

COMMISSIONER MEETINGS

All meetings take place in the Commissioners Board Room (403A)
and are open to the public unless otherwise noted

THURSDAY- October 20, 2016

2:00 COMMISSIONERS DISCUSSION

DEPARTMENTS

1. **Planning** - Building for Lease or Rent Application - Levi and Barbara Britton, Applicants
2. **Purchasing** - Long Term Plans for Riverside Cemetery

COMMISSIONERS

1. **Alicia Stickney, MT Dept. of Justice** - Draft Yellowstone River Restoration Plan

PUBLIC COMMENTS ON COUNTY BUSINESS

B.O.C.C Thursday Discussion

1.

Meeting Date: 10/20/2016

Title: Building for Lease or Rent Project Application

Submitted By: Wyeth Friday

TOPIC:

Planning - Building for Lease or Rent Application - Levi and Barbara Britton, Applicants

BACKGROUND:

This is an application for a Building for Lease or Rent project in the County north of the intersection of King Avenue West and 80th Street West. Levi and Barbara Britton are the owners and applicants.

The project is for a workshop and storage complex on a 10.6 acre property just east of 80th Street West. The project includes 30 units in six buildings on the site with shared restroom and an RV dump station facility.

The project is reviewed under the Yellowstone County Subdivision for Lease or Rent regulations and processed through the City-County Planning Division with approval by the Board of County Commissioners.

RECOMMENDED ACTION:

No action is required at this Discussion session. The item is being scheduled for the Board of County Commissioners Regular Meeting on October 25, 2016.

B.O.C.C Thursday Discussion

2.

Meeting Date: 10/20/2016

Title: Long Term Plans Riverside Cemetery

Submitted For: James Matteson, Purchasing Agent

Submitted By: James Matteson, Purchasing Agent

TOPIC:

Purchasing - Long Term Plans for Riverside Cemetery

BACKGROUND:

Riverside Cemetery is one of Yellowstone County's oldest cemeteries and has limited space and limited budget. Discussion relating to the possibility of adding a flat horizontal columbarium for cremation remains to reduce space needed, and add years on to the use of the cemetery.

RECOMMENDED ACTION:

NONE

B.O.C.C Thursday Discussion

1.

Meeting Date: 10/20/2016

Title: Yellowstone River Restoration Plan

Submitted For: John Ostlund

Submitted By: Paulette Turner-Byrd

TOPIC:

Alicia Stickney, MT Dept. of Justice - Draft Yellowstone River Restoration Plan

BACKGROUND:

Alicia and Doug Martin will discuss the draft Yellowstone River Restoration Plan

RECOMMENDED ACTION:

Discussion

Attachments

Y'stone River Restore Plan

Y'stone River Fact Sheet

Montana's NRD Program

- 1990, Governor establishes the NRD Program (NRDP)
 - Program represents State and FWP, DEQ, and DNRC
 - Governor's NRD Policy Committee (Gov. Chief of Staff, Directors, and Attorney General) provides NRDP guidance
- NRDP is administratively attached to MDOJ
- NRDP Organization –**litigation component (recovery damages)** and a **restoration component** (to implement restoration using settlement funds)
- The Program has 12 FTEs
- NRDP is funded by settlement funds, not tax funds

NRD Law: CERCLA, CECRA, OPA

Remediation/Cleanup

- Hazardous substances are cleaned up to protective levels
 - Human health
 - Environment
- Goal is not to restore environment

NRD Restoration

- Often picks up where remediation leaves off
 - Goal: To restore injured natural resources to baseline conditions
 - Damages recovered must be used to restore or replace injured resources



Requirements for Recovery of Money Damages in an NRD Case

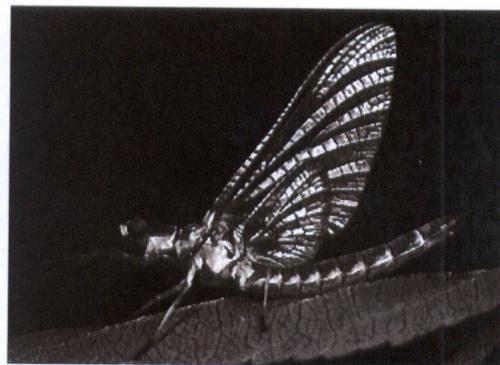
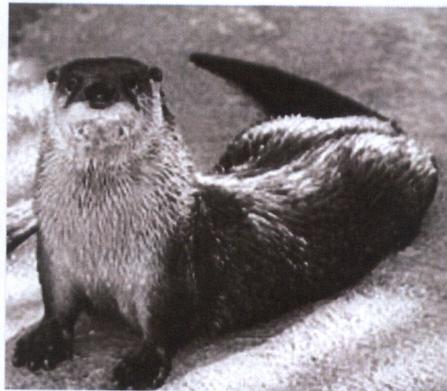
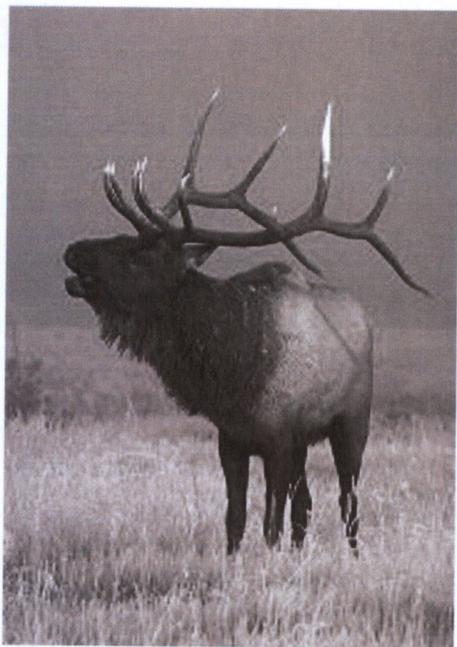
The Injured Natural Resources

- ✓ Had to be owned, controlled, or held in trust by the State of Montana or the Federal Trustee
- ✓ Had to be injured by releases of hazardous substances from a responsible party

Damages for Lost Services:

- ✓ lost physical and biological functions previously performed by a natural resource
- ✓ lost human use of injured resources, including lost recreation opportunities, is also a lost service
- ✓ Lost human non-use values (existence, option, etc.)

Injured Natural Resources



July 1, 2011 Yellowstone River Oil Spill

- \$12 million settlement
 - \$9.5 million State funds
 - \$2.5 million Federal funds
- Injured Resources
 - Terrestrial/riparian habitats
 - Large woody debris
 - Riverine aquatic habitat
 - Pelicans – Federal
 - Human Use (Recreation)



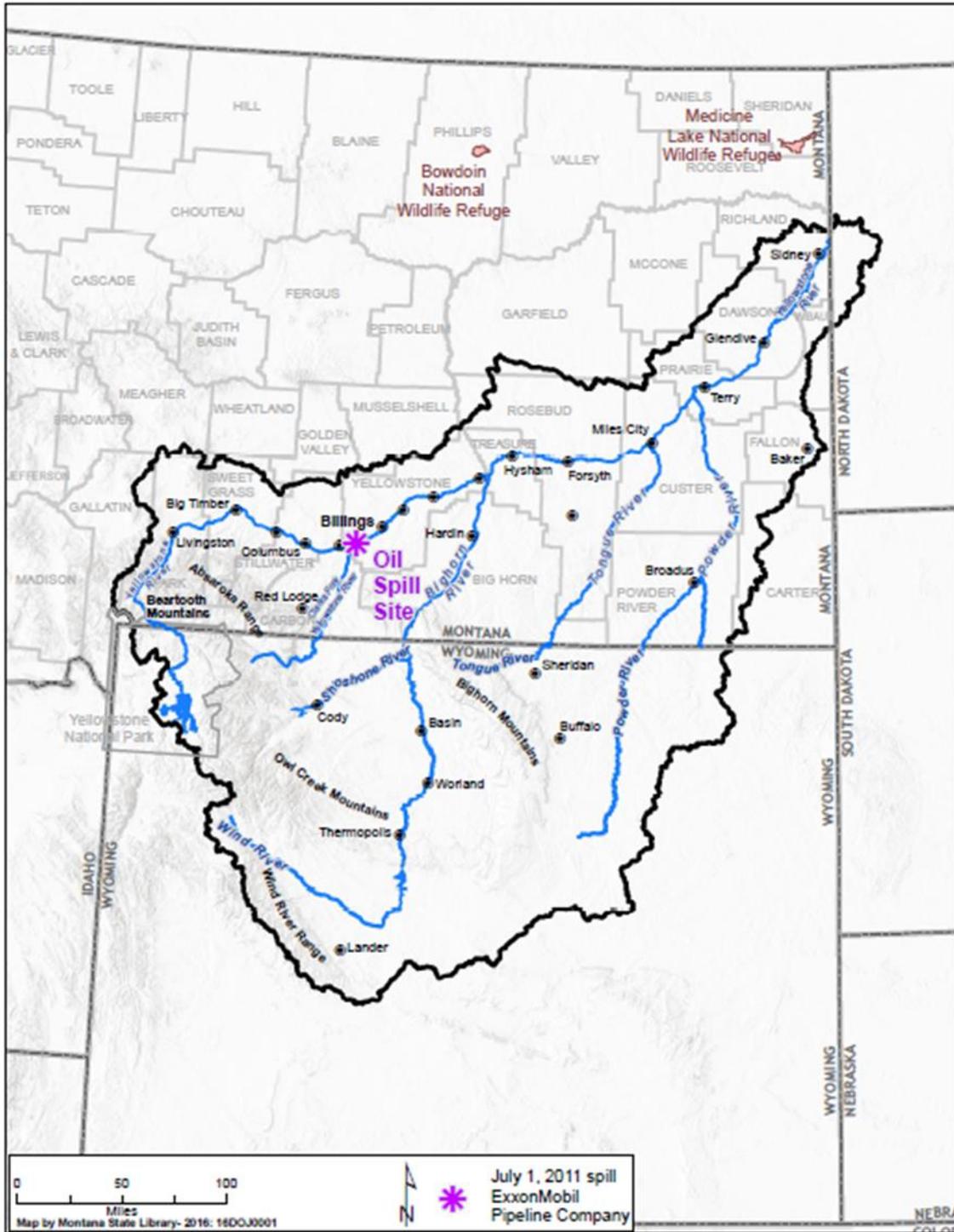
ExxonMobil Pipeline Company July 1, 2011 Yellowstone River Oil Spill Restoration Plan Fact Sheet

The State of Montana and the U.S. Department of the Interior have prepared a draft restoration plan for the July 1, 2011 Yellowstone River Oil Spill to describe restoration project types to be undertaken on the Yellowstone River and in related areas. The State of Montana and the U.S. Department of the Interior are Trustees for the restoration of natural resources and public use services that were exposed and/or injured by the 2011 Yellowstone River oil spill. The restoration plan describes the natural resource injuries caused by the oil spill and restoration project types that could compensate for those injuries. The natural resource damage assessment and restoration plan are being performed pursuant to the Oil Pollution Act of 1990 (OPA) (33 USC §§ 2701, *et seq.*).



Oil inundated floodplain on Yellowstone River- Note visible oil on water & vegetation at water's edge. Photo credit: Larry Mayer

Map 1-1 Yellowstone River Basin



HISTORY OF THE SPILL

On July 1, 2011, a 12-inch diameter pipeline (Silvertip Pipeline) owned by the ExxonMobil Pipeline Company ruptured near Laurel, Montana, resulting in the discharge of crude oil into the Yellowstone River and floodplain. The discharge is estimated to have been about 63,000 gallons (about 1,500 barrels) of oil. The discharge occurred during a high-flow event, affecting approximately 85 river miles and associated floodplain. Oil from the spill, along with the cleanup activities, harmed natural resources including fish and other aquatic life, birds (including migratory birds), wildlife, large woody debris piles, aquatic habitat, terrestrial habitat, recreational use, and the services provided by these natural resources. These public natural resources are under the Trusteeship of the State of Montana and the U.S. Department of the Interior.

THE OIL POLLUTION ACT & NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

The primary goal of the Oil Pollution Act and the natural resource damage assessment process is to make the environment and public whole for injuries to natural resources and services resulting from a discharge of oil or other hazardous substances to the environment. In the restoration plan, the Trustees have presented their evaluation of injuries to the natural resources, presented restoration alternatives, and identified projects that benefit the same or similar resources injured by the oil spill.

INJURED RESOURCES AND RESTORATION ALTERNATIVES

Oil from the spill, as well as spill response and cleanup activities, harmed fish, wildlife, and their habitats, in and around the Yellowstone River. The spill also impacted the recreational use of the river and public sites along the river. Injuries included:

- Terrestrial/riparian habitat and supported biota, through exposure to oil and disturbance caused by response and cleanup activities.
- Large woody debris piles injuries, through exposure to oil and disturbance by response and cleanup activities.
- Riverine aquatic habitat and supported biota, including fish injuries, caused by exposure to oil.
- Birds, through exposure to oil and disturbance by response and cleanup activities, specifically injuries to cavity-nesting birds and American white pelican.
- Human service losses, including recreational angling and park use.



*External Lesion Caused by Oil on Redhorse Sucker
Collected in Fall 2011 Down River from the Spill Site
Photo credit: Montana FWP*

The Trustees evaluated a range of restoration alternatives that would provide resource services to compensate the public for losses pending natural recovery of resources injured by the oil spill. The Trustees have identified preferred restoration types designed to address the resource injuries. The Trustees plan to work with project partners such as local, state, and federal agencies and nonprofit organizations and landowners to implement the projects.

Project types include:

- Acquiring terrestrial/riparian bottomland to conserve and restore terrestrial habitat with some acquisitions focusing on habitat requirements for injured birds
- Controlling invasive woody species on state and federal lands
- Acquiring channel migration easements or acquisitions to provide large woody debris recruitment
- Removing flanked riprap from the river to improve river function and aquatic habitat
- Removing side channel blockages to improve river function and aquatic habitat
- Increasing fish production by providing fish passage around fish barriers
- Restoring and stabilizing river banks using soft bank restoration techniques
- Increasing American white pelican production by improving breeding and nesting areas
- Improving city parks and public lands bordering the Yellowstone River
- Improving urban fishing opportunities on public ponds adjacent to the Yellowstone River
- Developing new and preserving existing public access on the Yellowstone River



Captain Clark Fishing Access Site, Photo credit Montana FWP



Yellowstone River, Photo credit: Larry Mayer

PUBLIC COMMENT

A proposed consent decree was filed in federal court. The State and federal government have also issued a draft restoration plan which sets forth proposed actions that would address the natural resource injuries. The draft restoration plan is available on line at <https://dojmt.gov/lands/yellowstone-river-oil-spill-July-2011/> or by request at the address below. The State and federal government are seeking public comment on both the proposed consent decree and the draft restoration plan.

There will be a comment period on the restoration plan ending at 5:00 PM on Monday, October 31, 2016. Trustees will host a public meeting to summarize key components of the restoration plan and receive oral comment. The public meeting will be held on Wednesday, October 12, at the Montana Fish, Wildlife and Parks conference room at 2300 Lake Elmo Drive in Billings, from 6:00 PM to 8:00 PM. The Trustees will review and consider comments received during the public comment period when preparing the final restoration plan.

Written comments on the draft restoration plan should be sent via e-mail to: NRDP@mt.gov with "Yellowstone restoration plan comment" in the subject line.

Or by U.S. mail to:

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

The proposed settlement, lodged with the U.S. District Court for the District of Montana, is subject to a 30-day public comment period following notification in the Federal Register and final approval by the court. To view the consent decree or to submit a comment, visit the department's website: www.justice.gov/enrd/Consent_Decrees.html.

For more information or for a copy of the plan, please contact:

Montana Natural Resource Damage Program, 406-444-0205, <https://dojmt.gov/lands/> or BLM, 406-896-5000, http://www.blm.gov/mt/st/en/fo/billings_field_office.html

Summary of Preferred Restoration

Project Type	Project Example	Allocation*
Damage Category: Terrestrial/Riparian Habitat (includes habitat restoration for cavity nesting birds)		
Conservation easements or fee title land acquisitions	Individual or multiple easements or fee title land acquisitions to protect and restore terrestrial/riparian areas and cottonwood bottomlands and areas with complex understory for cavity nesting birds	\$3,560,000
	Restoration of properties within or adjacent to BLM recreation areas or State lands	
Control of invasive woody species	Removal on nearby BLM lands such as Bundy Island, Pompeys Pillar, Sundance, and FWP or DNRC state-owned lands	
Damage Category: Large Woody Debris Piles		
Channel migration or other easements or fee title land acquisitions	Recruit large woody debris through channel migration zone or other easements or fee title land acquisitions on cottonwood bottomland	\$2,090,000
Restore river function	Remove flanked riprap from mid-channel areas	
	Remove non-functional bank riprap	
	Remove side channel blockages	
Damage Category: Riverine Aquatic Habitat		
Restore fish passage	Restore fish passage in Yellowstone River tributaries	\$2,640,000
Soft bank stabilization	Soft bank stabilization rather than hard stabilization to protect infrastructure on State land	
Restore riverine habitat	Remove flanked riprap and side channel blockages	
Damage Category: American white pelican		
Fencing and water level management for predator control at National Wildlife Refuges	Actions on American white pelican breeding areas Bowdoin National Wildlife Refuge and Medicine Lake National Wildlife Refuge	\$400,000

Project Type	Project Example	Allocation*
Damage Category: Recreational Human Use		
Develop and improve boat launch sites	Motorized boat launch at Billings Riverfront Park, hand launch site at Billings Riverfront Park, install vault toilet at Laurel Riverside Park boat launch	\$2,410,000
Nature trails	Pave a hiking and biking nature trail at Billings Riverfront Park	
Other park improvements	Develop a Master Plan for Laurel Riverside Park to identify and prioritize additional projects	
	Implement projects from Riverside Park Master Plan	
Recreation area improvements	Repair facilities at Sundance Recreation Area and Pompeys Pillar National Monument	
Urban pond rehabilitation	Lake Josephine – develop and implement a fish management plan and habitat improvements at Billings Riverfront Park	
	Laurel Pond – dredge and improve habitat features, develop handicapped access and shoreline fishing opportunities	
Develop a new fishing access site or preserve access to existing sites	Acquire and develop a fishing access site between Laurel and the Huntley Diversion or preserve infrastructure to existing fishing access sites	
Provide safe access to the river	Huntley Diversion access across railroad tracks or in other areas	
		Total: \$12,000,000

Notes: *During restoration planning, the Trustees quantified injuries to natural resources through scientific and economic studies and allocated these dollar amounts to restoration projects for specific injured resources to offset the losses. An additional \$900,000 is allocated to past and future planning.

BLM = Bureau of Land Management

FWP = Fish Wildlife and Parks

DNRC = Department of Natural Resources and Conservation

YRCCDC = Yellowstone River Conservation District Council



Yellowstone River below Laurel, Photo credit: Larry Mayer

Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425

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