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**BUTTE-SILVER BOW
OFFICE OF THE CHIEF EXECUTIVE**

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July 31, 2015

Nikia Greene and Kris Edwards
U.S. EPA Region 8 Montana Office
Federal Building
10 W. 15th St., Suite 3200
Helena, MT 59626

**RE: 2015 Five-Year Review Comments
Silver Bow Creek/Butte Area Superfund Site**

Dear Mr. Greene and Ms. Edwards:

Thank you for providing an opportunity to provide input as part of the latest Five-Year Review of the Silver Bow Creek/Butte Area Superfund Site. On behalf of the consolidated City-County Government of Butte-Silver Bow, including its newly formed Superfund Advisory and Redevelopment Trust Authority, we submit the following comments:

Streamside Tailings Operable Unit (Silver Bow Creek)

This remedial work for this component of the Site, which we define generally as the floodplain and riparian areas of Silver Bow Creek, extending 26 miles from a point near the overpass structures of I-90/15 to the Warm Springs Ponds, is nearly complete. The transformation of this creek corridor over the past 20 years is nothing less than remarkable. Although there is some remedial work that remains, for example, through the Durant Canyon and other sub-reaches along the way, the creek today is tremendously improved. Fish have returned, and find their way upstream again to spawn and thrive. The water quality is getting better and better, as the final remedial tasks are brought on line.

Further, the integration of the remedial work these past 15 years with the restoration measures implemented by the Greenway Service District (through the Natural Resource Damage Program (NRDP)) has become a model and prototype for all other components within the Site. The successful effort has also been done cost-effectively and the results – a clean, thriving stream from Butte to the Warm Springs Ponds – will serve the communities along the corridor for decades to come. This leads to our main comment...

Just like the commitment made to clean up and restore the stream, the Agency needs to ensure that there is an equal commitment to maintain the corridor long into the future. We hope monitoring and maintenance plans are in place among the U.S. EPA, the Montana DEQ and the local Greenway Service District to sustain the benefits of the remediated/restored stream corridor. By 2020, when the next five-year review is done, Silver Bow Creek should be well on its way to full recovery.

Lastly, it is our understanding that there are sufficient funds remaining in the Trust Account for the Streamside Tailings Operable Unit to ensure a robust monitoring and maintenance program, and in addition, a surplus that will be directed back to the NRDP for further restoration work in the Silver Bow Creek watershed. It is our expectation that those surplus funds will be invested in the first mile of Silver Bow Creek within the urban area of Butte, as part of a joint effort with the Butte Priority Soils Operable Unit remedial work. Addressing remaining contamination issues at the Silver Bow Creek headwaters is without question the best use of these remaining funds and will ensure that the long-term remedy is protected and maintained in perpetuity. Legal issues and bureaucracy have hampered the comprehensive cleanup of the headwaters for far too long. The model used along Silver Bow Creek downstream, i.e., to integrate remedy and restoration activities, should now be applied in the headwaters area to forge the best, most comprehensive clean up and restoration possible including removal of the Parrot, Northside and Diggings East tailings.

Rocker Timber Framing and Treatment Plant Operable Unit

An often-overlooked component of the Site, the Rocker Timber Yard was the first of the remedial actions declared to be complete. It was largely an in-situ cleanup process, and has been in “operation and maintenance (O&M)” for several years. Very little information is disseminated about the effectiveness of the cleanup, and we would ask the Agency to provide a more frequent update on the performance of the remedy and how it will be sustained in the long-term. As long as the groundwater within the community of Rocker is unusable by a significant number of its residents (e.g. Controlled Groundwater Area/“well ban”), it can be argued that the remedial action could do more. Removal of the arsenic and organic contaminated soils should be considered in order to restore beneficial uses of the groundwater and to further protect Silver Bow Creek.

Warm Springs Pond Operable Unit

Like the Rocker Timber Yard, the Warm Springs Ponds remedial action was also completed several years back, or declared to be complete and in the O&M phase now. Again, the only comment from Butte-Silver Bow would be to provide periodic updates as to the performance of the remedy and how it will be sustained in the long-term. For example, what is the water quality of the water flowing out of the Warm Springs Ponds? How is that water monitored? Does the water meet the same standards that are imposed at all other Operable Units within the Site? Combined with Warm Springs Creek, water discharged from the Ponds are essentially the headwaters of the Upper Clark Fork River, and it would be useful to know that the discharge water is meeting all current and applicable standards, and those standards are being applied consistently throughout the Site. There have been recent significant declines below the Ponds in trout numbers of the Upper Clark Fork River; likewise, the UCFR is also being remediated and restored to the tune of tens of millions of dollars. The Warm Springs Ponds are the integral unit linking a restored Silver Bow Creek to an eventually restored Upper Clark Fork River. More information needs to be released on the performance of the remedy at the Ponds now and into the future, as the river’s long-term health is at stake.

Mine Flooding Operable Unit, aka Berkeley Pit and West Camp

There has been and continues to be great interest among Butte residents about the ongoing implementation of the remedy for the Berkeley Pit. Although there has been a substantial monitoring program in place since the pumps were turned off in 1982, and it does appear that the monitoring data show that the water in the Pit is rising as expected, citizens remain rightfully concerned. As the critical water level approaches, better assurances are needed that the remedy in place will perform effectively, in perpetuity.

For example, has a contingency plan been developed to deal with impacts in the event of a larger scale failure of a Berkeley Pit wall? Will the Horseshoe Bend Treatment Plant be ready to operate at full capacity when necessary? Will the discharged water from the Plant meet all standards for use and/or discharge to the restored watershed? Early tests and demonstrations were spotty, e.g., the presence of certain contaminants in the discharge water that would lead to gypsum scaling along Silver Bow Creek. It is also unclear how much, if any water will actually be discharged from the Plant, as opposed to being used to support active mining operations. The fact that we are getting closer than we've ever been to reaching the Critical Water Level and these answers have not been adequately answered is unacceptable. More specifically, Butte-Silver Bow would like to see a full-scale ramp up of the Horseshoe Bend Plant to full capacity to ensure proper operation and performance capability. In addition, BSB is requesting detailed water quality monitoring/modeling at and downstream of the proposed discharge point(s) to accurately determine the effects on Silver Bow Creek and the rest of the Upper Clark Fork River Basin. Changes to the chemistry of water in Silver Bow Creek could not only lead to quality impacts, but also significantly affect compliance for Superfund stormwater standards as well as BSB's wastewater treatment permit standards. These are very real and serious concerns; our community deserves answers.

Lastly, we understand the next step in the long process leading up to eventual remedial action will be a technology review, to confirm that the best available treatment method will be used at the Horseshoe Bend Plant. As we have commented for the past 20 years, Butte-Silver Bow continues to ask the Agency to compel the responsible parties to fully consider resource recovery steps. When the Horseshoe Plant was built in 2002, it was understood that there was space for a front-end module that would allow for metals and minerals recovery from the mine water – if technically and economically feasible; no technology had been identified that met these latter criteria at that time. Since construction, we are unaware of any further tests to identify emerging resource recovery and/or alternative treatment technology for Berkeley Pit water. After another decade of technological advances, we are hopeful the treatment of Berkeley Pit water will be a world-class model. We shouldn't wait any longer to test newly available technologies, or to insure that the technology at the existing plant is ready and able to operate at full capacity, in perpetuity.

Butte Priority Soils Operable Unit

To a certain extent, it may be inappropriate for Butte-Silver Bow, as a named PRP for the Butte Priority Soils, to make any comments on this component of the Site. The City-County has an integral role in the Residential Metals Abatement Program and the long-term operation and maintenance of the caps over source areas as well as the storm water control facilities. We look forward to seeing the results of the Five-Year Review, and with ARCO and the railroads, address any pertinent issues of concern. That said, we do want to make a few points.

First, we are hopeful that the water quality standards and performance measures for the Priority Soils remedy, i.e., water quality on Silver Bow Creek, will be consistent with the standards the City-County will have to meet (in the long-term) for other discharges within the OU. Butte-Silver Bow cannot be obligated to perform under the former without assurances that said performance will not create untenable obligations under the latter. Butte-Silver Bow would ask the Agency to consider parallel pathways to address long-term compliance with our municipal wastewater discharge permit, TMDL Limits, and MS4 discharge permit – all in light of Superfund decisions on ground water, storm water and surface water discharges to the one receiving stream – Silver Bow Creek.

A related concern is recognition that Butte-Silver Bow's municipal wastewater treatment plant plays a significant role in the overall collection and treatment of storm water (e.g. inflow and infiltration), and by extension, the metals removal challenges on Silver Bow Creek. The City-County sanitary sewer treatment plant has been identified and characterized in published Priority Soils documents as a significant loader of metals (primarily copper) to Silver Bow Creek. We are hopeful that \$34 million improvement under construction will make a difference, both in terms of nutrients removal (the primary objective) and also metals treatment. However, there needs to be consideration relative to BSB's wastewater collection and treatment systems and potential improvements to Priority Soils surface water quality objectives.

All stakeholders in the process, including BSB, ARCO, the railroads, EPA and DEQ, are in agreement that a clean creek is the end goal. Butte-Silver Bow is committed to do its part. However, Butte ratepayers cannot be expected to absorb significant additional costs to address metals removal (e.g. tertiary metals treatment on its WWTP, expedited replacement of sanitary collection system, etc.), or be forced to demand unreasonable pretreatment requirements on potential users of the wastewater system. Any final solution for Priority Soils must consider potential impacts to current and future municipal wastewater collection, treatment operations and discharge permit compliance.

A second main comment on the Priority Soils cleanup is the need for greater commitment for a complete integration of the remedy and restoration components along the historic Silver Bow Creek corridor, which runs through the heart of the Butte community. In general, it appears there is substantive agreement that a robust restoration action can be implemented in a way that provides full protection of (if not potentially improve) the investments in remedy and its long-term maintenance. Through a collaborative effort, as was the case for the other 26 miles of Silver Bow Creek (see Streamside Tailings comments), the final restoration of the corridor can incorporate end land use features that are beneficial to the community, not to mention sustain the infrastructure role of the Creek corridor in the overall management of storm water.

In 2004, Butte-Silver Bow developed a set of criteria that we hoped would guide groundwater and surface water cleanup and restoration actions in the historic Silver Bow Creek corridor, as follows:

- Meets current water standards, thus ensuring the long-term protection of Silver Bow Creek and downstream water resources;
- Provides aesthetics (i.e., look good from afar, particularly from the Interstate) so as not to degenerate into the same “Colorado tailings mess” present for decades;
- Allows for the maximum reuse of the Lower One Area, including a pleasant walking trail, wildlife viewing areas, interpretive displays, and even space for a fairgrounds;
- Ensures a facility that is practical to maintain and operate; and
- Includes a trust fund to operate/maintain/monitor/upgrade facility in perpetuity.

We think it’s time to revisit these criteria, and forge a final solution for the Priority Soils area that results in the best, most comprehensive cleanup and restoration for our citizens. The resources are available through remedy and through restoration, both from the Butte Area One/BNRC settlement and from remainders in the Streamside Tailings settlement account. The conceptual plans have been developed and released for public review. The opportunity is knocking. It’s time to get it done.

Again, on behalf of all the citizens of Butte-Silver Bow, thank you for the opportunity to comment and participate in the Five-Year Review for the Silver Bow Creek/Butte Area Site.

Sincerely,



Matt Vincent
Chief Executive

Cc: Julie DalSoglio, EPA
Governor Steve Bullock, State of Montana
Sen. Jon Tester
Sen. Steve Daines
Rep. Ryan Zinke
Butte-Silver Bow Legislative Delegation
Butte-Silver Bow Commissioners
Superfund Advisory and Redevelopment Trust Authority
Public file (posted to Butte-Silver Bow website)