (10-0).

Butte Metering

Staff update: no new information

Public comment: none

Council Action: Milo M. motioned to approve the project for $273,600 as recommended by staff. Dennis D. seconded. There was no additional discussion. The motion passed unanimously (10-0).

Cottonwood Creek PDG

Staff update: Carol noted the additional grant monies the Watershed Restoration Coalition (WRC) received to address the downstream fish passages issue and summarized why this investigation of needed work upstream was beneficial even with downstream fish passage problems.

- What is the source of the additional money? R: National Fish and Wildlife Foundation.

Public comment: Renee Meyers of the WRC spoke in support of the project. The landowners are on board. They recognize the need to address downstream issues. They will collect the flow information they need and then come back with an implementation grant to put work on the ground in 2010. Their goal is to have lower fish passages addressed by then.

Council Action: Sally J. motioned to approve the project for $90,377 as recommended by staff. John H. seconded. There was no additional discussion. The motion passed unanimously (10-0).

Georgetown Lake Study

Staff update: no new information

Public Comment: none

Council Action: Milo M. motioned to approve the project for $109,463 as recommended by staff. Jim D. seconded. There was no additional discussion. The motion passed unanimously (11-0).

Anaconda Waterline Year 7

Staff update: no new information

Public Comment: Alden Beard, consultant for Anaconda-Deer Lodge County spoke in support, offered his appreciation for past support, and noted last year's project is ahead of schedule.

Council Action: Dennis D. motioned to approve the project for $1,742,169 as recommended by staff. Milo M. seconded. There was no additional discussion. The motion passed unanimously (11-0).

Butte Waterline Year 8

Staff update: no new information

Public Comment: Cindy McIlveen of Butte-Silver Bow noted the availability of the final water master plan for those wanting copies.

Council Action: Becky G. motioned to approve the project for $2,414,424 as recommended by staff. Kathy H. seconded. There was no additional discussion. The motion passed unanimously (11-0).

Big Hole River Diversion Dam

Staff update: Carol noted new information about possible boat passage from Butte-Silver Bow.

Public Comment: Cindy McIlveen of Butte-Silver Bow indicated they are seeking consultant assistance in exploring a boat chute option and that initial indications are favorable concerning feasibility and costs.

Council Action: Milo M. motioned to approve the project for $3,714,833 as recommended by staff. Paul B. seconded. Jim Y. asked whether an additional funding condition requiring that boat passage be considered was needed. Carol noted where this is covered in the pre-draft work plan and thus not needed. The motion passed unanimously (11-0).

Butte Nursery Research

Staff update: Carol reviewed the additional public comment letters received in opposition and support of the project since the pre-draft was issued and the additional $172,832 budget reduction that resulted for additional consultation with applicants and further review. Greg Mullen provided further details on the public comment, budget reductions, and reasons why the staff recommended the project for funding at the reduced amount.

- Members asked questions about use of information and materials developed by the Bridger Plant Materials Center and coordination with the Center. R: They are using this information developed by and collaborating with the Bridger Plant Material Center. The Center's work focuses on shrubs and trees whereas this grant focuses on forbs. The Center is a project supporter.

- Members asked questions about what was taken out of the budgets. R: About $82,000 was taken out of supplies for the MT Tech component, along with about $90,000 cut in supplies in the U of M component that comes under contracted services. Some cuts resulted because of the further clarification of what Butte-Silver Bow would be supplying for the forb mats, such as soils.

- Is the principle behind this research that with greater plant diversity, there will be greater weed suppression? R: Yes.

Public comment:

Applicants: Dr. Rick Douglass of MT Tech introduced the project team and reviewed the project goals. Some techniques are proven; some are not. Like all research, there are risks, but the potential benefits are worth the risks. They have 35 forb seed species already collected. The idea of the dispersal islands has been misunderstood. The islands will serve as natural seed source over a large area. Dr. Ray Callaway of U of M addressed four of the comments in opposition to the project. There is lots of research already demonstrating how diversity can reduce the biomass of weeds, sometimes by 10 times. The project is not about flowers on the landscape; it's about using native plants to occupy space that weeds would otherwise occupy. Both Dr. Callaway and Dr. Douglass addressed the criticism about how to establish forbs in a post-herbicide environment.

Cindy McIlveen of Butte-Silver Bow (B-SB) commented in support of the project. B-SB is excited about project; natural plant diversity is something that B-SB and the Restoration Alliance have desired. They have worked out needed clarifications with the applicant on B-SB's role and have confidence that any parts of the project that do fail won't be continued.

Dr. Pat Munday summarized his background and concerns about the project reflected in his comment letter to the Council. His main concern is that the Natural Resource Damage Program is a restoration program, not a research program. It is a very tenuous road to go down in terms of funding university research. It is a highly-oriented research project with uncertain results. Like the Bridger project, it will take a minimum 10-12 years to get results. Funding for an additional 10 years may be needed. For research projects, it is best to start small and prove the ability to generate benefits rather than front-end load it.

Dr. Callaway noted that any restoration project is going to have question marks. Not all of the project is strictly research; it is based on previous research. He offered statistics on successes with other research. We should be thinking in the long term. We should see results in a shorter time than 10 years.

Chris Brick of the Clark Fork Coalition commented in support the project going out for public comment. It is exactly what the NRD should be supporting. The goal is restoration. She is glad to see the budget trimmed. The project can be adjusted based on results. There is a great need for native plants on Butte Hill.

Council Discussion and Action

Mary P. noted that the Tribes are using dispersal island technique and have had success with it. It is becoming an excepted restoration method. She is totally comfortable with this proposal. We need research and to be open to new ideas. Restoration is evolving.

Dennis D. noted his agreement with Mary. Sometimes we can find out more from failures. The more we learn from research, the better.

John H. spoke in favor of increasing native forbs, grasses, and shrubs and appreciation of the comments and explanations.

Becky G. asked for clarification on the funding condition, which Greg provided.

Kathy H. moved to approve the project for $628,175 as recommended by staff. Dennis D. seconded. The motion passed unanimously (11-0).

Vanisko Easement Proposal

Staff update: Carol reviewed reasons for and answered questions about the staff's decision to go forward with either a review or second appraisal and a recommendation to defer further action on the project until completion of this reappraisal process as communicated.

- What time frame are you looking at? Can you have it done by the end of the year? R: We cannot predict the timeframe as we have not contracted with an independent appraiser yet. It may not be done by the end of the year.

- What is the landowner's response to this? R: Ray Vinkey of FWP indicated that the landowner is disappointed but understands this is part of the decision-making process. The family is not likely to wait another year before pursuing other alternatives. There have been interested buyers, but they would prefer not to sell it.

- Can we recommend that the project be funded at $5.65 million or less based on reappraisal? R: Yes, you can. We are recommending that you instead defer this decision until reappraisal complete.

- Having two different appraisals can lead to additional arguments. Could the appraisal be reviewed for whether it meets standard practice? R: We don't know yet whether we'll require a review appraisal or a second appraisal.

- Dennis D. indicated his concern about the uncertain timeframe. It's important to have a decision by end of year so the landowners have an answer and can move on with their decision-making. R: We cannot commit to having it done by the end of the year.

- What will happen if the second appraisal is significantly different? Does the second one prevail? R: I cannot speculate. We do have serious concerns about the 1st appraisal that involve the choice of the comparables and how public access is valued.

- What if we went ahead and qualified our recommendation to be based on reappraisal results? R: We might have to go out for public comment again if the price is substantially different; this may be a legal issue. Rob indicated that going out with a sales price at this time, knowing that it may not be the appropriate price, may negatively reflect on the

credibility of the State with the public. Whether additional public comment is needed may be a matter of credibility with the public. This is a policy consideration, and he did not offer an opinion on whether this is also a legal issue.

- Was the appraisal done by a certified appraiser? R: Yes.

- Kathy H. expressed a concern about losing the opportunity for public access and fish and wildlife and losing credibility with the landowners by stopping the process. It can be put out for public comment with conditions similar to other projects.

- Trevor S. commented that, based on information from FWP land specialists, the appraisal is sound and there is a chance the reappraisal would come in higher. R: The German Gulch property referenced in Rep. Keane's letter is not comparable.

- Jim Y. commented that by waiting, we may lose the opportunity to negotiate with landowner. The application indicates three independent appraisals were done. R: There was an appraisal for each of the two in-holding acquisitions in addition to the easement appraisal.

- John H. commented that we owe it the public to look into this. The price is higher than what he has seen associated with reviews of other easements by the Powell County Planning Board. We owe it to the Program to see that we get a fair price.

- Could a bank loan money based on this appraisal? R: It was done by a certified appraiser.

- Doesn't the public access increase the value of the easement substantially? R: Yes. The total diminution value was 62%, with 25% attributed to the public access provisions. The Manley easement, which had 365 hunter days, had a similar diminution value, but it was a bargain sale.

- Dennis D. noted that appraisals don't capture the great value of public access and conservation benefits to future generations. It is worth what we can afford to spend.

<u>Public Comment</u>

- Mike Thompson of FWP expressed a concern about deferring the funding decision process beyond year end, which seemed likely. The agency has no problem with the reappraisal, noting the need to have faith in the purchase price. The NRDP is doing their duty. We prefer going forward with a funding condition tied to reappraisal to the keep the easement option alive.

- Ray Vinkey of FWP clarified the $5.65 million is for acquisition of two in-holdings at $700,000 and the easement at $4.96 million.

- Area resident Rick Cline asked for clarification on the easement value vs. fee-title, which Carol provided.

- Cindy McIlveen asked whether the landowners would be interested in selling a portion of the property. Ray Vinkey of FWP responded that the landowners are interested in conveying an easement on the entire property or selling it if the easement does not go.

Council Action

John H. motioned approval of the staff recommendation to defer a funding recommendation until after the reappraisal process is completed. Jim D. seconded the motion.

Dennis D. proposed amending the motion to specify a 120 day limit on the decision timeframe, with the expectation that there would be vote up or down based on information available within that timeframe. Jim Y. seconded the amendment.

Sally J. commented that the amendment did not meet the needs of landowners. She recognizes the concern about paying the fair price, but this easement is a gem of an opportunity and she does not want to lose it due to delaying a decision.

Kathy H. indicated she would vote against the amendment since the staff cannot commit to a set time frame for reappraisal process.

The amendment to the motion failed on a 1-11 vote, with Dennis D. voting in favor and other members voting against.

Discussion followed next on the original motion to defer the funding recommendation.

Kathy H. spoke against the original motion: No one expects us to pay more than fair market value. Get the Vanisko project out for public comment with the other projects. Go forward to keep it moving and report back if a significant change in the price results from reappraisal. Conservation and public access on 7,000 acres is worth a lot of money and, as long as it is fair market value, it is worth funding.

Discussion followed on the proper procedure associated with offering a substitute motion, with the conclusion that this is the point in the process when one can be offered. Kathy H. offered a substitute motion to advance this project with other projects for public comment with staff conditions as well as a review or independent appraisal at price not to exceed $5.655 million. Milo M. seconded the motion.

John H. spoke against the substitute motion: As long as the landowner knows we are working on this, we are not likely to lose the opportunity. The easement offers a good deal to the landowner as it still allows the right to use, sell, divide it, and use the Block Management Program. We owe it to the Program to get the right number. We should work as fast as we can, but we should look into this.

Kathy H. clarified that this is a draft funding recommendation to go forward to TRC and then out to public comment.

Sally J. commented that there seems to be an agreement that this is a great conservation project and agreement not to pay more than fair market value. At issue is the timing – whether we are going to wait or vote on a draft funding recommendation.

Milo M. commented that he has confidence that FWP's certified appraiser has done a good job. Just because a legislator has raised questions about the appraisal does not mean it is unacceptable. The staff has questions and those will be answered; we shouldn't delay the project any further and it should be moved on.

Mary P. asked about what if the appraisal comes in at higher amount and what are the conditions of the deal with landowner? Carol responded that she did not think that there was a written agreement with the landowner and that it remains to be determined what would happen; we would have to go through the review/approval process with the results of the reappraisal. Ray Vinkey of FWP verified that there is no written agreement with the landowner but they have been working with the landowner based on the proposed price of $5.65 million.

Further discussion occurred with regards to clarifying the motion, which resulted in the following language for the motion: **To move the project forward with the other projects to the TRC and out for public comment with a recommendation to approve funding, subject to staff funding conditions, including a provision for reappraisal, at a value not to exceed the lesser of $5,655,000 or the fair market value as determined by the staff's independent reappraisal**.

The motion passed 8-3, with Dennis D., Jim D., Becky G., Kathy H., Sally J., Milo M., Karen N., and Jim Y. voting in favor of the motion and Paul B., John H., and Mary P. voting against the motion.

August 12, 2008 UCFRB Advisory Council Meeting Summary

All Council members were present except for Becky Guay.

Larry Curran provided a summary of the meeting purpose and logistics. Larry announced Glenn Phillip's retirement from FWP. Carol Fox will draft an appreciation letter from the Council.

2008 Pre-Draft Work Plan

NRDP staff summarized the criteria evaluations and pre-draft funding recommendations for the twelve 2008 grant proposals. All projects are recommended for funding, subject to some funding conditions on some of the projects. Following is a summary of the questions and discussions that occurred on each proposal. Responses to questions are indicated with an "R."

Milltown Land Acquisition: Presented by Doug Martin

- Why would the State be the best entity to hold the property? R: State ownership provides for better coordination with FWP in terms of future management of the area. Public input to date has been favorable for the use of the area as a state park, and the State is the entity directing the restoration.

- Would mineral rights come with the property? R: Yes

Public comment: Peter Nielsen commented in support of the proposal on behalf of the Milltown Redevelopment Group and Missoula County Commission. Public ownership will protect the financial investment and provide for public access. The Redevelopment Group has done extensive planning for a recreational park proposal.

Chris Brick of the Clark Fork Coalition thanked staff for their support. The project is very cost-effective, with costs substantially below appraised value and the initial request of $1.4 million. The acquisition will protect remediated and restored areas. We prefer the more local option of State ownership to federal ownership.

Silver Bow Creek Greenway: Presented by Greg Mullen

- Why are the picnic tables so expensive ($3,900 each)? R: (from applicant): The picnic tables are made out of concrete and designed for handicap access, long-term and high use, low maintenance, and to withstand vandalism. These costs are consistent with the competitive bids received this summer on similar facilities.

- Where will the trail be located in Subarea 4? R: From Fairmont bridge to Highway 1, mainly on the east side. The trail bridges across the creek in this reach were approved for funding last year.

- Where will the picnic tables be located? R: This will be decided at the design stage.

- How complete is the Greenway and how much farther does it have to go? R: If this proposal were to be funded in addition to the $12 million approved in past proposals, ecological restoration will have been funded for all but the last three miles of Silver Bow Creek. The recreation trail will have been funded for eleven of an intended 23 miles total, and associated access features will have been funded for along the first five miles.

- What recreational features or restoration work is planned for the area upstream of the start of the Greenway? R: This is an area owned by ARCO that will be remediated under the Butte Priority Soils Operable Unit Record of Decision. No restoration or recreational access work is planned for this area. This is the section of the creek that runs through slag piles.

- Will the culverts be designed to restrict constriction that may inhibit fish passage? R: That will be considered in the final design.

- Will the proposed trail in Subarea 4 be constructed next year? R: The ½ mile trail proposed at Miles Crossing would be done next year. The footprint for the four miles in Subarea 4 would be constructed next year in coordination with remedy, but paving may occur in a subsequent year.

Public Comment: Cindy McIlveen of Butte-Silver Bow noted that the County is working with ARCO on recreational access features in the upstream area that is not covered under the Greenway project. This work is to be coordinated with the ARCO's remediation work in this area.

Dori Skrukrud of the Greenway Service District thanked staff for their support and collaboration.

Stucky Ridge/Jamison Acquisition: Presented by Kathy Coleman

- What is known about the mineral rights? R: The mineral rights ownership is unknown for both the Phase I and Phase II parcels, but FWP is working to get this information.

- Mary Price commented that she would like to learn more about what is involved with a mineral remoteness test. Carol Fox explained what the mineral remoteness test entailed on the Vanisko project.

Public Comment: Mike Thompson of FWP thanked the project partners. The project is an important piece to the bigger picture of protecting/improving wildlife habitat in the Basin.

Big Hole Pipeline: Presented by Greg Mullen

- Is part of the $2.1 million in contracted service for labor? R: Most of this is for the pipe and contract engineering; $450,000 is for labor to install pipe.

Public comment: Cindy McIlveen of B-SB thanked staff and noted that B-SB has recently seen a 25% increase in material costs associated with the project approved last year, which they hope to start construction on this fall.

Butte Metering: Presented by Tom Mostad

- Does B-SB have a rate schedule? Are there different rates for metered and non-metered hook-ups? The biggest incentive to using meters is the lower costs. R: (from Paul Babb): B-SB intends to do this as part of the overall water system master plan, as well as public education on the benefits of metering. They will also consider separate rates for drinking and irrigation use.

Public Comment: Cindy McIlveen of B-SB added that B-SB will also be looking at what to do with metered houses if they have a leak, which has been a concern raised by the public.

Cottonwood Creek PDG: Presented by Tom Mostad

- Mary Price commented in follow up to her earlier e-mail comment regarding the fee for the consulting hydrologist, which seems high. She suggested the State consider, for future projects, having their own hydrologist to assist grant applicants to reduce costs. The Tribes support the project. R: FWP staff will be doing the fishery and water rights work as an in-kind match on this project.

- Who will the contractors be? R: This remains to be determined; the applicant has to meet competitive procurement requirements.

- Who prepared the application? R: Renee Meyers of the Watershed Restoration Coalition (WRC).

- Is there connectivity between Cottonwood Creek and the Clark Fork River? R: Downgradient barriers to fish passage prevent this connectivity. This is a problem that would have been further assessed in an application by the WRC that was withdrawn. The WRC will continue efforts to gain funding to address this problem.

- Wouldn't it make sense to spend money on the river instead of investing money to a tributary that doesn't connect? R: Cottonwood Creek can support a good fishery in and of itself. Fish can go down but can't get back. This is a project development grant that will identify dewatering and fish entrainment problems. We will have a lot better idea of potential fishery needs as a result of this grant.

Public comment: Chris Brick of the Clark Fork Coalition commented that this is a good proposal that builds on other work in the drainage and will identify effective ways to conduct restoration in the whole drainage. The fish passage application was pre-mature; they are getting more information to support for future work to address problems with the Grant Kohrs ditch.

Georgetown Lake Study: Presented by Carol Fox

There were no questions on this proposal.

Public comment: Chuck Stokke of the Georgetown Lake Homeowners Association commented in support of the project and thanked staff. He noted that work at the Stuart Mill Bay fishing access site acquired with past grant funds will be completed this summer.

Anaconda Waterline: Presented by Tom Mostad

- Have the materials costs gone up similar to what B-SB experienced on the Big Hole pipeline project? R: Material costs stayed about the same for the first four years, but sharply increased in 2006/07. Both the 2008 bids for the Butte and Anaconda waterlines were lower than the engineer's estimates and were similar to costs from last year.

Public comment: Alden Beard, consultant for Anaconda-Deer Lodge County, thanked staff and commented in support of the project. Anaconda's water system needs are still high. They are making head way with leaks, but there is a still lot to do. They have recently discovered major problems with galvanized pipe on Front Street. With results of the pending studies, Anaconda will be in a good position to revisit their priorities.

Butte Waterline: Presented by Tom Mostad

- Will work be done by B-SB crews? R: No, it will be bid out.

Public comment: Cindy McIlveen of B-SB thanks staff for continued support. The graphical information in the application demonstrates they have made significant gains in addressing leaks uptown with past NRD grant funding, but that there are significant leak problems in other areas.

Big Hole Diversion Dam: Presented by Greg Mullen

- Does the budget include funding for the environmental assessment? R: Yes – $125,000.

- Has B-SB thought of trying to recoup energy cost through a co-generation facility? R: (from Paul Babb): B-SB has been and will continue to look at this potential in collaboration with NorthWestern and the National Center for Appropriate Technology.

- If the environmental assessment process points to a different alternative for providing a safe water source, but in a different way than replacing the existing dam, would the project have to be reconsidered? R: Yes, the proposal would have to be reconsidered, if a substantial design change occurs. The alternative of collector wells was considered, but was found to be too expensive, and the master plan indicates why an alternative of using Silver Lake water won't work.

Public comment: Cindy McIlveen of B-SB indicated that, as part of the environmental analysis, they will expand their alternatives beyond those that were considered in the master plan, which were strictly based on dam replacement. That analysis will also address potential ways to provide for boat passage.

Butte Nursery Research: Presented by Greg Mullen

- What are forbs? R: Wildflowers.

- How long will the project last? R: Three years.

- Why are the fringe benefits lower than what we have seen on other projects (25% vs. 35% to 45%)? R: The project involves use of students and volunteers, thus the lower fringe rate.

- Mary Price commented that she would like to have the yearly progress evaluation/reports shared with the Advisory Council.

Public comment: Rick Douglass of MT Tech thanked staff for their assistance with the on-going development of this project, which is already underway with other funding sources and that they welcome further staff input/guidance. They are already tracking species, collecting seed, and developing new seed. They have funding from DNRC for the nursery and have two temporary greenhouses and MT Tech has donated 2 acres for the nursery site. Their products will be available to public and private entities.

Mike Thompson of FWP commented that this work may be very helpful to wildlife habitat restoration efforts in the UCFRB. Having forbs is a huge benefit in disturbed sites.

Vanisko Easement: Presented by Carol Fox

- Would the mineral rights owned by property owners be part of easement? R: The easement would not allow the surface owners to conduct mineral exploration, but we need to find out if the rights are owned by a third party that would not be bound by the easement terms.

- Could DNRC give up the oil and gas development rights? R: I don't know but can look into this.

- What about coal? R: This will be looked at as part of the mineral rights evaluation.

- If the easement is funded, would the landowners continue to participate in the FWP Block Management Program (BMP) and receive BMP funding? R: This is a possibility. FWP's current policy is that landowners of easement properties are eligible to receive funding from the Block Management Program.

- Mary Price commented that the Tribes strongly support this project. It is great to have the opportunity for protection of such a large parcel and helps with management costs. Very well managed land.

- What is the status of the wildlife prioritization effort? R: It is just getting underway and will take about two years.

- What are the intentions of the landowners of the Burnt Hollow parcel to the north between Peterson and Cottonwood Creeks? R: Unknown.

Public comment: Mike Thompson of FWP indicated that FWP is accepting of the funding conditions, which are typical with such types of transactions. He noted the exceptional fish and wildlife habitat features of the property that are worth protecting.

June 10, 2008 UCFRB Advisory Council Draft Meeting Summary

All Council members were present except for Becky Guay and Larry Curran.

Milo Manning chaired the meeting in Larry's absence. He summarized the May 29, 2008 Trustee Restoration Council meeting and announced the upcoming public hearing and public comment period on the *State's Draft Conceptual Framework for an UCFRB Restoration Priorities Road Map*.

2008 Grant Cycle Applicant Symposium (Part 2)

Grant applicant representatives for the remaining three grant proposals provided presentations on and answered questions about the proposals. Copies of all presentations and grant proposals are available upon request to the NRDP.

Stucky Ridge/Jamison Land Acquisition: Presented by Keith Leonard of the American Land Conservancy. Keith and Ray Vinkey of Fish, Wildlife and Parks (FWP) answered questions about this project that covered the distinction between the two project phases, letters of support, public access to the property, subdivision status, neighboring property ownership and land uses, the property's wildlife habitat values and wildlife habitat replacement projects in general.

Cottonwood Creek Flow Study Project Development Grant: Presented by Renee Myers of the Watershed Restoration Coalition. Renee answered questions about: researching water rights and historic base flows; how flows in Johnson Creek are affected by diversions in Cottonwood Creek; the adequacy of one year's data collection efforts; and the proposal budget. John Hollenback noted that the project offers the opportunity to leverage funding with the NRCS and other entities that will fund projects to improve flow and fish passage but that more baseline information is needed to apply for grants to do such work. This proposal would provide that needed information.

Vanisko Ranch Conservation Easement: Presented by Ray Vinkey. Ray and Darlene Edge of FWP and landowner Jim Berg answered questions about the one allowable property split, the proposed in-holding land trade with the US Forest Service, the easement restrictions and enforcement provisions, public access provisions, timber and range management plans, mining claims and mineral rights, ranching and farming activities on the property, weed control, and other easements in the area. Laura Rotegard commented on the lower costs of the easement for the Rock Creek Ranch, but that easement did not provide for public access whereas the Vanisko easement does. Dennis Daneke thanked the landowners for their willingness to have an easement. Kathy Hadley noted the great hunting opportunities the property offers close to an urban area and her appreciation of the landowner's willingness to allow public hunting in the past. Jim Berg commented that he did not want to the property degraded and wanted to pass it to future generations in its natural habitat.

Additional Public Comment: None

Site Tours: Members toured the Cottonwood Creek Flow Study proposal site. Due to bad weather conditions, the tour of the Vanisko Ranch conservation easement tour was postponed until the July meeting.

May 13, 2008 UCFRB Advisory Council Draft Meeting Summary

All Council members were present except for Kathy Hadley and Robbie Taylor.

Copies of all presentations made at this meeting are available upon request to the NRDP.

2008 Grant Cycle Applicant Symposium (Part 1)

Grant applicant representatives for the following nine grant proposals provided presentations on and answered questions about the proposals. Carol indicated that members can obtain applications from the NRDP upon request and that the remaining four projects will be presented at the June 10, 2008 meeting in Deer Lodge.

Milltown Land Acquisition: Presented by Matt Clifford of the Clark Fork Coalition. Matt explained the process outlined in the Consent Decree for the State to acquire NorthWestern's Milltown lands and water rights for $1.4 million or less. Questions covered why this is a grant proposal, the state's potential liability in accepting the lands, the appraisal valuation (about $1.6 million for the land alone), the amount of NorthWestern's insurance refund (about $800,000) that will reduce the grant costs (to about $600,000), and the change of use process for the water rights.

Butte Water Projects (four): Presented by Cindy McIlveen and Marty Hoven of Butte-Silver Bow. Questions on the metering project covered other efforts being done to conserve water and the percentage of metered hook-ups. Questions on the waterline project covered the service life of the new pipe. Questions on the Big Hole transmission line and dam projects covered the feasibility of alternative sources, the quantity of water losses through the system, the Big Hole water and how much it affects instream flows in the Big Hole, the multi-year nature of the dam project, and the service life of the improvements.

Anaconda Waterline Project: Presented by Alden Beard, consultant for Anaconda-Deer Lodge County (ADLC). Questions covered the amount and costs of replacement completed vs. left to be done, and results of the winter 2008 leak evaluation study.

State of Georgetown Lake: Presented by Craig Stafford of the University of Montana. Questions covered the contribution of septic tanks to problems, to what extent the study would identify the causes of the problems in addition to characterizing conditions, and the role of the Georgetown Lake Homeowners Association. John Hollenback commented that good information would be gained from the study.

Silver Bow Creek Greenway: Presented by Dori Skrukrud of the Greenway Service District. Questions covered the location of the proposed improvements with respect to Durant Canyon and the coordination with remedial tasks.

Restoring Native Plant Diversity: Presented by Kriss Douglass and Rick Douglass of MT Tech, and Ragan Calloway of the University of Montana. Questions covered the project budget, the amount and costs of the forb mats produced and the types of plants in those mats, the uses of the study results to impacted upland areas, the innovative nature of the project, the possibility that root entry

into buried wastes would cause failure, the need for watering, the potential to withstand grazing pressure, and the mechanisms for seed dispersal.

Additional Public Comment: None

Larry Curran adjourned the meeting.

United States Department of the Interior

NATIONAL PARK SERVICE
Grant-Kohrs Ranch National Historic Site
266 Warren Lane
Deer Lodge, Montana 59722

A-

August 6, 2008

Carol Fox
Restoration Program Chief
Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425

Dear Carol,

The United States Department of the Interior (USDOI) has reviewed the applications submitted for funding under the 2008 Upper Clark Fork River Basin Restoration Fund Grant Program. The focus of our review was two-fold: (1) how the projects might impact DOI properties, trust resources, or legislative responsibilities; and (2) the overall appropriateness of each project given the funding guidelines. **We support all 12 of the proposals as presented.** Our comments on the reviewed applications are as follows:

1. **Anaconda Waterline –Year 7** – $1,742,169
This project involves continued improvements to the Anaconda drinking water system. This is the seventh consecutive year of ADLC water project funding requests. This project will upgrade drinking water lines. While this project does replace lost ground water resources in Anaconda, a comparison of total estimated project costs to the value of the settled injury claim would be useful in assessing the appropriateness and scale of future project funding, particularly in terms of establishing an appropriate total funding value relative to settlement. **DOI does not object to funding for this proposal.**

2. **Big Hole River Diversion Dam Replacement** – $3,714,833
The project involves improvements to the Butte water delivery system, through replacement of a major holding structure in need of critical repair. **DOI does not object to funding for this proposal.**

3. **Big Hole Transmission Line –** $1,6540,543
This project involves continued improvements to the Butte drinking water system. **DOI does not object to funding for this proposal.**

4. **Butte Water Metering and Public Awareness** – $273,600
This is a public awareness campaign project with meters supplied, to voluntarily encourage citizens to conserve water. **DOI does not object to funding for this proposal.**

5. **Butte Waterline – Year 8** – $2,414,424
This project involves continued improvements to the Butte drinking water system. This is year 8 of a 15 year replacement project for lost ground water resources in the Butte area. Year 8 activities include replacing deteriorated drinking water distribution lines. Extrapolating over the 15 year period, the total cost of this project will be roughly $30 million. DOI recommends that NRDP staff consider the total cost of this project,

and that of the Anaconda infrastructure projects, in terms of the settlement funds recovered for groundwater injuries in these communities. **DOI does not object to the funding of this proposal.**

Cottonwood Creek Flow PDG – $90,377
This is a research and monitoring project to understand flow characteristics and obstacles in the upper Cottonwood Creek basin, a major tributary to the Clark Fork. Cottonwood Creek's lower reaches and confluence are on the national park lands at Grant-Kohrs Ranch NHS. This study will lead to redesigned fixtures to maximize flows efficiently and improve fisheries health. **DOI supports this project.**

6. **Milltown Land Acquisition** – $586,200
This is acquisition of Northwestern's holdings. **DOI supports this project**.

7. **Restoring Native Plant Diversity in the UCFRB** – $801,007
This project supports new technology that produces native mixed forbs and grasses sod to use in restoring caps. **DOI enthusiastically supports this project**

8. **Silver Bow Creek Greenway** – $2,173,444
This project is a continuation of the Greenway Trail Project and complements remedial action currently underway along Silver Bow Creek. **DOI supports this proposal for NRD funding.**

9. **State of Georgetown Lake Study** – $109,463
This is a 3 year funded project to study conditions of Georgetown Lake with good support from private landowners, with the intent of understanding fisheries, as a replacement for lost services in the Clark Fork, and to improve boating activities. **DOI supports this project**.

10. **Stucky Ridge/Jamison Property Acquisition** – $265,335
This project qualifies as replacement of lost services through acquisition of 296 acres of wildlife habitat to safeguard a travel corridor that supports bighorn sheep, elk and deer. **DOI supports this project.**

11. **Vanisko Ranch Conservation Easement** – $5,655,000
This is a direct acquisition of private rights over 7,140 acres, which will be exchanged with USFS for lands adjacent to Lost Creek WMA, strengthening habitat preservation goals of the Beaverhead-Deerlodge NF, and Montana State Fish, Wildlife and Parks ownership at the WMA. Benefiting species include elk and bighorn sheep. These actions will replace resources for lost services. **DOI supports this project.**

Sincerely,

Laura Rotegard

Cc: Karen Nelson, USFWS
Greg Nottingham- NPS Case Manager, UCFRB

THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION
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A People of Vision

A Confederation of the Salish, Upper Pend d'Oreilles and Kootenai Tribes

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Terry L. Pitts

July 2, 2008

RECEIVED
JUL 09 2008
NATURAL RESOURCE DAMAGE PROGRAM

Carol Fox, Restoration Chief
Natural Resources Damages Program
1301 East Lockey
P.O. Box 201425
Helena, MT 59620-1425

Re: 2008 Upper Clark Fork River Restoration Work Plan.

Dear Ms. Fox,

Pursuant to the *Memorandum of Agreement among the State of Montana, Confederated Salish and Kootenai Tribes and United States Department of Interior Regarding Restoration, Replacement or Acquisition of Natural Resources in the Clark Fork River Basin* we have reviewed the applications submitted for funding under the 2008 Upper Clark Fork River Basin Restoration Grant Fund Program. While reviewing the Pre-Draft Work Plans we considered the potential effects of the proposed projects on: (1) Tribal Cultural Resources and Tribal Religious Sites; and (2) natural resources of special interest to the Tribes.

The Tribes recommendations and comments on each of the funding applications are summarized in the table attached to this letter. Issues of particular concern to the Tribes are also discussed in more detail as follows.

Projects Involving the Physical Disturbance of Land

Projects in the Clark Fork River Basin involving the physical disturbance of land may have the potential to affect Tribal Cultural Resources. The Butte, Anaconda and Deer Lodge regions are Tribal traditional use areas and contain recorded prehistoric sites The Tribes encourage applicants to be aware of the potential for encountering buried cultural

features and/or artifacts during excavations. Therefore please draft the award documents for the projects involving the physical disturbance of land to require compliance with the State/Tribal MOU that provides for the proper inquiry and consultation with the Tribes during project implementation.

Clark Fork Coalition / Milltown Redevelopment Working Group Milltown Land Acquisition

The Tribes, as a Trustee of the natural resources within the Upper Clark Fork River Basin are an active partner in developing the Restoration Plan for the Clark Fork River and Blackfoot River near Milltown Dam. The Tribes support the transfer of necessary monies from the Clark Fork Restoration Fund to the Milltown Restoration Fund for purchase by the State of Montana of Milltown Site land and water rights held by the NorthWestern Corporation with the final amount to be determined at the time of sale. In addition to the many restoration and redevelopment benefits described in detail in the funding application the purchase will also restore a portion of the Tribes' treaty-reserved right to access and utilize the Clark Fork and Blackfoot River fishery.

Montana Fish Wildlife and Parks Vanisko Ranch Conservation Easement and American Land Conservancy Stucky Ridge Jamison Property Acquisition

The Tribes support the acquisition, through purchase or easement, of equivalent aquatic and terrestrial habitat in the Upper Clark Fork River Basin to replace aquatic and terrestrial habitat injured by industrial mining activities. The Vanisko Ranch easement / purchase will replace 7,326 acres of native fish and wildlife habitat and the Stucky Ridge /Jamison purchase will replace 296 acres of native wildlife habitat. As presented by the applicants the Vanikso Ranch and the Stucky Ridge / Jamison properties contain native habitat types identified as priority habitats by Montana's Comprehensive Fish and Wildlife Conservation Strategy. The Tribes support the Vanisko Ranch and Jamison acquisitions.

Thank you for your continuing cooperation regarding resources of special interest to the Tribes. The Tribes point of contact for these issues is Mary Price, Staff Scientist, Tribal Legal Department, (406) 675-2700, extension 1167.

Sincerely,

James Steele, Jr.
Chairman – Tribal Council

mbp

The Confederated Salish and Kootena Tribes comments on the 2008 Upper Clark Fork River Restoration Work Plan				
Applicant / Project Title	**Project Description**	**Requested NRDP Restoration Funds**	**CSKT Recommendation**	**CSKT Comments**
Anaconda – Deer Lodge County / Front and Alder Street Water Main Replacement	Replace 7,382 feet of water mains Front and Alder streets.	$1,742,169	Do Not Object	Potential for encountering Tribal Cultural Resources during physical disturbance of land.
Butte – Silver Bow Local Government / Big Hole Diversion Dam Replacement Project	Replace Big Hole Diversion Dam during 2010 construction season.	$3,768,833	Do Not Object	
Butte-Silver Blow Local Government / Big Hole Transmission Line Replacement: Year 2	Replace up to a total of 10,000 feet of the Big Hole Transmission Line	$1,650,543	Do Not Object	Potential for encountering Tribal Cultural Resources during physical disturbance of land.
Butte-Silver Bow Local Government / Butte Drinking Water Infrastructure Upgrades Program Year 8	Replace 17,000 feet of water mains.	$2,414,423	Do Not Object	Potential for encountering Tribal Cultural Resources during physical disturbance of land.
Butte – Silver Bow Local Government / Water Metering and Public Awareness Project	Incremental voluntary water metering and public awareness program.	$273,600	Support	
Greenway Service District / Silver Bow Creek Greenway	Plan, design and construct restoration and access improvements within SBC corridor concurrent with 2009 remedial work.	$2,173,443	Support	Potential for encountering Tribal Cultural Resources during physical disturbance of land.
American Land Conservancy / Stucky Ridge Jamison Property Acquisition	Acquistion of 295.8 acres located three miles northwest of Anaconda. Would provide public access, recreation, critical winter range habitat for bighorn sheep, elk, deer.	$265,335	Strongly Support	Contains native habitat types identified as priority habitats by Montana Comprehensive Fish and Wildife Conservation Strategy
Granite Conservation District et.al / State of Georgetown Lake	Three year water quality study of Georgetown Lake: (1) describe current state of Lake; (2) determine if state of the Lake has changed over time; (3) develop plan for future monitoring.	$109,448	Do Not Object	
Clark Fork Coalition / Milltown Redevelopment Working Group Milltown Land Acquisition	Transfer of restoration funds to Milltown Restoration account to enable Montnan to acquire NorthWestern corporation land and water rights at Milltown Site.	$1,400,000	Strongly Support	Pursuant to Milltown Consent Decree, CSKT and United States have second right of refusal if Montana does not exercise option to purchase land and water rights.
Montana Fish Wildlife and Parks / Vanisko Ranch Conservation Easement	Purchase 7,140 acre conservation easement at Vankisko Ranch located 7 mi. southeast of Deer Lodge; purchase two Forest Service Holdings - 62.4 acres and 121.9 acres. Purchased inholdings would then be traded to USFS for federal lands adjacent to MFWP Lost Creek Management Area.	$5,655,000	Strongly Support	Contains native habitat types identified as priority habitats by Montana Comprehensive Fish and Wildife Conservation Strategy
Montana Tech of the University of Montanan / Restoring Native Plant Diversity in the UCFRB: A Demonstration Project Using Novel Techniques to Produce Sustainable and Weed Resistant Natural Plan Communities	Demonstrate ways to increase native plant species diversity and control weeds in upland areas impacted by mining activities.	$848,244	Support	
Watershed Restoration Council / Cottonwood Creek Project Development	Design and implement long-term restoration and conservation strategies on Cottonwood Creek. Data collection: (1) flow study; (2) identify diversion structures; (3) identify irrigation ditches with fish entainment problems; (4) Identify problem nutrient areas.	$138,042	Support	
Total NRDP Funds Requested		**$20,439,080**		
Matching Funds		**$1,686,692**		

APPENDIX C

APPLICATION REVIEW GUIDELINES

APPENDIX C

UCFRB RESTORATION GRANTS

2008 APPLICATION REVIEW GUIDELINES

Introduction

The January 2007 *UCFRB Restoration Plan Procedures and Criteria* (*RPPC*) provides the framework for expending Restoration funds and describes the criteria to be used to evaluate Restoration Grant Projects. To help in these evaluations, the NRDP developed the following Application Review Guidelines based on the *RPPC*. These Guidelines categorize the likely manner in which restoration projects meet or address a particular criterion. For example, for technical feasibility, projects are categorized as reasonably feasible, uncertain feasibility, or not feasible. These categories provide a framework to assist in evaluating and comparing projects consistently. Reviewers should note that it is the explanatory text for each criterion provided in the detailed Project Criteria Narratives, not the titles provided in this guidance to categorize projects that forms the basis of judging how well a project addresses a particular criterion. The titles/headers should not be misconstrued to denote a certain level of ranking or adequacy in meeting the *RPPC* criteria. In addition, certain projects may have unique aspects for a certain criterion for which none of the broad categories provided herein are appropriate.

STAGE 1 CRITERIA REQUIRED BY LEGAL CONSIDERATIONS

1. TECHNICAL FEASIBILITY

General Considerations: Reviewers should bear in mind that the ultimate question to be answered under this criterion is: To what degree is the project likely to achieve its objectives? As per DOI regulations, "Are the technology and management skills necessary to implement the project well known and does each element of the plan have a reasonable chance of successful completion in an acceptable period of time?" To evaluate both the technology aspects and management aspects, the application asks for a scope of work as well as information regarding successful application of the selected technology to similar sites. We are not just evaluating whether a particular technology has been successfully applied in the past, but also whether it will work as applied to this particular project as planned by the applicant.

Reasonably Feasible: The following descriptions apply to a project that is "Reasonably Feasible."

- The project employs well-known and accepted technology in design, engineering and implementation components of the project, and/or;

- The project applicant demonstrates that any innovative technologies proposed in the project are reasonably likely to achieve their stated objectives.

- Any uncertainties/issues requiring future resolution associated with the project are insignificant.

- There is a reasonable degree of confidence that the technologies proposed to be utilized in the project (whether well-known and accepted or experimental or innovative) can be applied to the project site to achieve their stated objectives.

- The project applicant demonstrates management skills necessary to implement the technologies at the project site in an acceptable period of time.

Based on these findings, the project is "Reasonably Feasible," and is therefore reasonably likely to achieve its objectives.

Potentially Feasible: Projects in this category have a few uncertainties that could be significant but it appears they can be resolved and the project can achieve its objectives.

Uncertain Feasibility: If any of the following descriptions apply to a project that otherwise satisfies the description of a "Reasonably Feasible" project, then the project is of "Uncertain Feasibility."

- It is uncertain whether any innovative or experimental technologies proposed in the project are likely to achieve their stated objectives.

- There are many significant uncertainties associated with the project that require future resolution.

- It is uncertain whether the technologies proposed to be utilized in the project (whether well known and accepted or experimental or innovative) can be applied to the project site to achieve their stated objectives.

- It is uncertain whether the project applicant demonstrates management skills necessary to implement the technologies at the project site in an acceptable period of time.

Based on these findings, the project is of "Uncertain Feasibility," and therefore the likelihood of the project achieving its objectives is uncertain.

Not Feasible: The conclusion that a project is "Not Feasible" may be based on one or more of several possible findings, including:

- Technologies (or a technology) proposed in the project are (is) not likely to achieve their (its) stated objectives.

- The project applicant does not demonstrate management skills necessary to implement the technologies (technology) at the project site in an acceptable period of time.

Based on these findings, the State concludes that the project is "Not Feasible," and therefore not likely to achieve its objectives.

2. RELATIONSHIP OF EXPECTED COSTS TO EXPECTED BENEFITS

General Consideration: Pursuant to this criterion, reviewers should evaluate to what extent a project's costs are commensurate with the benefits it provides. All costs and benefits, both direct and indirect, should be considered in this evaluation. Costs include monetary and other costs associated with the project. Because some project benefits and costs may be hard to quantify, reviewers should not attempt to assign a monetary value to all costs and benefits.

Note: Because this criterion involves a weighting of all public natural resource and service benefits expected to be derived from a project against all costs associated with the project, it is suggested that reviewers undertake this evaluation only after completing all other Stage 1 and Stage 2 criteria evaluations. If the project is part of a larger project, reviewers should evaluate the costs/benefits from the perspective of the benefits the project achieves by itself and its costs, as well as the benefits of the larger project and its costs. This criterion will ultimately be used to relatively compare projects. At this stage, however, the evaluation is confined to assessing the degree to which the project's costs are commensurate with the project's benefits.

High Net Benefits: Project benefits significantly outweigh/exceed costs associated with the project.

Net Benefits: Project benefits outweigh/exceed costs associated with the project.

Commensurate Benefits and Costs: Project benefits are generally commensurate with, or proportionally equal to, costs associated with the project.

Net Costs: Project costs outweigh/exceed benefits to be gained from the project.

High Net Costs: Project costs significantly outweigh/exceed benefits to be gained from the project.

Uncertain: There are some uncertainties to the project that lend variability to the cost:benefit relationship or there is an insufficient basis upon which to judge this relationship.

3. COST-EFFECTIVENESS

General Consideration: The analysis of cost effectiveness evaluates whether a particular project accomplishes its goals the least costly way possible, or whether there is a better alternative. For example, if the project replaces a service, is this the most cost-effective way to replace that service? In our application guidelines, we asked applicants to provide:

1. A description of alternatives to the proposed project that were considered, including the no-action alternative;

2. A comparison of the benefits and costs of each alternative (to the extent possible); and

3. Justification for the selection of the preferred alternative.

Note: Whereas the previous criterion compared all of the costs and benefits associated with the project as proposed by the applicant, this criterion requires reviewers to compare the project as proposed with alternative methods of accomplishing the same or substantially similar goals. Reviewers should not limit this evaluation to the alternatives discussed by applicants. If the applicant does not discuss an obvious alternative, reviewers should consider that alternative in reaching their conclusions on cost-effectiveness.

Cost Effective: The applicant provides a complete and thorough analysis and the selected alternative is most cost-effective.

Likely Cost Effective: Although the applicant only provided a limited analysis of alternatives, based on available information, the State concludes that the selected alternative is likely to be cost-effective.

Potentially Cost Effective: There are some unknowns regarding the project such that the State can not definitively conclude whether it is or is not cost-effective.

Not Cost Effective: A suitable alternative exists that will produce the same or similar level of benefits, but at significantly lower costs.

Uncertain: Insufficient information is available to conclude that the selected alternative is likely to be cost-effective.

4. ENVIRONMENTAL IMPACTS

General Consideration: To what degree will the project adversely impact the environment? Reviewers will evaluate to what degree the applicant has properly identified and addressed any potential short-term or long-term adverse impacts that significantly affect the quality of the human environment. For Montana Environmental Policy Act (MEPA) compliance, we will need to assure that all adverse environmental impacts and reasonable alternatives have been adequately characterized and considered during decision-making. If this assurance is uncertain, we may conduct some further evaluation or seek supplemental information.

Note: In the application, we divided our information requests to applicants regarding the impacts to the human environment into "environmental impacts" and "human health and safety" components. In this section, reviewers should consider applicant responses in the "environmental impacts" section as set forth in the application. In the following section, reviewers should consider applicant responses in the "human health and safety" section as set forth in the application. For assistance with MEPA terminology, please refer to Attachment A.

No Adverse Impacts: Without mitigation, the project presents no potential adverse impacts, either significant or minor, to the environment.

No Significant Adverse Impacts: Without mitigation, the project presents no potential significant adverse impacts to the environment. The project involves the potential for some minor adverse environmental impacts that do not rise to the level of significance.

Short-Term Adverse Impacts with Mitigation: The project presents potential significant short-term adverse environmental impacts. Mitigation measures, however, are included in the project that reduce otherwise significant adverse environmental impacts to below the level of significance. Mitigation that reduces significant adverse environmental impacts to below the level of significance results in a finding of no significant adverse impacts.

Long-Term Adverse Impacts with Mitigation: The project presents potential significant long-term adverse environmental impacts. Mitigation measures, however, are included in the project that reduce otherwise significant adverse environmental impacts to below the level of significance. Mitigation that reduces significant adverse environmental impacts to below the level of significance results in a finding of no significant adverse impacts.

Significant Adverse Impacts with Insufficient Mitigation: The project presents potential significant adverse environmental impacts, either short-term or long-term, and includes no (or insufficient) mitigation measures to reduce the otherwise significant impacts to below the level of significance.

5. HUMAN HEALTH AND SAFETY IMPACTS

General Consideration: To what degree will the project have an adverse impact on human health and safety? If this is uncertain, further evaluation may be conducted or supplemental information may be gathered.

No Adverse Impacts: Without mitigation, the project presents no potential adverse impacts, either significant or minor, to human health and safety.

No Significant Adverse Impacts: Without mitigation, the project presents no potential significant adverse impacts to human health and safety. The project involves the potential for some minor adverse human health and safety impacts that do not rise to the level of significance.

Short-Term Adverse Impacts with Mitigation: The project presents potential significant short-term adverse human health and safety impacts. Mitigation measures, however, are included in the project that reduce otherwise significant adverse human health and safety impacts to below the level of significance. Mitigation that reduces significant adverse human health and safety impacts to below the level of significance results in a finding of no significant adverse impacts.

Long-Term Adverse Impacts with Mitigation: The project presents potential significant long-term adverse human health and safety impacts. Mitigation measures, however, are included in

the project that reduce otherwise significant adverse human health and safety impacts to below the level of significance. Mitigation that reduces significant adverse human health and safety impacts to below the level of significance results in a finding of no significant adverse impacts.

Significant Adverse Impacts with Insufficient Mitigation: The project presents potential significant adverse human health and safety impacts, either short-term or long-term, and includes no (or insufficient) mitigation measures to reduce the otherwise significant impacts to below the level of significance.

6. RESULTS OF SUPERFUND RESPONSE ACTIONS

(Readily Available Information)

General Consideration: This criterion considers the results, either existing or anticipated, of completed, planned, or anticipated (if there is a reasonable measure of confidence in the anticipated action) UCFRB Superfund response actions. To what degree would the project be consistent with, augment or, alternately, interfere with or duplicate the results of such actions, including Superfund investigations and evaluations?

Note: A finding of inconsistency with response actions will usually, but not always, mean that the action is inappropriate or unjustifiable. As stated in the RPPC, the State will tend to favor projects that augment response actions rather than undo a response action. If, however, the State considers a response action to be ineffective and non-beneficial, then interference or inconsistency with the response action may positively improve restoration of natural resources to baseline. This should be assessed on a case-by-case basis. If necessary, reviewers should utilize the form attached as Attachment B to record any additional information pursuant to this criterion not included in the application and required for complete evaluation of the project.

Positive Coordination: The project coordinates with and augments the results of an effective Superfund action(s).

Consistent: The project may or may not augment the results of an effective Superfund response action(s), but it will not interfere with or duplicate the results of such an action(s).

Inconsistent but Potentially Beneficial: The project would interfere with or duplicate the results of an ineffective Superfund action(s).

Inconsistent: The project would interfere with or duplicate the results of an effective Superfund action(s).

7. RECOVERY PERIOD AND POTENTIAL FOR NATURAL RECOVERY

(Readily Available Information)

Note: If necessary, reviewers should utilize the form attached as Attachment B to record any additional information pursuant to this criterion not included in the application and required for complete evaluation of the project.

General Consideration: Will the proposed restoration project affect the time frame for recovery of the injured resource and if so, to what degree? In addition to information presented by the project applicant, reviewers should rely on the 1995 Restoration Determination Plan and backup injury assessment reports to estimate natural recovery potential for injured resources addressed by the project. For projects that involve actual restoration of natural resources and, consequently, services, this criterion aims at determining just how well the project enhances the recovery period – does it significantly hasten that recovery? This criterion also evaluates the potential for natural recovery of an injured resource. If a resource is expected, on its own, to recover in a short period of time, a restoration action may not be justified.

Note: Given that the State recovered damages for past lost value of natural resources and services, it is not critical that all replacement projects consider the potential for recovery of the injured resource or services being replaced. This consideration may be relevant, however, when comparing replacement projects and relatively weighing the necessity of replacing one service or resource over another. For example, one project may replace services that will recover naturally in one year, while another project replaces services that will not recover naturally for 500 years. Depending on the service or natural resource replaced, the State may favor one of these projects over the other, based on the fact that the services or natural resources replaced will naturally recover in a short period of time for one project and not the other. For this reason, reviewers should consider recovery potential in the context of replacement projects.

Reduces the Recovery Period: The project enhances recovery potential of the injured resource and/or services provided there by reducing the time in which they will recover to baseline.

Note: This is a qualitative evaluation that should be assessed on a scale ranging from slight enhancement to complete restoration/replacement to baseline.

May Reduce the Recovery Period: It is possible but not certain that the project may reduce the time in which the injured resources and/or services provided thereby will recover to baseline.

No Effect on Recovery Period: The project most likely will not change the time frame for recovery.

Increases Recovery Period: The project diminishes recovery potential of the injured resource and/or services provided thereby by lengthening the time in which they will recover to baseline.

8. APPLICABLE POLICIES, RULES AND LAWS

(Readily Available Information)

General Consideration: To what degree is the project consistent with all applicable policies of state, federal, local and tribal government, including the *RPPC*, and in compliance with applicable laws and rules, including the consent decree?

The application requested information from applicants regarding four sub-issues: (1) permits obtained and any other permits required to complete the project, including pertinent dates; (2) deeds, easements or right-of-way agreements required to complete the project; (3) communication and coordination with local entities; and, (4) the effect, and consistency/ inconsistency with other laws, rules, policies, or consent decree requirements. The State may supplement applicant's information to the extent necessary to assess consistency with applicable policies and compliance with applicable laws and rules.

Note: For this criterion, applicants for projects over $10,000 were only required to submit readily available information. Applicants for projects of $10,000 or under were not required to address this criterion. Thus, the State may need to supplement information to evaluate this criterion. If necessary, reviewers should utilize the form attached as Attachment B to record any additional information pursuant to this criterion not included in the application and required for complete evaluation of the project.

Consistent/Sufficient Information Provided: The applicant has provided sufficient information to make the following determinations:

- All permits necessary to complete the project on schedule are identified and obtained, or reasonable assurance is provided that they will be obtained.

- All deeds and easements or rights-of-way necessary to complete the project on schedule are identified and obtained, or reasonable assurance is provided that they will be obtained.

- As necessary, the applicant has demonstrated that communication and coordination with local entities has occurred, or reasonable assurance is provided that such communication and coordination will occur.

- The applicant has demonstrated measures taken to comply with, and that the project is otherwise consistent with, other laws, rules, policies, or consent decree requirements.

Consistent/Insufficient Information Provided: Based on information provided by applicant and supplemented by the State on Attachment B, it has been demonstrated that the project is consistent as described above.

Inconsistent: After supplemental information has been obtained by the State (if necessary), the State concludes that the project may not be implemented consistent with policies of state, federal, local and tribal government, including the *RPPC*, or in compliance with applicable laws and rules, including the consent decree.

9. RESOURCES OF SPECIAL INTEREST TO THE TRIBES AND DOI

(Readily Available Information)

General Consideration: Are any of the following located in the vicinity of the proposal? This criterion will require NRDP consultation with Tribes and DOI. For affirmative response, indicate whether the project may have a positive or negative impact on Tribal cultural resources or Tribal religious sites (as defined in the MOA) and/or natural resources of special environmental, recreational, commercial, cultural, historical, or religious significance to the Tribes or DOI. Projects of potential negative impact require special consideration according to the provisions of the MOA. If necessary, reviewers should utilize the form attached as Attachment B to record any additional information pursuant to this criterion not included in the application and required for complete evaluation of the project.

Beneficial Impact: Project will have or may have beneficial impacts on these special sites/resources.

No Impact: Project has no adverse impacts on these special sites/resources.

Minor Adverse Impact: Project has potential minor adverse impacts on these special sites/resources but protective measures have been integrated or can be easily integrated without significant project changes.

Major Adverse Impact: The project has potential major adverse impacts on these special sites/resources that will require further consideration under terms of the MOA.

STAGE 2 CRITERIA REFLECTING MONTANA POLICIES

10. PROJECT LOCATION

General Consideration: This criterion requires evaluation of the geographic proximity of the project to the injured resources it proposes to restore or replace. The *RPPC* and application instructions express a preference for restoration (or replacement) projects that occur at or near the site of injury, with the exception of Big Blackfoot River native trout restoration or replacement activities (see specific instructions below). There is no absolute scale of distance to determine proximity. Rather, proximity may be judged independently for each project, depending on a number of factors including the natural resource injury addressed and the geographic extent of benefits that may accrue from the project.

Specific instructions regarding Big Blackfoot River native trout restoration or replacement activities: For projects on the Big Blackfoot River watershed outside of the Milltown Dam area that an applicant states are intended to restore native trout that cannot, from an economic or practical standpoint, be restored in the UCFRB, categorize the project into the "Big Blackfoot Exception" below. Analyses conducted pursuant to other criteria will determine whether the project will actually accomplish what it says it will. For the purposes of the "Big Blackfoot Exception" only, rely on applicant's statement for this criterion.

Within Basin and Proximate: All or most of the restoration or replacement activities associated with this project will be conducted at or reasonably near the site of natural resource injury to be addressed through the project.

Within Basin and Proximate/Other: Some of the restoration or replacement activities associated with this project will be conducted at, or reasonably near, the site of natural resource injury to be addressed through the project. Some of the restoration or replacement activities associated with this project will be conducted at other locations away from the site of natural resource injury to be addressed through the project.

Within Basin: All or most of the restoration or replacement activities associated with this project will be conducted at a location that is within the UCFRB but away from the site of natural resource injury to be addressed through the project.

Outside But Serves the Basin: While the project is located outside the Basin, it services users inside the Basin.

Big Blackfoot Exception: Applicant states that this project proposes native trout restoration or replacement activities located in the Big Blackfoot River watershed which cannot, due to practical or economic considerations, be conducted within other areas of the UCFRB.

Not Applicable: The project is a research or monitoring project.

11. ACTUAL RESTORATION OF INJURED RESOURCES

General Consideration: The *RPPC* states that actual restoration of the resources that are injured should be given priority. This criterion requires evaluation of whether, and to what extent, the project will restore injured natural resources that were the subject of the Montana v. ARCO lawsuit.

Note: The term "restore" under this criterion is used in its specific meaning, i.e., actions are designed to return injured resources and services provided thereby to baseline conditions or accelerate the natural recovery process.

Restoration: All aspects of the project are intended to accomplish restoration of an injured natural resource.

Restoration/Other: Some aspects of the project are intended to accomplish restoration of an injured natural resource.

Contributes to Restoration: Although the project is not intended to directly accomplish restoration of an injured natural resource, some aspects of the project contribute to the restoration of an injured natural resource.

May Contribute to Restoration: Although the project is not intended to directly accomplish restoration of an injured natural resource, some aspects of the project may contribute to the restoration of an injured natural resource.

No Restoration: The project is not intended to accomplish restoration of an injured natural resource, nor is it likely to contribute to restoration of an injured natural resource.

12. RELATIONSHIP BETWEEN SERVICE LOSS AND SERVICE RESTORATION

General Consideration: The *RPPC* states that proposed restoration projects (general sense) that closely link the services that are the project's focus with the service flows that have been impaired, will be favored over projects that do not. To address this criterion, reviewers should examine the connection between the services that a project seeks to provide or augment and the services lost or impaired as a result of natural resource injuries.

Note: Complex projects may involve a combination of the following categories. Reviewers should note which aspects of each project fall into each of the categories.

Same/Substantially Similar: The services restored or augmented by the project are the same or substantially equivalent to services lost or impaired due to natural resource injury.

Similar: The services restored, augmented, or replaced by the project are not the same or equivalent to, but are similar to those lost or impaired due to natural resource injury.

Dissimilar: There is no connection between the services lost or impaired and the services provided or augmented by the project.

13. PUBLIC SUPPORT

General Consideration: What is the extent of public support for the project demonstrated in the application?

For this criterion, the State will identify the number of letters received by the State in either support or opposition to the project and identify the entities providing these letters. The evaluation conducted pursuant to these instructions is based exclusively on information available at the time of the evaluation, which is primarily the letters of support provided in an application. Subsequently, public support may be demonstrated throughout the funding selection process (e.g., at the pre-draft and draft review stages). This evaluation will need to be updated at each stage in the funding selection process. Public comment may demonstrate further support, opposition, or a mixture of support and opposition.

14. MATCHING FUNDS

General Consideration: To what extent does the project entail cost sharing?

For this criterion, the State will identify the amount of matching funds and indicate how much are cash contributions and how much are in-kind contributions. The State will calculate matching funds by determining the percentage of the total project costs for activities under the project's scope of work to be funded by other sources besides Restoration funds. For projects that are part of a larger project for which future funding will be sought, the State will only consider the matching funds dedicated to the phase of the project that is to be funded by Restoration funds. For land acquisition projects, the State will accept as matching funds payments or donations that make up the difference between the funding request and the appraised value.

Note: If necessary, reviewers will need to consult matching fund entities to determine the likelihood of matching funds. The State's determination of matching funds will not always match the applicant's determination.

15. PUBLIC ACCESS

General Consideration: This criterion evaluates whether a project will affect public access and the positive or negative aspects of any increased or decreased public access associated with the project. Public access is not required of every project, nor is it relevant to all projects.

Increased Access Beneficial: The benefits from the new or enhanced public access created by the project outweigh the adverse impacts associated with this increased access.

Increased Access Detrimental: The adverse impacts associated with new or enhanced public access created by the project outweigh the benefits associated with increased access.

No Access Beneficial: While public access is relevant and could have been a project component, increased access would have been detrimental to the restoration of injured or replacement natural resources in the long-term.

No Access Change: The existing acreage and methods of public access would not change as a result of the project.

Not Relevant: Public access is not a component of the project, nor is it relevant to the project.

16. ECOSYSTEM CONSIDERATIONS

General Consideration: This criterion examines the relationship between the project and the overall resource conditions of the UCFRB. The State will favor projects that fit within a broad ecosystem concept in that they improve a natural resource problem(s) when viewed on a large scale, are sequenced properly from a watershed management approach, and are likely to address multiple resource problems.

Positive: The project positively fits within a broad ecosystem concept in that it improves a natural resource problem when viewed on a large scale, and/or is sequenced properly from a watershed management approach, and/or addresses multiple resource problems. This category would apply to projects in the Silver Bow Creek watershed that are consistent with the priorities established in the *Silver Bow Creek Watershed Restoration Plan*.

Negative: The project does not fit within or is inconsistent with a broad ecosystem concept and this makes it less likely to be effective in the long-term. The project is one that should wait from an ecosystem standpoint until certain environmental conditions occur. For example, problems in the upper portion of a watershed may need to be corrected first before work is conducted downstream. This category would apply to projects in the Silver Bow Creek watershed that are inconsistent with the priorities established in the *Silver Bow Creek Watershed Restoration Plan* and for which insufficient justification has been provided on why it should be funded anyway.

Not Relevant: The project is a service project for which ecosystem considerations are not relevant.

17. COORDINATION AND INTEGRATION

General Consideration: How well is the project planned to integrate with other ongoing or planned actions in the UCFRB? This criterion addresses coordination with other projects besides remedial actions, which is addressed under Criterion #6. Restoration projects that can be efficiently coordinated with other actions may achieve cost savings.

Coordinates/Integrates: The project coordinates and achieves efficiencies not otherwise possible through coordination with other actions (besides remedial actions).

None: The project does not coordinate/integrate with other actions.

Conflicts: Project may interfere with significant, beneficial on-going or planned actions or is one with missed coordination opportunities.

18. NORMAL GOVERNMENT FUNCTIONS

(Readily Available Information)

General Consideration: The *RPPC* states those activities, for which a governmental agency would normally be responsible or that would receive funding in the normal course of events, (absent the UCFRB Restoration Fund) will not be funded. The Restoration Fund may be used, however, to augment funds normally available to government agencies to perform a particular project if such cost sharing would result in implementation of a restoration project that would not otherwise occur through normal agency function. For this criterion, reviewers should determine whether the project is intended to accomplish activities that would otherwise not occur through normal agency function.

Note: If necessary, reviewers should utilize the form attached as Attachment B to record any additional information pursuant to this criterion not included in the application and required for complete evaluation of the project.

Outside Normal Government Functions: The project does not involve activities normally conducted by government agencies or obligations of governmental entities under law for which they receive funding or for which they are responsible for securing funding.

Within but Augments Normal Government Functions: The project involves activities that are normally conducted by governmental agencies, but it augments such activities beyond a level required by law and for which funding is presently insufficient to implement the project. This category would apply to activities for which government agencies typically seek funds outside of their normal operating funds, such as supplemental grant funds.

Replaces Normal Government Functions: The project involves activities that are typically funded through a government's normal operating funds or obligations of governmental entities under law.

STAGE 2 CRITERIA – LAND ACQUISITION PROPOSALS ONLY

19. DESIRABILITY OF PUBLIC OWNERSHIP

General Consideration: This criterion assesses the potential benefits and detriments associated with putting privately owned land, or interests in land, under public ownership. Although the State has established a policy that favors actions that actually improve the condition of injured resources and services, land acquisition may be an appropriate replacement alternative.

Restoration Beneficial: The benefits of the acquisition to restoration of injured natural resources and services are considered major and the detrimental aspects of public ownership, if any, are considered minor.

Replacement Beneficial: The benefits of the acquisition to replacement natural resources and services are considered major and the detrimental aspects of public ownership, if any, are considered minor.

Detrimental: The detrimental aspects of putting privately owned lands into public ownership outweigh the benefits derived to public natural resources and services derived from the project.

20. PRICE

General Consideration: To what extent is the land/interest being offered for sale at fair market value?

Below Fair Market Value: Documentation indicates property is being acquired below fair market value.

At Fair Market Value: Documentation indicates the property is being acquired at fair market value.

Above Fair Market Value: Documentation indicates property is being acquired above market value.

Uncertain: Insufficient information is available at this time for comparison to fair market value.

STAGE 2 RESEARCH AND MONITORING CRITERIA

These criteria apply to any research activity, whether or not it constitutes the entire project or a portion of the project. These criteria also apply to projects for which monitoring is a significant focus of the project, but not to projects that simply have a monitoring component tied to judging the project's effectiveness. Through minimum qualification determinations, we have already established that the proposed research or monitoring project pertains to restoration of injured natural resources in the UCFRB. These two criteria are designed to distinguish the level of benefits these projects will have on restoration of injured natural resources.

21. OVERALL SCIENTIFIC PROGRAM

General Consideration: To what extent is the monitoring or research project coordinated or integrated with other scientific work in the UCFRB?

Coordinates: The project will augment and not duplicate past and on-going scientific work, focusing on existing data gaps. The applicant has also demonstrated thorough knowledge of and coordination with other scientific work in the Basin.

Does not Coordinate: The project does not involve any coordination or integration with other scientific work in the Basin or may be duplicative.

Uncertain: Insufficient information has been provided to determine the level of coordination/ integration with other scientific work in the UCFRB.

22. ASSISTANCE WITH RESTORATION PLANNING

General Consideration: To what extent will this project assist with future restoration efforts of either injured resources or replacement natural resources?

Major Benefits: The project will be of major benefit to future restoration efforts in terms of needed information on the status and condition of natural resources and recovery potential/ constraints or assistance with restoration project planning, selection, implementation, and monitoring.

Moderate Benefits: The project will be of moderate benefit to future restoration efforts in terms of needed information on the status and condition of natural resources and recovery

potential/constraints or assistance with restoration project planning, selection, implementation, and monitoring.

Minor Benefits: The project will be of minor benefit to future restoration efforts in terms of needed information on the status and condition of natural resources and recovery potential/ constraints or assistance with restoration project planning, selection, implementation, and monitoring.

ATTACHMENT A

MEPA Terminology

The Montana Environmental Policy Act ("MEPA"), Mont. Code Ann. § 75-1-101 through § 75-1-324, requires state agencies to carry out the policies in part 1 of MEPA through the use of a systematic, interdisciplinary analysis of state actions that have an impact on the human environment. To this end, MEPA has two central requirements: agencies must consider the effects of pending decisions on the environment and on people prior to making each decision; and, agencies must ensure that the public is informed of and participates in the decision-making process. Through the "Environmental Impacts" and "Human Health and Safety" analyses, reviewers accomplish this first important requirement of MEPA. This appendix provides basic information regarding MEPA with which reviewers should be familiar before undertaking their analyses of "Environmental Impacts" and "Human Health and Safety" criteria statements.

1. Terminology used in the *RPPC*: short-term, long-term, direct and indirect adverse impacts.

The *RPPC* states that **short-term**, **long-term**, **direct** and **indirect** adverse impacts will be evaluated. "Short-term" and "long-term" adverse impacts are not specifically discussed in MEPA. These terms, however, should be used by reviewers to subjectively categorize the duration of adverse impacts potentially presented by a project.

The Montana EQC guide to MEPA provides the following definitions of "direct" and "secondary" (rather than indirect) impacts.

- **Direct impacts** are those that occur at the same time and place as the action that triggers the event.
- **Secondary impacts** are those that occur at a different location and/or later time than the action that triggers the effect.

2. MEPA evaluations apply to the "human environment."

Reviewers should be aware that the MEPA analysis of adverse impacts applies to the "**human environment**." The MEPA definition of the term "human environment" includes, but is not limited to "biological, physical, social, economic, cultural, and aesthetic factors that interrelate to form the environment…[E]conomic and social impacts do not by themselves require an EIS…" but when an EIS is prepared, "economic and social impacts and their relationship to biological, physical, cultural and aesthetic impacts must be discussed." MEPA Model Rule II (12).

3. What is a "significant" adverse impact, and what is a "minor" adverse impact?

The determination of the "**significance**" of an adverse impact on the human environment involves the consideration of several factors, as set forth in MEPA Model Rule IV. The standard

set forth in this rule is somewhat subjective, and reviewers should be familiar with the rule to make a determination of the significance of adverse environmental impacts. Additionally, there is a library-full of case law (speaking metaphorically) on what constitutes a "significant adverse environmental impact." Questionable or borderline determinations should be referred for a legal opinion.

MEPA Model Rule IV sets forth the following criteria for determining the significance of an impact on the quality of the human environment:

(a) the severity, duration, geographic extent, and frequency of occurrence of the impact;
(b) the probability that the impact will occur if the proposed action occurs; or conversely, reasonable assurance in keeping with the potential severity of an impact that the impact will not occur;
(c) growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts;
(d) the quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources or values;
(e) the importance to the state and to society of each environmental resource or value that would be affected;
(f) any precedent that would be set as a result of an impact of the proposed action that would commit the department to future actions with significant impacts or a decision in principle about such future actions; and
(g) potential conflict with local, state or federal laws, requirements or formal plans.

"**Minor**" adverse environmental impacts are adverse environmental impacts that do not rise to the level of significance.

4. "Mitigation" under MEPA.

Mitigation reduces or prevents the undesirable impacts of an action. Mitigation measures must be enforceable. MEPA Model Rules II(14) and V(2)(h) define mitigation as: avoiding an impact by not taking certain action or parts of an action; minimizing impacts by limiting the degree or magnitude of an action and its implementation; rectifying an impact by repairing, rehabilitating, or restoring the affected environment; or, reducing or eliminating an impact over time by preservation and maintenance operations during the life of an action or the time period thereafter that an impact continues. Examples of mitigation include designs, enforceable controls, or stipulations to reduce the otherwise significant impacts to below the level of significance.

ATTACHMENT B

Supplemental Information Form
(to be utilized by reviewers)

Results of Superfund Response Actions – Supplemental Information

Recovery Period and Potential for Natural Recovery – Supplemental Information

Applicable Policies, Rules and Laws – Supplemental Information

- Additional permits necessary to complete the project on schedule.
- Additional deeds, easements or rights-of-way necessary to complete the project on schedule.
- Additional communication and coordination with local entities necessary to complete the project on schedule.
- Additional measures necessary for compliance and consistency with other laws, rules, policies, or consent decree requirements.

Resources of Special Interest to the Tribes and DOI – Supplemental Information