

**BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS  
REGULAR MEETING AGENDA  
WEDNESDAY, APRIL 15, 2020  
7:30 PM COURTHOUSE COUNCIL CHAMBERS**

**ROLL CALL**

**12 present 0 absent**

**PRAYER AND PLEDGE**

**John Morgan Vice Chair**

**PUBLIC COMMENT ON ANY ITEMS ON THE CONSENT AGENDA**

**Open Phone Calls:**

**Joe Griffin:** Trust your BSB staff, they have worked tirelessly on this CD. Jon Sesso has been working on this since the 1990's and has done a great job. It is time to move on the final phase and sign the CD. Mr. Griffin's letter is also attached.

**John Ray:** Reading the letter from CTECH see attached letters

**Bob Brock:** no other city is using the biotic model measured contaminates in storm water. The model is not designed to be used that way. The CD is a great draft and needs some minor modifications. Before the CD is signed, we need to wait until all elderly people can participate. I do not know what the consequences are for butte or the water ways of Mt if we end up in a situation where we still have toxic water and agree to a standard where we cannot measure it.

**Brad Newman:** 514 N. Henry Butte MT I am in informational witness not an advocate one way or the other to the CD. In 2015 the court ruling did not order the restoration of Silver Bow Creek. It was for the name of the water course. I have concerns that there is no provision establishing a timeline to sign the CD. You need to take all the time you need and hear all parties. And make sure you have all the information you need. Second you cannot challenge any provisions of the CD once signed. The issue of SB Creek, it causes me concern that it provides that the area at SB Creek should not be construed and is not an admission by any CD parties or issues. I empathize with the commissioners, and it is going to be difficult to make a decision.

**APPROVAL OF THE MINUTES**

[April 1, 2020 Regular Meeting Minutes](#)

John Morgan makes a motion to amend 2020-152, the minutes as amended to state as exactly as it appeared in the video. John Morgan makes a motion to approve the minutes as amended, Shaw seconds

12 yea 0 nay motion passes

**ITEMS NOT ADDRESSED ON THE AGENDA**

**One communication from JP Gallagher. An emergency suspension of the rules to sign an agreement with Stodden park. John Morgan make a motion to approve the suspension of the rules to place 2020-170 on the agenda at the April 15 regular meeting. Shaw seconds**

12 yea 0 nays

**CHIEF EXECUTIVE'S REPORT**

---



**We had over 400 cases in Montana with 11 cases in Silver Bow, out of 11, 7 have recovered and 3 that have Covid-19.**

**CHIEF EXECUTIVE’S REPORT ON THE SUPERFUND**

**2020-152 John Morgan’s communication to submit written comments and we did get many comments. John Morgan will be reading the letters.**

**Please see attached letters that are being read.**

**1.COMMUNICATION NO. 2020-152**

John Morgan, Council of Commissioners Chair informing Council of Commissioners and the Chief Executive that we will schedule a meeting to receive comments on the Butte Priority Soils CD for April 15th, 2020. The public is invited and encouraged to submit written comments, starting immediately, all of which would be read into the public record on April 15th, 2020.

*Concur and Place on File*

**SECTION 1: BID OPENINGS, PUBLIC HEARINGS, AND /OR PRESENTATIONS**

**PUBLIC HEARING**

**1.COMMUNICATION NO. 2020-130**

Mark Neary, Public Works Director requesting Council of Commissioners to hold a Public Hearing to be held on April 1, 2020 regular meeting, for Sole Source of Solar Bee's for the Basin Creek Reservoir. We hope to purchase the Solar Bee’s in Fiscal Years 2020 and 2021.

Eileen Joyce: We have proof of publications for all bids and public hearing.

Mark Neary: We need the Solar Bee’s to aerate the water at Basin Creek reservoir. The ones that are there now are 20-years-old.

Proponents? None

Opponents? None

Public Hearing is now closed

**BID OPENINGS**

**1.COMMUNICATION NO. 2020-125**

Danette Gleason, Finance and Budget Director requesting Council of Commissioners for time on the April 8, 2020 Committee of the Whole Meeting for opening proposals for a private placement direct bank loan. This loan, in the amount of \$1,850,000, is needed to cover costs associated with Phase I of the Public Safety Communication System Modernization Project.

Danette Gleason: we will be opening 2 bids; the first bid is from Glacier Bank 5-year term at 3.075 % fixed rate 7 year term at 3.2077 % for \$1,850,000.00

US Bank 5 year and 7-year fixed rate with no penalty is 5 year 2.065 % 7 year 2.323%

John Morgan makes a motion to refer the bids back to the Finance and Budget Dept and await their approval. Shaw seconds

12 years 0 nays

**2.COMMUNICATION NO. 2020-128**

Mark Neary, Public Works Director requesting Council of Commissioners for time on the Council of Commissioners April 1, 2020 Council of Commissioners Regular Meeting to open bids for Asphalt Oil Supply for the 2020 season.

---



Mark Neary: We have one bid for the Oil from Valumet out of Black Eagle Mt. The amount is for \$670,625.00 is the engineering estimate. There is a bid bond that is in order. The total is \$623,225.00 , the price per ton was \$498.58.

John Morgan: we refer 2020-128 to Mark Neary at the Public Works Department and wait for his approval.

Sorich: How long ago was this bid, can we hold off on this.

Neary: this price is lower than estimated, we would not save anything by waiting.

12 yeas 0 nays

### 3.COMMUNICATION NO. [2020-129](#)

Mark Neary, Public Works Director requesting Council of Commissioners to hold a bid opening on April 15, 2020 related to the Cell IV Expansion project for the Landfill.

All bid bonds are in order

Bullock \$2,551,885.00

Shumaker Trucking and Excavating \$3,774,237.79

Missouri River Contractors \$2,836,112.16

AK Weeden \$3,149,696.25

Tapani Inc. \$3,258,131.00

Montana Civil Contractors \$3,740,193.00

Johnson Construction \$2,655,887.35

Youderian Construction \$2,518,611.00

LHC Inc. \$3,135,070.02

Intermountain Construction \$2,152,595.00

John Morgan makes a motion to refer this to the Public Works Dept. to wait for their approval.

Shaw seconds.

12 yeas 0 nays

## **SECTION 2: CONSENT AGENDA**

### *A. COMMITTEE REPORTS*

*1.COMMITTEE OF THE WHOLE MEETING REPORT*

*2.FINANCE & BUDGET COMMITTEE MEETING REPORT*

*3. PUBLIC WORKS COMMITTEE MEETING REPORT*

*4. JUDICIARY COMMITTEE MEETING REPORT*

Morgan; segregates 2020-157, McDonough:2020-161

Morgan Makes a motion to approve the Consent Agenda excluding 2020-157 and 2020-161

Shaw Seconds the motion.

12 yeas 0 nays

### **B. COMMUNICATIONS**

#### 1.COMMUNICATION NO. [2020-150](#)

Mark Neary, Public Works Director requesting Council of Commissioners to authorize the Chief Executive to sign the Dewey Phase III Engineering Agreement with HDR Engineering with HDR Engineering.

[2020-150 Agreement](#)

*Concur and Place on File*



2.COMMUNICATION NO. [2020-156](#)

Lindsay Mulcahy, Public Archives Administrative Assistant requesting Council of Commissioners to authorize the Chief Executive to sign the renewal of Fox Alarm Agreement with Clark Chateau.  
[2020-156 Agreement](#)

Concur and Place on File

3.COMMUNICATION NO. [2020-157](#)

Eldon Beall, 315 S. Dakota Street requesting Council of Commissioners to withdraw my Communication No. 19-443 and any follow-up Communication No. 2020-90 from the Suspense File that was placed on March 25, 2020.

Concur and Place on File

John Morgan makes a substitute motion refer 2020-157 to the COW, Shaw seconds.

Fredrickson: I put it in the suspense file based on Neary's recommendation and it would cost \$3000.00 and we do not have the money at this time. I will vote no on this.

Fisher: it was not just the signs cost, but also the speed limits on the parks.

8 yea and 4 nay

4.COMMUNICATION NO. [2020-158](#)

Karen Byrnes, Community Development Director requesting Council of Commissioners to authorize the Chief Executive to sign the attached contract amendment regarding the BSTF Grant for Montana Studios. This contract amendment will be routed for signatures through DocuSign initiated by the state of Montana.

[2020-158 Contract](#)

Concur and Place on File

5.COMMUNICATION NO. [2020-159](#)

Karen Byrnes, Community Development Director requesting Council of Commissioners to authorize the Chief Executive to sign the Software License Agreement and Support Services Addendum Agreement between Cardinal Tracking, In., and the City and County of Butte-Silver Bow. The Agreement is for the Parking Department.

[2020-159 Agreement](#)

Concur and Place on File

6.COMMUNICATION NO. [2020-160](#)

Ed Lester, Butte-Silver Bow Sheriff requesting Council of Commissioners to authorize the Chief Executive to sign the DUI Task Force Plan. Under this plan the Butte-Silver Bow DUI Task Force will utilize these funds for overtime shifts dedicated to DUI enforcement including special events, program donations such as Butte Cares and Mariah's Challenge, administration personnel costs as necessary, personnel travel/training, advertising and funding for Prevention programs as applicable, and supplies and equipment if necessary.

[2020-160 Task Force Plan](#)

Concur and Place on File

7.COMMUNICATION NO. [2020-161](#)

Danette Gleason, Finance and Budget Director requesting Council of Commissioners and the Chief Executive to review the Finance and Budget Expenditure Approval Lists for the Week of April 8, 2020 in the amount of \$1,953,042.47 and for the week of April 15, 2020.

---



Concur and Place on File

McDonough: we have to add our check run in the amount of \$310,062.61, and I make a motion to review the check runs for April 8<sup>th</sup> and April 15<sup>th</sup> and place on file, and authorize Mr Morgan to sign the check runs.

12 yeas 0 nays

8.COMMUNICATION NO. [2020-162](#)

Karen Byrnes, Community Development Director requesting Council of Commissioners to authorize the Chief Executive to sign the Amendment to CDBG Contract # MT-PL-18\_03 related to the establishment of permanent supportive housing in our community.

[2020-162 Contract](#)

Concur and Place on File

9.COMMUNICATION NO. [2020-163](#)

Ed Lester, Butte-Silver Bow Sheriff's Department requesting Council of Commissioners and the Chief Executive to allow the BSB LED to pursue Montana Department of Administration 9-1-1 grant fund in the amount of \$44,749 and execute the grant application for submittal by April 16, 2020.

Concur and Place on File

10.COMMUNICATION NO. [2020-164](#)

Mark Neary, Public Works Director requesting Council of Commissioners for time on the May 6, 2020 Regular Meeting Agenda to open bids for the 1-15 crossing Jack and Bore for the Big Hole Transmission Line for the Water Utility Division.

Concur and refer to the May 6, 2020 agenda.

11.COMMUNICATION NO. [2020-165](#)

Mark Neary, Public Works Director requesting Council of Commissioners for time on the May 6, 2020 Regular Meeting Agenda to open bids for Chip Sealing roads for the 2020 season.

Concur and refer to the May 6, 2020 agenda.

12.COMMUNICATION NO. [2020-166](#)

Mark Neary, Public Works Director requesting Council of Commissioners for time on the May 6, 2020 Regular Meeting Agenda to open bids for Asphalt Mix Supply for the 2020 season.

Concur and refer to the May 6, 2020 agenda.

13.COMMUNICATION NO. [2020-167](#)

Danette Gleason, Finance and Budget Director requesting Council Chairman John Morgan to approve and sign the following Judiciary claims so the payments can be dispersed.

Concur and Place on File

14.COMMUNICATION NO. [2020-168](#)

Karen Sullivan, Health Officer requesting Council of Commissioners to authorize the Chief Executive to sign the agreement between Butte-Silver Bow Health Department and Anaconda-Deer Lodge County to provide reproductive health services.

[2020-168 Agreement](#)

Concur and Place on File



15.COMMUNICATION NO. [2020-169](#)

Karen Sullivan, Health Officer requesting Council of Commissioners to authorize the Chief Executive to sign the contract between the Montana Department of Health and Human Services and the Butte-Silver Bow Health Department that prompts the Health Department to reduce the burden of vaccine-preventable disease within the department's service area.

[2020-169 Contract](#)

Concur and Place on File

SUSPENSION OF THE RULES:

2020-170 JP Gallagher: This is important that we get moving on this ASAP with Langlas as the general for this project. After Chief Executive Mr. Palmer signs this we will go forward with this. Mr Morgan makes a motion to approve 2020-170 and place on file. Shaw seconds.

12 yeas 0 nays

**SECTION 3: ORDINANCES AND RESOLUTIONS FOR FINAL READING**

1.COUNCIL BILL NO. [2020-02](#)

ORDINANCE NO. [2020-02](#)

AN ORDINANCE AMENDING ORDINANCE 204, Section 4 and CHAPTER 10.40, ENTITLED "SPEED LIMITS", OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) SPECIFICALLY AMENDING SECTIONS 10.40.040 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

Mr Morgan makes a motion on final reading and deemed fully read at length. Shaw Seconds.

12 yea 0 nay

**SECTION 4: ORDINANCES AND RESOLUTIONS SUSPENSION OF THE RULES FINAL PASSAGE**

1.RESOLUTION NO. [2020-17](#)

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR IN ACCORDANCE WITH SECTION 7-6-4032, MONTANA CODE ANNOTATED (MCA) PROVIDING FOR AN EMERGENCY BUDGET APPROPRIATION; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW HEALTH DEPARTMENT FROM THE MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

Mr Morgan makes a motion to approve the suspension of the rules for final passage.

12 yea 0 nay

Mr Morgan makes a motion to place 2020-17 on final reading and deemed read at length Shaw seconds.

12 yeas 0 nays

**PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA**

**Mr Morgan received on e-mail to be read. Please see attached letter.**

**CALENDAR OF OTHER MEETINGS AND EVENTS**

**DUE TO COVID-19 PANDEMIC, COMMITTEE MEETINGS AND EVENTS WILL RESUME AT A LATER DATE.**

**ADJOURN**



## MEETINGS

**DUE TO COVID-19 PANDEMIC, MEETINGS WILL RESUME AT A LATER DATE.**

## REPORTS

---

### **FINANCE & BUDGET COMMITTEE MEETING REPORT**

**APRIL 1, 2020**

*7:00 PM BUTTE-SILVER BOW COURTHOUSE COUNCIL CHAMBERS  
COUNCIL OF TO THE HONORABLE CHIEF EXECUTIVE AND MEMBERS OF THE BUTTE-  
SILVER BOW COMMISSIONERS*

Ladies and Gentlemen,

We, your Council of Commissioners, respectfully recommend as follows: Expenditure report for the week of April 1, 2020 was reviewed and approved for the amount of \$ 433,382.59 for FY 2020.



**Davies, Barbara**

---

**From:** Eldon Beall <ejkittyherc9993@yahoo.com>  
**Sent:** Wednesday, April 15, 2020 3:52 PM  
**To:** BSB Public Input  
**Subject:** Re: Communication 2020-157

**This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.**

Chief Executive Palmer and Council of Commissioners, My Communication 2020-157 on tonight's Consent Agenda, (3).For Communication 2020-90 may be Interpreted in the wrong manner. I'm asking that this communication 2020-90 be removed from the Suspense File and be placed back in the Committee of the Whole. Thank-You, Eldon Beall 315 S. Dakota St. Butte, MT. 59701, 406-491-4355

**Davies, Barbara**

---

**From:** Mike Paffhausen <mike.paffhausen.d91m@statefarm.com>  
**Sent:** Wednesday, April 15, 2020 3:24 PM  
**To:** BSB Public Input  
**Subject:** Comments on Butte's CD

**This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.**

Chief Executive Palmer and Council of Commissioners-

90% of this community, especially the business community, is confident the Consent Decree is good for Butte, and understands its critical role in pushing Butte forward. I again ask that you put your trust in the Engineers, Lawyers, Professionals, and your Country Representatives who have gotten it to this point. I also ask that you trust in the processes still to come (i.e. Superfund Program, Engineering Analysis, Risk Analysis..) that will systematically identify and resolve all of your and the communities outstanding questions and concerns. Some items have simply not yet been designed as it is too early, and undoubtedly some of this document will never be understood without the proper education, experience, and licenses. I trust in the team of people who have gotten the document this far, and am OK not understanding all of its contents. I believe that is perspective of the rational person.

I assure you that 90% of your constituents are behind you when the vote is called, and you vote **Yes** for the Chief Executive Palmer to sign the CD.

Best Regards,

**Mike Paffhausen**  
**34 Berkeley Trail**  
**Butte, Montana 59701**

*Brad Archibald, P.E.  
2817 State Street  
Butte, MT 59701*

April 14, 2020

Council of Commissioners  
City and County of Butte-Silver Bow  
Courthouse  
155 W. Granite Street  
Butte, MT 59701

RE: CONSENT DECREE FOR THE BUTTE PRIORITY SOILS OPERABLE UNIT

Honorable Commissioners:

As I believe it is good for the future of our community, I encourage you to approve the referenced Consent Decree on behalf of the citizens of Butte-Silver Bow.

The highly qualified experts representing Butte-Silver Bow, the Environmental Protection Agency, the State of Montana, and the Atlantic Richfield Company have worked strenuously to understand the environmental and human health risks associated with Butte's mining legacy. After over 30 years of effort, they have reached consensus that this remedy will meet the requirements of the law and protect human health and the environment. We have been fortunate to have some of the most highly qualified people in the world engaged in this effort, many of them licensed engineers such as myself who must ensure they are practicing in the best interest of public health and welfare. We have rightfully questioned and challenged them. It is now time to accept their conclusions, agree to the CD, and allow our community to move forward toward a bright future.

In the short term, the CD will create and sustain a significant number of local jobs for construction workers, technicians, and engineers, which benefits the community overall. In the longer term, the CD will assure our protection and allow the Butte Priority Soils Operable Unit to be de-listed from the National Priority List, removing the Superfund stigma from our community. This will encourage investment and growth.

Thank you for considering my comments.

Respectfully,



Brad Archibald, P.E.

cc:

Senator Jon Tester  
Senator Steve Daines  
Congressman Greg Gianforte



April 4, 2020

Council of Commissioners  
City and County of Butte-Silver Bow  
Courthouse  
155 W. Granite Street  
Butte, MT 59701

RE: CONSENT DECREE FOR THE BUTTE PRIORITY SOILS OPERABLE UNIT

Honorable Commissioners:

As I believe it is good for the future of our community, I encourage you to approve the referenced Consent Decree on behalf of the citizens of Butte-Silver Bow.

The highly qualified experts representing Butte-Silver Bow, the Environmental Protection Agency, the State of Montana, and Atlantic Richfield Company have worked strenuously to understand the environmental and human health risks associated with Butte's mining legacy. After over 30 years of effort, they have reached consensus that the appropriate remedy to meet the requirements of the law to protect human health and the environment. We have been fortunate to have some of the most highly qualified people in the world engaged in this effort, many of them licensed engineers such as myself who must ensure they are practicing in the best interest of public health and welfare. We have rightfully questioned and challenged them. It is now time to accept their conclusions, agree to the CD, and allow our community to move forward toward a bright future.

In the short term, the CD will create and sustain a significant number of local jobs for construction workers, engineers, and technicians, which benefits the community overall. In the longer term, the CD will assure our protection and allow the Butte Priority Soils Operable Unit to be de-listed from the National Priority List, removing the Superfund stigma from our community. This will encourage investment and growth.

Thank you for considering my comments.

Respectfully,

Brad Archibald, P.E.  
President

April 14, 2020

Butte-Silver Bow Council of Commissioners  
155 W. Granite St.  
Butte, MT 59701

Re: Support for BPSOU Consent Decree

Dear Commissioners:

I support the Butte Priority Soils Operable Unit Consent Decree and urge you to approve it without delay.

Implementation of this agreement will protect human health and the environment – by far the most important objectives. Long-term monitoring will ensure that any unforeseen issues will be addressed, and our own local government will have a hands-on role. That gives me comfort as a long-time resident and taxpayer.

Some comments have focused on what's *not* in the document – plans for a creek between Texas Avenue and Montana Street – but I believe our focus should be on what *is* in the agreement: most notably plans to remove much more mine waste than was originally called for, a comprehensive stormwater management system, and an impressive number of community amenities that will enhance our quality of life for decades. I respect and appreciate the role that the Restore Our Creek Coalition has played in helping to shape this clean-up plan, but I don't share their desire for an artificial stretch of creek that would need to be fed by a costly, off-site water source. As retired state hydrogeologist Joe Griffin put it so well and succinctly last year in a Standard guest opinion: "[T]he science, based on thirty years of data, is very clear. Upper Silver Bow Creek cannot be restored."

That's fine by me, and I hope it's fine with you. It is what it is. What's most important is protecting human health and the environment, including the 20-some downstream miles of Silver Bow Creek that *have* been restored and now support fish and a popular trail system. Continuing this good work by approving the consent decree will create jobs and serve as a true bright spot during this difficult time of pandemic stagnation. Please quickly vote yes so we can launch this new clean-up chapter at long last. Thank you.

Sincerely,

Bobbi Stauffer  
1253 W. Aluminum  
Butte

**Davies, Barbara**

---

**From:** Kevin Heglund <kwheglun@gmail.com>  
**Sent:** Wednesday, April 15, 2020 2:06 PM  
**To:** BSB Public Input  
**Subject:** I SUPPORT THE CONSENT DECREE

**This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.**

I wish to share my support of the consent decree. My position is simple, I like trees and trails. I do not like heavy metals in my creeks.

As a father of 2 children, I am excited that they will have the opportunity to utilize this great space in the middle of Butte to its fullest potential.

Please do not pass on this opportunity to make Butte safer, more accessible, and more attractive.

Thank you,  
Kevin Heglund  
383 Whisper Ridge  
Butte, MT 59701



William P. Joyce  
Terry J. MacDonald  
Michael W. Haynes  
Saidee M. Johnston

100 East Broadway Street, First Floor  
Butte, Montana 59701  
E-mail: bill@joyce-macdonald.com

Telephone: (406)723-8700  
Facsimile: (406)723-8788  
Toll Free: (406)723-8702

April 15, 2020

Butte-Silver Bow Council of Commissioners  
Courthouse  
Butte, MT 59701

RE: Comments to Council regarding the Superfund Consent Decree

Chairman Morgan and Commissioners:

Thank you for providing a chance to submit comments on your decision to authorize the Chief Executive to sign the Butte Site Consent Decree (CD). Based on my review and understanding of the CD documents, I urge you to approve it on behalf of our community.

I was born in Butte and except for the time I left to get my education, I have had the great privilege and good fortune to have lived in Butte my entire life. I married a Butte girl (Helen O'Connor-Joyce) and together (well her mostly) we have raised a family here.

I love Butte and her people and wish nothing but the best for the future. As a Butte boy, I have often been told that Butte's riches have been plundered by Copper Kings and Wall Street fat cats. I also learned that Butte ore and the miners who worked in dangerous conditions to bring it to the surface, were instrumental in the United States being victorious in both World Wars. I think any fair study of history would show these claims are true. If I had the power to reverse time and redistribute the lost wealth to the miners and greater Butte Community I would do so. Similarly if I could renegotiate the past peace treaties and force Germany and Japan to pay for the cleanup I would do that as well. But alas both of these things are beyond my power.

To me it seems the question for the council and the community is not what would be fair in some abstract historical way but rather what can be fairly achieved under CERCLA. Because we are constrained under the Superfund law we must look at the practical realities on the ground. In deciding whether to accept the negotiated cleanup outlined in the Consent Decree we must balance what is offered thereunder with what may be achieved by rejecting the CD and having the matter litigated by the EPA and ARCO. As a lawyer who often has to advise my clients on the benefits and risks of litigation, I can say confidently that the settlement outlined in the CD offers a far better path for Butte going forward than does the alternative.

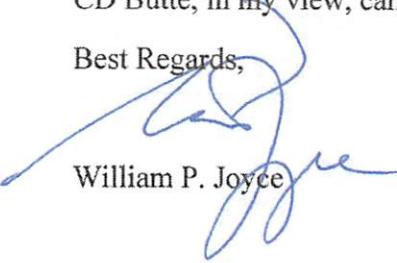
I base this conclusion on what I have learned as the SARTA Chair since 2014. SARTA has received comprehensive presentations about EPA's 2006 Record of Decision and the 2006

Allocation Agreement between Butte-Silver Bow and ARCO that provides for the Redevelopment Trust and other funds to implement the remedy. Since January 2018, SARTA has received briefings on the Agreement in Principle (for the CD), EPA's Proposed Plan and Record of Decision Amendments (April 2019), and now the CD Documents (Feb. 2020). We have been involved in numerous public educational presentations. We have invited and received public input.

Since joining SARTA and being given an education on the whole superfund history, one thing that strikes me the most is how the terms of the current CD and the projects outlined in the Statement of Work respond to what have been identified as deficiencies in the earlier decisions. It shows me that the Parties to the CD have been listening to public input and worked out their differences. Tailings will be removed in the creek floodplains to protect groundwater; more storm water management facilities will be installed to protect the surface waters; the RMAP will be expanded throughout the city-county; a new park will be built in the Silver Bow Creek corridor; and importantly, the CD terms ensure ARCO pays all the costs in perpetuity. It appears to me that BSB taxpayers are off the hook to pay for the cleanup. All in all I think that the parties and particularly the BSB negotiators and staff are to be commended.

In closing let me restate that Butte has every right to be proud of its past. With the signing of the CD Butte, in my view, can concentrate on, and take control of, its future.

Best Regards,

  
William P. Joyce



# THE CITY-COUNTY OF Butte-Silver Bow

Community Development  
Karen Byrnes, Director  
Ph: 406-497-6467 E-Mail: kbyrnes@bsb.mt.gov

April 15, 2020

Council of Commissioners  
Dave Palmer, Chief Executive  
Butte-Silver Bow Local Government  
Courthouse Building  
155 W. Granite Street  
Butte, MT 59701

RE: Consent Decree

Ladies and Gentlemen:

I am writing in support of the Consent Decree (CD) and the approval by this body to authorize the signature of the Chief Executive. The CD has been thoroughly vetted and has incorporated a tremendous amount of public comment. The approval of this document is itself an economic driver for Butte and South West Montana. The many amenities and jobs created, coupled by the removal of waste, will serve as the foundation of building a vibrant, healthy community into the future.

Now is the time to move forward. Please authorize the Chief Executive's signature without delay.

Thank you,

*Karen Byrnes*

Type text here

Karen Byrnes

**Davies, Barbara**

---

**From:** mollybrooke12@hotmail.com  
**Sent:** Wednesday, April 15, 2020 9:47 AM  
**To:** BSB Public Input  
**Subject:** I support the consent decree

**This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.**

To whom this may concern,

I am writing you to voice my opinion in favor of this for Butte. The consent decree would be an addition to our beautiful city that we need! I have four busy boys who love to be outside, to explore, ride bikes and play. This would be a place for them. It would be a beautiful place for me to run. It would be a place that would add wonderful memories to our families experiences. We need this. Butte needs this.

Thanks for reading.

Molly Connors

[Sent from Yahoo Mail for iPhone](#)

**Davies, Barbara**

---

**From:** Erin Downey <downey.erinm@gmail.com>  
**Sent:** Wednesday, April 15, 2020 8:06 AM  
**To:** BSB Public Input  
**Subject:** Butte Consent Decree

**This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.**

Greetings,

I support the Butte Consent Decree.

Thanks,  
Erin

**Davies, Barbara**

---

**From:** Jenny Heglund <jlheglund@gmail.com>  
**Sent:** Wednesday, April 15, 2020 7:24 AM  
**To:** BSB Public Input  
**Subject:** SUPPORT FOR CONSENT DECREE

**This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.**

Dear Trusted Officials,

I want to express my explicit support of the consent decree and encourage you to vote in favor of it. We cannot undo the past, but we can create a bright future for Butte.

I firmly believe that the consent decree is the best chance to do right by the environment. We must contain the run off of heavy metals every time it rains and restore our riparian areas- the consent decree does this.

This is the best thing we can do from a public health perspective. We **MUST** prevent lead and other toxic metal exposure to everyone, and protect our most at risk populations. Who are the at risk populations? They are our children, our pregnant women, our numerous recreationists, our elderly, our economically disadvantaged. A recent study cited startling levels of metals of the mecomium (infant stool) of Butte newborns. We must protect public health- the consent decree does this.

Lastly, this is the best chance to enhance the appearance of our community. Revitalizing Butte Area One would provide the economic kick-start for the next phase of community growth. Butte must move beyond her dirty super fund status- the consent decrees does this.

Quite frankly, I'm terrified that given the current economic climate with plummeting oil prices, an unstable stock market, and economic down-turn from the covid virus, that there is a very real threat of ARCO bankruptcy. What happens then? We simply cannot afford to let this opportunity slip through our fingers.

PLEASE BELIEVE BETTER IS POSSIBLE.  
PLEASE TRUST THE EXPERTS WHO DEVELOPED THIS PLAN.  
PLEASE DO NOT LET THIS OPPORTUNITY PASS US BY.

I SUPPORT THE CONSENT DECREE.

Best regrads,  
Jenny Heglund  
383 Whisper Ridge  
Butte, MT 59701

**Davies, Barbara**

---

**From:** Kaytlin Fowler <kaytlin.fowler@gmail.com>  
**Sent:** Wednesday, April 15, 2020 7:19 AM  
**To:** BSB Public Input  
**Subject:** Consent Decree

**This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.**

I support the consent decree

Best,  
Kayt Deveney  
--  
Kayt Deveney

**Davies, Barbara**

---

**From:** Don Foley <dfoley71@yahoo.com>  
**Sent:** Tuesday, April 14, 2020 5:43 PM  
**To:** BSB Public Input  
**Subject:** Consent Decree Comment

This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.

Regarding the consent decree. I feel we need to take our time and let people meet in person to discuss. There is no need to hurry the process.

I also feel outside council with subject matter expertise should be hired to ensure our rights are protected.

I feel it is important to make sure the decree allows for Silver Bow Creek to be restored based on the recommendations of the Restore Our Creek group.

Finally, it is important that no contaminated material be placed near residential neighborhoods.

Thanks for your consideration.

Don Foley  
17 Wells Street  
Butte, MT 59701  
406-490-8668

**Davies, Barbara**

---

**From:** pblee28@charter.net  
**Sent:** Tuesday, April 14, 2020 2:41 PM  
**To:** BSB Public Input  
**Subject:** modify government

**This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.**

We would like to have Communication#2020-132 by Commissioner Jim Fischer passed allowing for the issue to modify BSB government put on the November ballot.

LeRoy and Pat Lee  
2845 Nettie St.

**Davies, Barbara**

---

**From:** Cassie Wick <cassie.weightman@gmail.com>  
**Sent:** Tuesday, April 14, 2020 1:39 PM  
**To:** BSB Public Input  
**Subject:** Vote Yes on the Consent Decree

**This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.**

Hello Commissioners,

Thank for the time and commitment you make on behalf of the residents of Butte Silver Bow.

I urge you to vote yes on the consent decree. I trust the work and research of my fellow constituents who have dedicated themselves to this project. I believe they have all of our best interests in mind, and want the best for their own families. Thus, creating the best possible corridor we can have.

The plan looks beautiful and I'd love to see this plan put into action as soon as possible. I haven't heard the benefit of delaying this project.

We deserve nice things in Butte. We've waited long enough.

Thank you!

Cassie Wick  
820 W. Mercury St.  
Butte, MT 59701

April 14, 2020

Marc Murphy  
3029 Atherton Street  
Butte, Montana 59701

Chairman Morgan  
Butte-Silver Bow Council of Commissioners  
Courthouse  
Butte, MT 59701

RE: Comment letter on the Butte Priority Soils Consent Decree

Thank you for the opportunity to provide input on the Council's decision to authorize the Chief Executive to sign the Consent Decree (CD). Based on my review, I believe the CD is in Butte's best interests and would urge the Council to vote to authorize.

My perspective on the CD is shaped by years of engagement with Superfund in Butte. In the 1990's, I served as a Commissioner when the word came down that Butte-Silver Bow would be a named PRP. I heard many a presentation on various cleanup projects, like the Colorado Tailings removal to the Clark Tailings area, the first stormwater control facilities built in Missoula Gulch, the groundbreaking work on the child lead poisoning prevention program, among many others. As a commissioner, it was hard to decipher all the technical information, so I know what the Council is faced with now on the CD. To help guide my decisions, I relied on the recommendations of the BSB staff and the science experts who were working full time to assess and evaluate the projects.

In addition, for nearly 30 years now, my occupation has been in the environmental engineering field, first for a local consulting firm before starting my own firm with offices here in Butte (and around the country). I have learned to understand the imperfections of environmental science, of the Superfund law, of risk assessment, and of cleanup projects. There are no perfect solutions.

Last year, I took the time to review EPA's Proposed Plan and amendments to the Record of Decision for the Butte Site. I was impressed how the Plan addressed several unresolved issues that had emerged over the years – the need for more tailings removal in the Silver Bow Creek and Blacktail drainages to improve and protect groundwater, the need for better management controls to keep metals in storm water from reaching the creeks, the need to expand the residential metals abatement program.

This month I've taken the time to review the CD documents. The solutions to the key issues outlined in the Proposed Plan are in there. The Statement of Work is comprehensive: the plans for the required, additional projects; the details on how the Site performance will be monitored and measured; the financial terms that compel Atlantic Richfield to pay for everything and protect Butte-Silver Bow and the taxpayers. I'm not sure we could have done better in getting a CD that works for our community.

My last comment is about timing. We've all experienced how Butte's development has been stifled by the stigma of Superfund over the years. This CD has been a long time in the making and is a good product. Let's get it signed promptly so all the work outlined can be a catalyst to get our town moving (in the post COVID-19 world). Enough talking and negotiating. Let's get back to work on the cleanup.

Thanks,

A handwritten signature in black ink that reads "Marc Murphy". The signature is written in a cursive, slightly slanted style.

Marc Murphy  
CFO  
MarCom, LLC

**Davies, Barbara**

---

**From:** John Ray <bodinman2003@yahoo.com>  
**Sent:** Tuesday, April 14, 2020 10:57 AM  
**To:** BSB Public Input  
**Cc:** John Ray  
**Subject:** Public Input to be Read on Wednesday Night

This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.

I would like to submit the following as public comment to the Council of Commissioners on the Consent Decree for Butte. Please read this statement into the record.  
Dr. John W. Ray

I am asking that the Butte Council of Commissioners approve the Consent Decree as quickly as possible.

I do so for the following reasons:

1. This is a good remediation package in and of itself. It goes far beyond what we generally see nationally in terms of Superfund remediation. It is fully protective of human health and the environment and goes far above what can be ordered under Superfund. It provides for extensive waste removal; it expands the Residential Metals Abatement Program to ALL of Butte and it provides for extensive amenities, including parks, trails and green spaces. Reaching closure on a major part of Superfund in Butte will remove a significant impediment to economic growth in Butte. Given the severe economic harms and dislocation caused by the current pandemic, Butte could benefit by the removal of one major impediment to economic revitalization. Butte's economy will need all the help it can get getting back on its feet and achieving a large measure of Superfund closure will certainly help.
2. The provisions of the consent Decree are far better than the alternative which is no agreement. Do we really want to settle for a bare bones remedy under a Unilateral Administrative Order issued by EPA? Or, equally unpalatable, do we want to have to go back and try to redo the Consent Decree, a process that could take months if not years. This Consent Decree contains much that EPA could not have ordered Atlantic Richfield to perform under Superfund. Do we want, as I have said, to risk losing all of this, particularly realizing that what we would end up with would probably be much less than we have?

3. If we delay, we will risk losing it all. Until the Decree is sent to the Court for approval, any party to it can back out. Oil hovers at around 25 dollars a barrel, the Pakootas decision limits EPA regulatory authority under Superfund, the regulatory climate is uncertain. The perfect must not be the enemy for the good in Butte. Also, if there ends up having to be a Unilateral Order or if we go back and try to renegotiate the Decree, there is no reason to expect any major "improvement." In all likelihood, there will be much less offered. The Consent Decree was the product of a long negotiating process. Its provisions are delicately intertwined and any but the most minor changes could result in the whole Decree unraveling. Do we want to risk that?

4. There has been ample and robust public input and we know virtually all the arguments that have been presented for and against the Decree. Delaying the decision until face to face meetings are allowed is unnecessary, unproductive and potentially harmful.

5. If the Council of Commissioners were to insist on changes, the whole Decree would have to go back to the discussion table. In all likelihood, EPA, instead of doing this, given that the desire is to soon delist the Butte site, would issue a bare-bones Unilateral Order. Butte would be the loser. Butte/Silver Bow participated in the negotiation of this Decree. Butte/Silver Bow signed on to this draft Decree. It is time now to approve it. Butte/Silver Bow was part of the negotiation process for this Decree. Butte/Silver Bow had a seat at the table.

For all of the above reasons, I ask the Council to expeditiously approve the Consent Decree. The benefits far outweigh the problems with the Decree. At some point a decision on what is before you will need to be made.

Under our form of government elected officials in the legislative branch serve as representatives of the people. Essentially, that means that each representative exercises his or her best judgment as to what will advance the common good. After listening to public input and deliberating each member of the Council of Commissioners must exercise his or her judgment and decide. There are always constraints to any decision. In the case of the Consent Decree the constraints up front were that all parties had to agree, which in and of itself necessitates compromise. No party could get all that it wants. But, representative deliberation must produce action not just deliberation. Now is the time to act. Nothing will be gained by delay. Much could be lost. It is incumbent upon or representatives to act now and approve the Consent Decree.

---

# Redmountain HydrogeoLogic



March 18, 2020

Chief Executive Dave Palmer  
Council of Commissioners  
Butte-Silver Bow Government  
Courthouse  
155 W. Granite  
Butte, MT 59701

RE: A rational basis for the Council of Commissioners to vote to approve the Butte Priority Soils Operable Unit Consent Decree

Chief Executive Palmer and Commissioners:

You have before you perhaps the most monumental decision ever placed before this body – the decision to approve, or not, the BPSOU Consent Decree. It will be a yes-or-no vote, without the ability to amend it.

I write to you as someone who has invested the greatest part of his professional career in the upper Clark Fork Superfund cleanup. To the point, I was the Montana Department of Environmental Quality's project manager for BPSOU from January 2004 until July 2015. In that time, I was in the room at countless technical discussions. I was in the room for all negotiations for the 2006 Record of Decision, for the 2011 Unilateral Administrative Order, and most pertinent to the matter at hand - the consent decree negotiations.

I would like to offer my insights into this complex agreement between Butte-Silver Bow Government, Atlantic Richfield, State of Montana and the US EPA. Approving this Consent Decree is vital to Butte's future.

## WHO TO TRUST?

My principal recommendation to you: Trust your professional Butte-Silver Bow staff. They have proven their ability to proficiently operate critical components of the remedy such as the Residential Metals Abatement Program, Butte Reclamation Evaluation System and stormwater management program. They have worked tirelessly and selflessly to bring the very best remedy to Butte. If you have questions on these programs look to Eric Hassler, Julia Crain and Karen Sullivan.

The Consent Decree negotiations have necessitated that Butte have a top-level negotiator, and Butte could have done no better than Jon Sesso. He has been there since the early 1990s and has held Butte's best interest close-at-heart. The Consent Decree is foremost a legal document and Butte has been fortunate to have had deputy county attorney, Mollie Maffei, overseeing the legal aspects of Superfund since 2002.

## WHAT HAPPENS IF THE COUNCIL DOES NOT APPROVE THE CD?

That is the overarching question that this Council must consider. The alternative to a CD is a unilateral administrative order issued by the Environmental Protection Agency.

Whether through a CD or UAO, the EPA must ensure that the remedy will protect human health and the environment. Either way, EPA will require building stormwater ponds – because they are needed to protect Silver Bow Creek from highly contaminated stormwater that still flows to the creek. Either way, EPA will waive certain Montana water quality standards and leave open the option for future waivers. The need for those waivers was established in EPA's 3,000 page *Surface Water Technical Impracticability Evaluation*. Either way EPA will require expanding the current groundwater management system, expanding the RMAP program and expanding the mine waste reclamation program. Those requirements are laid out in the Record of Decision Amendment (Section A, Appendix A of the CD). It is already signed by the EPA administrator, Andrew Wheeler.

And if it's not signed? The state's money that Governor Bullock put up for removing the Parrot Tailings proved Montana's commitment to the CD and established a firm foundation for negotiations. The negotiated CD includes money back for Butte and Silver Bow Creek. If the CD is not signed, the Governor's commitment will be in large part wasted.

And if it's not signed? The biggest loss for Butte – Silver Bow Creek Conservation Area, that beautiful headwaters park with all of its public amenities, would be off the table. Without Atlantic Richfield funding it will not happen.

After having attended all of Restore Our Creek Coalition's public visioning meetings and after having attended all of Atlantic Richfield's public visioning meetings - my sense is that the Butte community, as a

whole, is eager to see the Atlantic Richfield's "Silver Bow Creek Conservation Area" become a reality, with or without a "restored" meandering stream.

In my opinion, if the CD is signed by all parties, Atlantic Richfield will build a park that meets 99% of ROCC's vision for a Headwaters Park which states: *Our vision for the restored Silver Bow Creek Corridor is of a thriving natural ecology featuring innovative green infrastructure, recreation spaces, cultural programs, educational opportunities, and facilities to form a resilient ecosystem that brings together nature, culture, and community.*

But most importantly, the Park will be built around engineered but naturalized stormwater ponds that are necessary to protect Silver Bow Creek, from the confluence with Blacktail Creek to the Warm Springs Ponds, from the worst contamination now flowing to the Creek – **our stormwater.**

Here is a final point to consider. If the CD is finalized, Atlantic Richfield guarantees paying past and future costs for EPA and Montana DEQ oversight. Without the CD, Atlantic Richfield is free to question or even litigate EPA's cost claims. EPA could be at the mercy of Federal rather than AR funding. Given the Trump administration's cuts to the EPA budget that would likely be a dark day for Butte's final cleanup.

#### HOW MUCH PUBLIC INPUT HAS THERE BEEN?

As commissioners, I know you are concerned about public input into the CD and remedy. There is a common perception that the public has been left in the dark. Not true.

Since well before the 2006 Record of Decision and up to the current point in time, the EPA has facilitated public meetings, printed FAQ sheets, made technical documents available through the Montana Tech and the Citizens Technical Environmental Committee libraries and led tours of the Site. CTEC, which generally meets monthly, has hosted numerous presentations by technical experts on specific aspects of BPSOU remedy. I personally presented "*BPSOU Proposed Plan, Stormwater and the Technical Impracticability Waivers*" to the Council of Commissioners on May 22, 2019.

The EPA began publicly laying out the framework for the Proposed Plan to Amend the Record of Decision, which is the foundation of the CD, in mid-2018. The Proposed Plan was released in April 2019 with a 90-day public comment period. I refer you to the EPA Responsiveness Summary (Appendix B to Appendix A, starting at pdf page 65), in which EPA responds to oral and written questions and comments to the Proposed Plan. It is organized by topics and is extensive. You will in all likelihood find EPA's answer to any questions you or any of your constituents may have.

---

I believe this CD is well vetted from a technical perspective and has honestly incorporated valid public input. It is time to move to the final phase of Butte Superfund. I urge you to approve Butte-Silver Bow County acceptance of the Consent Decree and provide Chief Executive Palmer with signing authority.

Sincerely and with upmost respect for this Council,

A handwritten signature in black ink, appearing to read "Joe Griffin". The signature is fluid and cursive, with the first name "Joe" being the most prominent part.

Joe Griffin

Montana Department of Environmental Quality, Retired

**Davies, Barbara**

---

**From:** Maffei, Mollie  
**Sent:** Monday, April 13, 2020 12:46 PM  
**To:** BSB Public Input  
**Subject:** FW: Consent Decree

---

**From:** St. Pierre, Mark <mstpierre@bsb.mt.gov>  
**Sent:** Wednesday, April 8, 2020 9:18 AM  
**To:** Shaw, Cindi <cshaw@bsb.mt.gov>  
**Subject:** Consent Decree

Ms. Shaw,

I am writing you today to show my support for the Consent Decree presented by ARCO. I believe this decree is an opportunity for Butte to begin major growth for the community and I see no down side if this is accepted and implemented. I am but one voice but I wanted to express it. Please consider my view when you and your fellow commissioners cast their vote on this matter.

Thank you,

Mark St. Pierre

Messages and attachments sent to or from this email account pertaining to the City-County of Butte-Silver Bow business may be considered public or private records depending on the message content (Article II Section 9, Montana Constitution; 2-6 MCA).

Messages and attachments sent to or from this email account pertaining to the City-County of Butte-Silver Bow business may be considered public or private records depending on the message content (Article II Section 9, Montana Constitution; 2-6 MCA).

April 10, 2020

Council of Commissioners  
Courthouse Building  
155 W. Granite Street  
Butte, Mt 59701

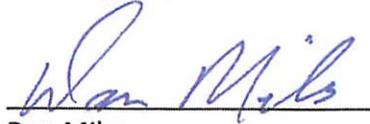
Re: Consent Decree

Dear Ladies and Gentlemen:

As longtime residents of Butte-Silver Bow, we are writing in support of the Consent Decree. It is important that Butte-Silver Bow receive the amenities the Consent Decree will deliver to its citizens. We have followed the process both in the local newspapers and public hearings. The time is now to move forward and begin the work the Decree calls for. The community will benefit both financially and aesthetically. And the sooner the better.

Thank you for your consideration.

Best Regards,

A handwritten signature in blue ink that reads "Dan Miles". The signature is written in a cursive style and is positioned above a horizontal line.

Dan Miles

A handwritten signature in blue ink that reads "Michele Miles". The signature is written in a cursive style and is positioned above a horizontal line.

Michele Miles



George Grant Trout Unlimited  
PO Box 563  
Butte, MT 59703  
*Cold Clean Fishable Water*

---

April 11, 2020

Chief Executive Palmer, Chairman Morgan, Council of Commissioners, please accept these comments for the record.

The George Grant Chapter of Trout Unlimited Board of Directors urge you to vote to approve the Consent Decree (CD) without delay.

Your votes to approve the CD will begin the process of achieving both an immediate and enduring benefit to the people of Butte-Silver Bow, the State of Montana, and the United States of America. The approval of the CD will be the next step in remediating and restoring our community, the waters of Silver Bow Creek, Blacktail Creek, and the Upper Clark Fork River. Approval of the CD will help you meet an obligation of Montana law that states; "The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations."

Your approval is urgent. Since the arrival of COVID-19 our ways of life have dramatically changed. How we communicate, conduct our meetings, and socialize with each other is much more different and difficult than it was just 60 days ago. We will be required to adapt if we are to move forward. The time has come to make a decision. The Consent Decree has been negotiated with responsible parties and agencies, and Butte-Silver Bow has been at the table the entire time. We commend them for their efforts. The CD has been opened to the public to consider, discuss, become informed, and express their views. The good folks of Butte-Silver Bow have let you know what they think about the CD. Many of the comments are the same comments you've been hearing and discussing for months. The CD cannot be renegotiated now without significant risks. Your vote is simply yes or no. Approve or do not approve.

If you vote to approve the CD it will go before the Judge Haddon and there will be another 30-day comment period. There will again be another opportunity for the public to make comments before the Judge.

If the Commission votes against approval, the negotiated Consent Decree is invalid and will be discarded. Years of hard work and heated yet fruitful discussions to reach the current agreement will become null and void. Atlantic Richfield and the Federal Government (EPA) will be forced to enter into a Unilateral Administrative Order (UAO), which will come at an enormous cost to the community.

The consequences of failure to reach a CD are:

- The \$150,000,000 cleanup agreement will be withdrawn.
- A UAO cannot require the level of cleanup that has been agreed to in the CD.
- The people of Butte-Silver Bow will not have a say in the cleanup.



- Local contractors may not be working on the cleanup.
- There will be few or no recreational amenities.

If the Commission votes for approval of the CD there will be:

- An infusion of \$150,000,000 into the community.
- A high likelihood that many local contractors will work on the cleanup.
- The people of Butte Silver Bow will have a much better opportunity to influence the cleanup and restoration going forward.

We are in an unprecedented worldwide pandemic that has far reaching social and economic turmoil and distress. Oil prices were plummeting even before the pandemic which is creating additional economic distress. Has the Council of Commissioners considered that a delay of vote may influence the Judge, Atlantic Richfield, and the EPA to abandon the CD resulting in Butte-Silver Bow getting a cleanup that costs ARCO much less than is being offered now?

We urge the Council of Commissioners to sign the Consent Decree now because it is a good deal and offers a favorable outcome for our community. It is simply a yes or no vote. Approve or not approve.

We'd like you to ask yourselves these questions and consider our viewpoint:

- Are all parties and every member or groups of members of our community absolutely happy with every aspect of the Consent Decree? Obviously not, but most would agree it represents a significant investment and commitment to the Butte community.
- Will the Consent Decree do the most good for the most people? Yes, it will.
- Will Atlantic Richfield be off the hook? No, this is not a negotiated settlement, it's an ongoing project that will be adaptable to new technologies and new ideas. The Superfund process will continue to govern the process, and more work will be required if determined necessary.

To vote against approval or to delay the approval of the Consent Decree may be a mistake and a regrettable lost opportunity to capitalize on the best possible cleanup to rectify the mistakes of the past. We urge you to approve the Consent Decree without delay. Butte's worth it.

The Directors of the George Grant Chapter of Trout Unlimited, listed below, represent 214 engaged, concerned and environmentally active members.

  
Mark Thompson - President  
George Grant TU  
PO Box 563  
Butte, MT 59703  
[president@ggtu.org](mailto:president@ggtu.org)



Mark Thompson – President  
2245 Skyway Ave  
Butte, MT 59701

Forrest Jay – Vice President  
2 Lodgepole Lane  
Butte, MT 59701

Alex Leone – Secretary  
935 Worden  
Missoula, MT 59802

Ted Connors – Treasurer  
3408 Wharton  
Butte, MT 59701

Roy Morris – Past President  
2901 Quincy  
Butte, MT 59701

Josh Vincent  
141 Ketchum LN  
Butte, MT 59701

Rich Day  
2615 Yale Ave  
Butte, MT 59701

Carl Hamming  
223 Locust St.  
Anaconda, MT 59711

Dave McKernan  
1614 W. Park  
Anaconda, MT 59711

Steve Cox  
2901 Wharton St.  
Butte, MT 59701

William Masella  
220 Balsam Street  
Anaconda, MT 59711

Steve Luebeck  
17 Queens Court  
Butte, MT 59701

Paul Olson  
524 Wolf Ridge Road  
Wise River, MT 59762

Jim Gleason  
3011 Carter St.  
Butte, MT 59701

Chuck Stokke  
1309 W 4th Street  
Anaconda, MT 59711

## Davies, Barbara

---

**From:** John Ray <bodinman2003@yahoo.com>  
**Sent:** Monday, April 13, 2020 9:26 AM  
**To:** Commissioners; Palmer, Dave; Bill Andersen District Ten; Michelle Shea; Cindi Shaw; Morgan, John; Sorich, John; McDonough, Brendan; Olsen, Dan; BSB Public Input  
**Cc:** John Ray; Sesso, Jon; Hassler, Eric  
**Subject:** Public Comment--Consent Decree for Butte Priority Soils

This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.

I would like to submit the following as public comment to the Council of Commissioners on the Consent Decree for Butte.

Dr. John W. Ray

I am asking that the Butte Council of Commissioners approve the Consent Decree as quickly as possible.

I do so for the following reasons:

1. This is a good remediation package in and of itself. It goes far beyond what we generally see nationally in terms of Superfund remediation. It is fully protective of human health and the environment and goes far above what can be ordered under Superfund. It provides for extensive waste removal; it expands the Residential Metals Abatement Program to ALL of Butte and it provides for extensive amenities, including parks, trails and green spaces. Reaching closure on a major part of Superfund in Butte will remove a significant impediment to economic growth in Butte. Given the severe economic harms and dislocation caused by the current pandemic, Butte could benefit by the removal of one major impediment to economic revitalization. Butte's economy will need all the help it can get getting back on its feet and achieving a large measure of Superfund closure will certainly help.

2. The provisions of the consent Decree are far better than the alternative which is no agreement. Do we really want to settle for a bare bones remedy under a Unilateral Administrative Order issued by EPA? Or, equally unpalatable, do we want to have to go back and try to redo the Consent Decree, a process that could take months if not years. This Consent Decree contains much that EPA could not have ordered Atlantic Richfield to perform under Superfund. Do we want, as I have said, to risk losing all of this, particularly realizing that what we would end up with would probably be much less than we have?

3. If we delay, we will risk losing it all. Until the Decree is sent to the Court for approval, any party to it can back out. Oil hovers at around 25 dollars a barrel, the Pakootas decision limits EPA regulatory authority under Superfund, the regulatory climate is uncertain. The perfect must not be the enemy for the good in Butte. Also, if there ends up having to be a Unilateral Order or if we go back and try to renegotiate the Decree, there is no reason to expect any major "improvement." In all likelihood, there will be much less offered. The Consent Decree was the product of a long negotiating process. Its provisions are delicately intertwined and any but the most minor changes could result in the whole Decree unraveling. Do we want to risk that?

4. There has been ample and robust public input and we know virtually all the arguments that have been presented for and against the Decree. Delaying the decision until face to face meetings are allowed is unnecessary, unproductive and potentially harmful.

5. If the Council of Commissioners were to insist on changes, the whole Decree would have to go back to the discussion table. In all likelihood, EPA, instead of doing this, given that the desire is to soon delist the Butte site, would issue a bare-bones Unilateral Order. Butte would be the loser. Butte/Silver Bow participated in the negotiation of this Decree. Butte/Silver Bow signed on to this draft Decree. It is time now to approve it. Butte/Silver Bow was part of the negotiation process for this Decree. Butte/Silver Bow had a seat at the table.

For all of the above reasons, I ask the Council to expeditiously approve the Consent Decree. The benefits far outweigh the problems with the Decree. At some point a decision on what is before you will need to be made.

Under our form of government elected officials in the legislative branch serve as representatives of the people. Essentially, that means that each representative exercises his or her best judgment as to what will advance the common good. After listening to public input and deliberating each member of the Council of Commissioners must exercise his or her judgment and decide. There are always constraints to any decision. In the case of the Consent Decree the constraints up front were that all parties had to agree, which in and of itself necessitates compromise. No party could get all that it wants. But, representative deliberation must produce action not just deliberation. Now is the time to act. Nothing will be gained by delay. Much could be lost. It is incumbent upon our representatives to act now and approve the Consent Decree.

# Montana House of Representatives

REPRESENTATIVE JIM KEANE  
HOUSE DISTRICT 73



*The Big Sky Country*

HELENA ADDRESS:  
PO BOX 200500  
HELENA, MONTANA 59620-0500  
PHONE: (406) 444-4850

HOME ADDRESS:  
2131 WALL ST.  
BUTTE, MT 59701  
PHONE: (406) 723-8378

April 10, 2020

John Morgan, Chair  
Butte Silver Bow Council of Commissioners  
Courthouse  
155 West Granite  
Butte, MT 59701

Dear Chair Morgan and Members of the Council:

Thank you for allowing me to comment on the proposed Consent Decree as the recently released Butte Superfund Consent Decree offers a permanent and protective solution to many of the pressing environmental problems in Butte.

Over the past 20 years, I have participated and been involved in this process by:

- Personally financially contributed to the law suit to rename Silver Bow Creek.
- Signed the petition with 3,800 residents to create a restored vision for Butte's Superfund Site.
- Proposing legislation in the restoration that is set forth in the Consent Decree.
- Actively participated in community wide meetings to create a vision for Butte.

It has taken over 30 years to get to where we are today with the Consent Decree. How we got here is by:

- Governor Bullock's action to remove the Parrot Tailings and other tailings
- Butte Silver Bow Government formed a knowledgeable and working Consent Decree task force to move the restoration process forward.
- The Restore Our Creek group recommendations had a positive outcome to the Consent Decree process.

**And through all of the above, "It Happened" with the signed Consent Decree!**

With the Consent Decree, this is what is happening with this plan and will continue moving along the plan's guidelines.

- Parrot tailings are being removed.
- Water quality is being protected.
- Non-usable land will be restored where it is functional and useable.
- Monitoring will continue to ensure the community's land is safe from contamination and if it is not working, modifications will be done.

The Consent Decree has measures beyond what was thought of in the past and even though it has taken 30 years for this to happen, we need to NOW support the efforts made in the past with the Consent Decree which will allow efforts moving into the future.

Again, thank you for this opportunity to comment on the Consent Decree.

Sincerely,

*Jim Keane*

Representative Jim Keane



***Fritz Daily***  
***1901 Roosevelt Ave.***  
***Butte, MT 59701***

April 15, 2020

Butte Silver Bow Council of Commissioners  
Butte Silver Bow Courthouse  
Public comments on the Butte Priority Soils Consent Decree  
April 15 and May 1, 2020

Commissioners,

Please include and read my comments at the April 15, 2020 Council meeting concerning public input on your upcoming vote on the Consent Decree for Butte Priority Soils Operable Unit. I would also request that my email/letter be forwarded to Judge Hadden as part of the official record.

Keep in mind, as you read my email/letter that the sole reason that Butte is facing the complex and difficult environmental issues we are facing today is because what our forefathers did while providing the ore to electrify the country, establish the communication system and most importantly provided the ore to build the materials necessary to defend this country during times of war. If it was not for addressing these critical needs we would not be in the situation we are in today!

**I do not write this email as your enemy as some council members believe!!!! I write it as a concerned Butte citizen and a former seven- term Montana Legislator who has been actively involved in Butte Superfund issues for over 35+ years.**

In August 2005, prior to the original Record of Decision on Butte Priority Soils, a **concerned publication was written by a reputable group of "local" Hydrologists and Hydro-Geologists, titled "Cut and Run".** The publication seriously criticized the Record of Decision on Butte's portion of Silver Bow Creek and the Parrott Tailings area. This is a quote from that publication; *"The U.S. Environmental Protection Agency is prepared to walk away from the nation's largest Superfund site. More precisely, EPA is prepared to allow the responsible party, Atlantic Richfield Company (now British Petroleum/ARCO), to walk away without fully cleaning up the site. As a result, millions of cubic yards of mine tailings, smelting slag and other wastes will drain in perpetuity into the headwaters of the Clark Fork and Columbia Rivers. And the City/County of Butte-Silver Bow will be relegated into an industrial waste heap with dim economic prospects for recovery".*

## History of the Atlantic Richfield Company Purchase of all Anaconda Company Properties;

- In 1977 the Atlantic Richfield Company purchased the Anaconda Company for \$132m - cash, \$11 million stock that most experts believe was for a tax break.
- In 1980 closed the Anaconda Smelter
- In 1983 Ceased mining in Butte and destroyed the economies of both Butte and Anaconda.
- Sold to Dennis Washington in 1977 for \$7 million of which \$4 million was for the Butte Water Company and a 15% Royalty on Washington's mining profits
- April 18, 2000---ARCO was purchased by BP America for \$28.6 billion and was completely merged into BP operations; According to Wikipedia ARCO as a subsidiary no longer exists.

**To not require the British Petroleum Company to responsibly follow Superfund/State Law and the Montana Constitution and responsibly clean the communities is unconscionable!**

The vote you are eventually going to make on this issue is without question one of the most important votes and decisions, if not the very most important decision, that will ever be made in the History of Butte Montana. This decision will undoubtedly determine the economic, social and environmental future of our great town. It will determine whether Butte Montana moves forward as an economically promising community, as was the case while I was growing up in Butte, or it will determine that Butte remains a community of 34,000 residents with little chance for economic prosperity and recovery as pointed out in the "Cut and Run" article! I don't envy your decision.

On March 1, 2005 I wrote in a letter to the U.S. E.P.A. Region 8, Montana Office and Chief Executive Paul Babb and Butte Silver Bow Council of Commissioners---"***This decision reeks of the Touch America/Montana Power decision made in the late 1990's. That decision was made by "placing blind trust" in a few Montana Power and local and State officials. That decision has caused huge rate increases, forced numerous retirees to return to work, cost many Montanan's their lives investments and has been a total negative for Butte and for Montana". I believe strongly that this decision will have the same forever-negative economic, environmental and social consequences!***

As elected officials we cast hundreds if not thousands of critical and important votes. However, there are only a few that actually determine your legacy as an elected official. While I did not serve in the Legislature when the Touch America decision was made, many of my great friends did. For your information the Butte Delegation voted 100% in favor of that decision. I can assure you that every single one of them if they could "take back" that vote they would!

The Touch America vote was also negotiated in "closed door secret" meeting as is the case with the Current Consent Decree. Many of these officials were well respected individuals, as is the case with the current Consent Decree negotiators.

**However as you know, this decision along with the closing of the Anaconda Smelter, the shutting off the Kelley Mine Underground Pumps, and finally the closing of the East Continental/Berkeley Pit by the Atlantic Richfield British Petroleum Company now the British Petroleum Company that ended mining in Montana as had been known for over 100 years were up until now the most negative decisions ever made in the History of Butte and Montana.**

**My strong advice to you---A positive vote for the Current Consent Decree will lead to the same negative consequences for Butte and for the entire Clark Fork and Columbia River Basins! I would encourage you to vote no! As I always say---Butte needs and deserves better, nothing less should ever be accepted!**

**Commissioners, here are my thoughts. Please include and read as part of the public record!** A few weeks ago one of the most well respected and life-long Butte residents, Pat Prendergast, asked me to address my concerns with the current Consent Decree. I will use my comments to him to address my thoughts and concerns with the issue as requested by Commissioner Morgan. I will do my best to keep comments precise and to the point. Pat stated strongly that he valued my thoughts and position. From the positive daily comments I receive from community members I know the community does as well. I also will attach my full comments to Pat and I ask that they be included in the official record of this public hearing.

1. **The major shortcoming of the Consent Decree is that the Atlantic Richfield Company/British Petroleum Company has been released of their legal responsibility for cleanup and restoration of Silver Bow Creek from its Headwaters at Texas Avenue to where the Creek flows under Casey Street. That is unconscionable!**
2. **The Atlantic Richfield Company/British Petroleum Company is totally responsible for the entire cleanup. It is wrong for them to be relieved of their legally required Superfund obligation on what is known as the "last first mile!" Texas Avenue to Montana Street---The most important section of the cleanup.**
3. **The Atlantic Richfield made the infamous decision to close the Smelter in October 1980, shut off the underground pumps in the Kelly Mine on April 22, 1982---Ironically "Earth Day" and closed the East Continental/ Berkeley Pit in July 1983.**
4. **Removal of the Parrot Tailings is critical and essential if we are ever going to have clean and restored Silver Bow Creek from its Headwaters at Texas Avenue to Warm Springs Ponds.**

5. It is totally wrong to use Butte's Natural Resource Damage Restoration dollars for cleanup work and to remove the Parrot tailings and relocate the County Shops. These funds are specifically designed to return the cleaned area to productive use and not for cleanup.
6. In the successful Silver Bow Creek Headwaters Coalition Lawsuit, Judge Brad Newman has ruled that Silver Bow Creek is a Creek and protected as "Water of the State of Montana" in the Montana Constitution. In his Powerful public comments he states---"Can they {Butte Silver Bow Local government and the State} agree to a solution that ignores the law of Montana?"
7. Copper Mountain/Legends Baseball Park Repository---If this does not raise a "giant red flag" bigger than the Perkins flag for the commissioners and every Butte resident concerning the inferior Consent Decree I don't know what would--- Recently through the research of a private concerned citizen, and by a local neighborhood land owner questioning why Pioneer Technical was placing survey stakes outlining the Repository Site, we learned of plans to locate a repository to bury contaminated Digging East/Northside Tailings/Blacktail Berm in a local neighborhood. Ironically next to a park where our children play little guy football and other sports. This very critical and important fact of a new repository was not disclosed during the so called roll out, in the four-page Arco/BP Montana Standard Add, or in the 190+ page public document on the roll out.
8. If this concerned citizen and neighborhood resident through their due diligence did not discover this fact, the Consent Decree would now be History and you would no longer be debating this issue. Unbelievable! FYI--- According to the Bureau of Mines these tailings are so contaminated with copper and zinc that if left as waste in place they are likely to continue leaching into groundwater for tens of thousands of years to come.
9. The question we must all ask is--What else has not been disclosed? And most importantly what is not in the document that is also critical for us to know? In addition, with the release of the information we learned they are only removing 200,000 yards of tailings and apparently leaving 270,000 cubic yards of tailings as waste in place.
10. Everyone involved in the decision to properly clean and restore Silver Bow Creek from Texas Avenue to Montana Street at its Headwaters, known as "the last first mile", {EPA, State, the local government team and Arco/BP} has known for years knows using proper science what needs to be accomplished to have a responsible cleanup of Butte's Silver Bow Creek, and Butte in general, under Superfund law, State Law and the Montana Constitution. Let's do what is right.
11. "The Parrot Plume, that has moved under Butte homes senior/disabled housing, contains 15 times more copper, 5 times more lead, and twice as much cadmium as the Berkeley and it contains the same amount of arsenic and zinc as the Berkeley. IT is the most heavily contaminated mine water in the State and probably the entire United States. Sadly folks from the Bureau of Mines under the leadership of the Butte Natural Resource Damage Council has know this info for years and it has been completely ignored by the EPA, State and Local Government!" WOW!

12. Moving the bus barn and eliminating a major portion of the Butte Civic Center Parking Lot, because the state's refusal to pay for this move, may be the most irresponsible decision to date. The original estimate to move the county Shops was \$14.2 million. The State objected and informed the county they would only pay \$12.2 million. The Butte Silver Bow Administration thus made the decision to eliminate the fuel bay at the County Shop area and move the Bus facilities to the Civic Center parking Lot.

And yes we can have a real creek flowing through our town connected to the groundwater, as required of a Creek! The choice is yours!

In closing, I encourage you to vote no on the proposed Consent Decree and I would once again request that my comments be read out loud and made part of the official record. Thanks for your consideration!

An extensive list is attached for your perusal that I would like to be made part of the public official record, but reading the list before the council is not necessary;

*Fritz Daily*

April 10, 2020

Council of Commissioners  
Courthouse Building  
155 West Granite Street  
Butte, MT 59701

RE: Consent Decree

Dear Ladies and Gentlemen:

I am writing in support of the Consent Decree. I have followed the articles, editorials, guest opinions and letters in both the Montana Standard and the Butte Weekly. I have also attended public meetings. I support moving forward and approving the Consent Decree. The waste removals and amenities are good for Butte, its economy and reputation. There is no need to wait on this important decision.

Thank you for your attention.

*Sincerely,*

*Rick Edwards  
13 Burning Tree Lane  
Butte, MT 59701*



---

P.O. Box 593  
406-723-6247

27 West Park Street  
[www.buttectec.org](http://www.buttectec.org)

Butte, Montana 59703-0593  
[Buttectec@Hotmail.com](mailto:Buttectec@Hotmail.com)

---

April 9, 2020

Chief Executive Dave Palmer  
John Morgan, Council Chair, Butte Silver Bow Council of Commissioners  
Butte-Silver Bow Government  
Courthouse  
155 W. Granite  
Butte, MT 59701

RE: CTEC position on Consent Decree

Chief Executive Palmer and Commissioners,

We are writing to you to express our support for signing the BPSOU Consent Decree. We have carefully read this huge document and appendices, looking at the important details, and evaluated it for grave errors. Our opinion is that the Consent Decree will provide Butte the Superfund remedy it deserves, and the cleanup that Butte has been fighting for.

Fourteen years ago when the original 2006 BPSOU ROD was released this wasn't the case. Neither the public nor the State of Montana agreed with EPA that the remedy went far enough to remove mining waste from the city's groundwater and creeks. The 2006 ROD also failed to adequately address the large areas of Butte with unreclaimed/insufficiently reclaimed mining waste and presented a limited scope for the Residential Metal Abatement Program, especially with regards to attic dust. CTEC was very critical of that 2006 remedy and the slow follow-through on the less than adequate cleanup it gave us.

Through fourteen years of hard fought negotiations by Butte Silver Bow and State of Montana as well as many important studies by the scientific community including the Montana Bureau of Mines and Geology, as well as EPA, Natural Resource Damage Program, and ARCO's consultants, we have arrived at a remedy which actually fits the problem in both scale and depth. We are frankly surprised how far things have come.

We are not saying the Consent Decree is perfect. We believe that remedy should have paid for the Parrott Tailings removal, which the State is now funding. We are concerned that the Consent Decree allows for potential "further waivers" of water quality standards down the road, if the remedy as proposed fails to meet the Federal "replacement standards" which will protect fish and aquatic life. We understand community concern that the Consent Decree should include a requirement and funding for restoration of Upper Silver Bow Creek. We also acknowledge that some community members find that because the Consent Decree was negotiated behind closed doors they have a lack of trust that it was negotiated in the public's favor. We recognize that the

Consent Decree is a negotiated compromise and in any compromise you don't get everything you want. However, we do believe the remedy as laid out in the ROD amendment and Consent Decree will protect human health and the environment, which is the ultimate bar by which it should be measured.

We see several risks to not signing the Consent Decree. First, we believe the revised ROD, and the proposed settlement with its end land use provisions will benefit Butte and should not be passed up. Second, we do not believe that Superfund cleanup should wait any longer. Butte citizens have literally been waiting their entire lives to see how the town will bounce back from the environmental destruction caused by a century of unregulated mining. If the Consent Decree is not signed we believe a further protracted battle regarding the scope and extent of the remedy work is likely. Lastly, without the Consent Decree there is little incentive for the remedy to be designed to incorporate the headwaters park which the Butte community laid out in the public visioning meetings.

Most importantly, a signed Consent Decree is not the end of the public's ability to affect the outcome of the BPSOU remedy; it is the beginning of a path forward. CTEC intends to continue to work with EPA, ARCO/BP, and Butte Silver Bow as the CD proceeds into design, engineering and construction to make certain that the final designs for the remedy components and land use additions meet the stringent requirements of the Consent Decree and the public's expectations of a clean and healthy environment and attractive restoration of Butte's landscape. The public will also have opportunity to be involved in further decisions on the outcome of the remedy. The Consent Decree specifically requires input from the public in regard to the future land use of proposed park areas and design of stormwater basin areas. The public will also have the opportunity to comment on the official designs and plans produced by the settling defendants and which EPA and DEQ will review and approve.

We understand you are tasked with making an up or down vote on signing the Consent Decree and that the question at hand is not what changes or revisions are needed. For this reason, we support signing the Consent Decree and urge you to do so.

Please contact me at (406) 498-9615 if you should have any questions.

Sincerely,



Dave Williams  
President  
Citizens Technical Environmental Committee

Cc:  
CTEC Board of Directors /Technical Advisors  
Nikia Green, EPA  
Daryl Reed, DEQ  
ARCO/BP, Josh Bryson  
MT Standard, David McCumber/Kristine DeLeon

**Citizens Technical Environmental Committee (CTEC)**

CTEC is a public resource in Butte's Superfund process and is independent of EPA, DEQ, or ARCO/BP. CTEC is funded by the volunteer work of its board members and by an EPA Superfund Technical Assistance Grant.

CTEC's mission is to help people in the Butte area to understand complex Superfund information and develop informed questions and opinion, so that they can become involved in the decision-making process for the ongoing cleanup of mine wastes and related environmental damages in the area.

## Davies, Barbara

---

**From:** Dan Villa <dan.villa.mt@gmail.com>  
**Sent:** Tuesday, April 7, 2020 2:57 PM  
**To:** BSB Public Input  
**Subject:** BPSOU CD Public Comment

**This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.**

April 6, 2020

Commissioners and Chief Executive Palmer,

I remember a time not so long ago when there was a call, nearly fever pitched, to remove the Parrot Tailings sooner rather than later. To quote one community activist when it came to the long delays in getting that project to bid, "Enough! We've waited long enough to get it done."

I shared that sentiment then and wish it held firm today in regard to the 180 acres of under- and unremediated areas on the Butte Hill, the tailings lying in or near Blacktail and Silver Bow Creeks, the expanded residential testing and abatement program, and economic development enhancements currently found within the proposed Consent Decree (CD) for the Butte Priority Soils Operable Unit (BPSOU). The move from "sooner is better" when dealing with Parrot contaminants to "delay, demur, and defer" when it comes to wastes and waters covered by the CD is, in my opinion, a dangerous and ill-advised precedent to set.

The Council of Commissioners, however, can do what it rightly demanded be done when delays plagued the removal of the Parrot Tailings. Instead of idly waiting for a perfect solution, the Council can act sooner rather than later to approve signing the CD. To not do so is to state clearly in action and deed that it's OK for these tailings to stay just a little bit longer. It's OK for more Butte residents to be exposed to contaminants for a few more years. It's OK for the waters of Southwest Montana to remain vulnerable to wastes left in place during another spring runoff, a risk too much to bear behind and below the Civic Center only a few short years ago. It's OK for the remediation economy of Butte to stall out.

I apologize for the abruptness, but I've reached the end of my metaphorical rope with this process. I've watched for years as nearly nothing has happened to the jeers of many in the Superfund communities which I've called home my entire life. But now that there is the opportunity to do real, palpable, tremendous good for Butte and Anaconda's physical and economic health there is, in my opinion, more misinformation, misdirection and misleading than there is conviction to the mission of protecting human health and the environment unless and until perfection is achieved.

Perfection is not now nor was it ever an option. Perfection for some was a deal breaker for others. "Consent" is lent in this process and achievement of "consent" was not possible for everything everyone everywhere wanted contained within the four corners of the CD. However, after much work, consternation and negotiation there is the opportunity for the work not included in the CD to be accomplished regardless. That was not always the case and reflects acquiescence by some of the parties, dedication by others, and community input being heard throughout. (As an aside, that input need not come exclusively through the venue afforded by a granite Chamber, but comes constantly, as you well know as elected officials, at the grocery store, the bar, the coffee shop, on the sidewalk, in elections, on Twitter and Facebook, and in many, many other venues. The ears, eyes, and minds of elected officials, public servants, and responsible parties work outside of the Courthouse walls as well as when an agenda item dictates as much. Please accept my compliments to the whole Council for affording comment to proceed through modern means in these difficult times.)

When the initial summary documents were released in May of 2018, four long months after the Agreement in Principle was reached in January, it was a tremendous victory both for disclosure, progress, and process. The work plans which would be encompassed formally in the CD were summarized, distributed and known. Hearings were had, planning progressed, input solicited, and the beginning of a thorough education process commenced. The plans unveiled nearly two years ago have not substantially or substantively changed. What has changed is that 18 pages of summaries have been formalized to meet the muster of attorneys for all parties and that of a senior US federal judge.

Following the meetings to explain these work plans, which I participated in at the front of the room in another life and a different job, the "future land use planning" component began. Meetings were held at the Butte Brewery about what the post-remediation Butte would look like. Necessary to that conversation was an understanding of where and what work would be done, which was explained in detail again during those meetings. These elements of "end land use" are yet another component of Butte's economic future. The public input collected during those meetings is now contained in visuals presented to both you and the public in addition to woven throughout the verbiage of the CD.

To their credit, your staff along with those of the State of Montana, US EPA, and Atlantic Richfield, has sacrificed innumerable evening hours away from their families and friends and free time to facilitate these meetings and community conversations in addition to their regular 9 to 5's.

I'm thankful for their work. I hope you are, and I further hope you tell them so.

But back to the issue at hand: wastes. Exposed, bioavailable, carcinogenic wastes and the opportunity to eliminate their pathways into the residents and waterways of Butte. You have before you a work product that has been thoroughly vetted, meticulously constructed, and whose substantive components have been before the citizenry you represent for the better part of two years. The contaminated wastes and all their human health and environmental risks will remain so long as you do not act. They will remain as long as the State of Montana, US EPA, US DOJ, and primary responsible party do not act. Only after all those parties have signed can a federal judge begin to solicit yet more public input and make a final determination as to the sufficiency of the agreement.

The expediency demanded prior to the Parrot project nearly 3 years ago should now permeate and drive the conversation regarding the approval of the CD, particularly since there is a solution to our Superfund woes staring us all directly in the face. The deal before you is good for Butte's economy, her people's health and our collective future. I urge your support and the Chief Executive's signature without delay.

Thank you for what you do, the sacrifices you make, and your dedication to the town my son and I choose to call home.

Sincerely,

DAN VILLA  
146 Whisper Ridge  
Butte, MT 59701

*The opinions expressed herein are my own and in no way speak for  
or represents any other organization, person, or entity.*

## Davies, Barbara

---

**From:** John Ray <bodinman2003@yahoo.com>  
**Sent:** Monday, April 6, 2020 9:01 AM  
**To:** Commissioners; Michelle Shea; Shea, Michele; Bill Andersen District Ten; Andersen, Bill; Morgan, John; Cindi Shaw; Shaw, Cindi; Sorich, John; Palmer, Dave; BSB Public Input  
**Cc:** John Ray; Dana Barnicoat; Hassler, Eric; Nikia Greene; Sullivan, Karen; Sesso, Jon; Christopher Wardell; Maffei, Mollie; Joyce, Eileen; Josh Bryson; Patricia A. Gallery; Daryl Reed  
**Subject:** Input to Council of Commissioners-Consent Decree-Superfund--Now Is the Time To Decide

This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.

I would like to present the following comments to the Council of Commissioners regarding the Superfund Consent Decree.

Dr. John W. Ray

I am deeply concerned about further delay in the Council of Commissioners voting on approving the proposed Consent Decree. Such delay is risky and will produce little useful in the decision making process. Now is the time to put this matter to rest. There have already been ample opportunities provided for public comment on elements of the Consent Decree. In May of 2018, the Key Remedial Elements release elicited extensive public comment. In 2018 there were also several Land Use Workshops for the public, which allowed for significant public input. In April 2019, the Proposed Plan and draft ROD Amendment were released accompanied by a sixty day comment period. There also were public meetings held in conjunction with the release of the Proposed Plan and ROD Amendment at which the public could comment in person. Many did so. Since the release of the Consent Decree in February of 2020 there have been 29 public activities that also featured citizen input. The Council of Commissioners has also been taking comments since the release of the Consent Decree both verbally and in writing. Other citizen organizations in Butte such as CTEC have held meetings open to the public on the Consent Decree. Numerous editorials and Letters to the Editor have appeared in the local papers. Members of the Council have been contacted directly by members of the public. My point is that, as I said, there has been extensive provision for public comment on the Consent Decree. The opportunities for public comment have been much more than legally required and more than sufficient to provide for meaningful public input. There has been extensive and varied public input. How much is enough? At what point are the risks of delay greater than the benefit of one more public meeting? At some point the time for comment must end and a decision must be made. I think we have reached that point now. Now is the time to decide.

As I have argued, the public's position on the Consent Decree, both of that in support and of those in opposition is known. To me, in a sense enough is enough. I am sure that all of you can recite the arguments for and against the consent decree. I doubt that more public comment will add any new information to the discussion.

Also, once the decree is filed with the court, there will be a thirty day comment period. Once the decree becomes binding there will be opportunities going forward for meaningful public input as the terms of the Decree are implemented. Public input does not end when the Consent Decree becomes final.

Also, there is little compelling reason to hold off deciding, perhaps for months, making a decision in order to have a public meeting where people can come and speak to the Council. There is nothing to be gained by doing this and there is a potential for much to be lost.

Commenting in writing is an effective method of public input. On a topic as complex as the Consent Decree, in some ways written comments are more valuable. Written comments are more durable; often easier to understand; can be more logical and data driven and ideas can be developed better. I am certainly not minimizing public speaking but I would argue that nothing will be sacrificed by relying on written comments, particularly given all of the opportunities that have been afforded for fact to fact input.

Further delay is unwarranted and could be dangerous. It is time to close this chapter of Superfund in Butte. As I have said, the choice is simple: either accept or reject the current Consent Decree. Major changes cannot be made at this stage. EPA cannot order Atlantic Richfield to provide for a restored Creek. If there is further delay, who knows what could happen. Will one of the parties back out? Will the regulatory climate or the legal climate change putting the Decree in jeopardy? Butte needs closure. Now is the time before we lose potentially what is here. For example, will we miss the coming construction season because of delay? Also please consider that Butte's economy will be greatly impacted by the current stay at home regime because of the Coronavirus. By settling this part of Superfund, we can remove a major impediment to Butte's economic recovery and revitalization. So to repeat one more time: Now is the time.