

**BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS
REGULAR MEETING AGENDA
WEDNESDAY, MAY 20, 2020
7:30 PM COURTHOUSE COUNCIL CHAMBERS**

ROLL CALL

11 Present 1 Absent-Bill Anderson

PRAYER AND PLEDGE

John Morgan

APPROVAL OF THE MINUTES – 11 years 0 nays

May 6, 2020 Regular Meeting Minutes

Letters from May 6, 2020 Agenda (1)

Letters from May 6, 2020 Agenda (2)

ITEMS NOT ADDRESSED ON THE AGENDA

None

CHIEF EXECUTIVE’S REPORT

Governor announced that on June 1, 2020 we will be in phase 2, and the Court House will open. The Stodden Park Pool we are looking at June 11, 2020. Season passes are still available.

CHIEF EXECUTIVE’S REPORT ON THE SUPERFUND

PUBLIC COMMENT ON ANY ITEMS ON THE AGENDA

Bill Anderson has joined the meeting.

Phone call: John Ray: Superfund clean-up is only for non-active mining. The clean-up will supply many jobs. There will be a 30-day comment period. The benefits of the CD far out weight the negative. It is time to move on and close this chapter of the Superfund and move on.

Joe Griffin, 1121 West Diamond: Butte will be far richer if you approve the Consent Decree. Letters to be read into the records. See Attached.

SECTION 1: 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

Segregations 2020-204,222,198,219

John Morgan: Makes motion to approve the Consent Agenda, Cindy Shaw seconds. 12 years 0 nays

B. COMMUNICATIONS

1.COMMUNICATION NO. 2020-193

Jack Whelan, Baseball Committee Chairman requesting Council of Commissioners authorization to waive the license fees and charges as the Butte American Legion Baseball Committee would like to



sponsor a firework stand at the north side of the Civic Center parking lot on June 24, through July 5, 2020. We are non-profit organization and proceeds will be used to support the youth of our community.

Concur and Place on File

2.COMMUNICATION NO. [2020-194](#)

Aubrey Jaap, BSB Public Archives Assistant Director requesting Council of Commissioners authorization to apply for a National Endowment for the Humanities "Cares: Cultural Organizations" grant for \$26,177.05. This grant application does not require any matching funds.

[2020-194 Grant Review](#)

Concur and Place on File

3.COMMUNICATION NO. [2020-195](#)

Doug Conway, BSB Law Enforcement Captain requesting Council of Commissioners authorization to apply for grant funding in reference to the Bureau of Justice Assistance US Department of Justice Bulletproof Vest Partnership (BVP-FY 2020 Program. The award request is \$10,320.00 will require a 50% match (5,160.00).

Concur and Place on File

4.COMMUNICATION NO. [2020-196](#)

Doug Conway, BSB Law Enforcement Captain requesting Council of Commissioners to authorize the Chief Executive to sign acceptance of grant funding in reference to the Bureau of Justice Assistance US Department of Justice Coronavirus Emergency Supplemental Funding Program awarded as 2020-VD-BX-0283. The award of \$50,044 will not require a match.

[2020-196 Grant Acceptance](#)

Concur and Place on File

5.COMMUNICATION NO. [2020-197](#)

Cari Coe, BSB Public Archives Program Director requesting Council of Commissioners authorization to apply for a National Endowment for the Humanities "Cares: Cultural Organizations" grant for \$29,580.88. This grant application does not require any matching funds. If awarded, this grant will help offset staffing costs during the COVID-19 shutdown, and to allow the hiring of a temporary intern to develop interactive online historic tours and exhibits.

[2020-197 Grant Review](#)

Concur and Place on File

6.COMMUNICATION NO. [2020-198](#)

Dave Schultz, 1201 W. Copper requesting Council of Commissioners to formalize their deliberation process to assure they are fully informed before voting on matters of significance. Presently the Council is subject to hearing the selective information the Chief Executive or his staff choose to convey, and this has led to uninformed decisions by the Council on important issues.

[2020-198 Memo](#)

Note and Place on File

Jim Fisher: Just wanted to know if the Superfund staff would like to talk about this.

Dave Palmer: If anyone has questions on the Superfund, they are free to call at any time, and this process has worked very well.

Jon Sesso: Mr Schultz has never been in favor of removal of the parrot tailings. The Council has nothing to do with the decision. I think the Council has gone to extraordinary lengths to understand



the Decree. This CD is outlining several projects that will be good for Butte.
Mr. Fisher makes a motion to Note and Place on File, Cindy Shaw seconds. 12 yea, 0 nay

7.COMMUNICATION NO. [2020-199](#)

Mollie Maffei, Deputy County Attorney requesting Council of Commissioners to authorize the Chief Executive to sign an easement granting Northwestern Energy access to replace a line for service in Brown's Gulch. This has been approved by the Public Works Department.

[2020-199 Easement](#)

Concur and Place on File

8.COMMUNICATION NO. [2020-200](#)

Mark Neary, Public Works Director requesting Council of Commissioners to authorize the Chief Executive to sign the Agreement and the Notice to Proceed to Intermountain Construction for the Landfill Cell IV expansion.

[2020-200 Agreement](#)

[2020-200 Notice to Proceed](#)

Concur and Place on File

9.COMMUNICATION NO. [2020-201](#)

Mark Neary, Public Works Director requesting Council of Commissioners to authorize the Chief Executive to sign the Purchase Agreement for Asphalt Hot Mix Supply which was awarded to the lowest bidder Hollow Contracting.

[2020-201 Agreement](#)

Concur and Place on File

10.COMMUNICATION NO. [2020-202](#)

Mark Neary, Public Works Director requesting Council of Commissioners to authorize the Chief Executive to sign the Renewable Resource Grant. This grant will provide funding assistance for the repairs needed on the Parapet Wall at Basin Creek Dam #1. The amount of funds available for these grants is up to \$125,000 and does not require a match.

[2020-202 Grant](#)

Concur and Place on File

11.COMMUNICATION NO. [2020-203](#)

Mark Neary, Public Works Director requesting Council of Commissioners to authorize the Chief Executive to sign the Northwestern Energy construction contract for a gas line to the new shops. The total value of this agreement is \$86,189 to be paid in advance by Butte-Silver Bow.

[2020-203 Agreement](#)

Concur and Place on File

12.COMMUNICATION NO. [2020-204](#)

Mark Neary, Public Works Director requesting Council of Commissioners to authorize the Chief Executive to sign the McGree Corporation Agreement for Solid Waste Collection Services This contract will allow McGree Trucking to continue solid waste collection services for Butte-Silver Bow.

[2020-204 Agreement](#)

Concur and Place on File



Cindy Shaw: I thought that we could clear up some questions concerning the increased rates.

Danette Gleason: There has only been a 5% increase, Residential increased to \$1.13 per month. Not a significant change considering it is over a 5-year period.

Cindy Shaw: This is effective on July 1, 2020, and there will be a Public Hearing.

Danette Gleason: Yes, we will hold a Public Hearing, just as we do annually.

Bill Anderson: I would like to point out that we had a discussion on switching over to the new containers. I have had many complaints about the containers being very congested.

Dave Palmer: This is a much better system, and inexpensive compared to the old system.

Cindy Shaw: Makes a motion to Concur and Place on File. John Morgan seconds the motion
11 yeas 1 nay.

13.COMMUNICATION NO. [2020-205](#)

Mark Neary, Public Works Director requesting Council of Commissioners to authorize the Chief Executive to sign the Form of Agreement and the Notice of Award for Hollow Contracting to perform Chip Sealing Roads for 2020.

[2020-205 Agreement](#)

[2020-205 Notice of Award](#)

Concur and Place on File

14COMMUNICATION NO. [2020-206](#)

Mark Neary, Public Works Director requesting Council of Commissioners for time on the Council of Commissioners June 3, 2020 Council of Commissioners Regular Meeting to open bids for materials for the Dewey Phase 3 Water Line Replacement.

Hold in Committee of the Whole until June 3, 2020

15.COMMUNICATION NO. [2020-207](#)

Mark Neary, Public Works Director requesting Council of Commissioners for time on the Council of Commissioners June 3, 2020 Council of Commissioners Regular Meeting to open bids for materials for the Big Hole Transmission Line.

Hold in Abeyance until June 3, 2020

16.COMMUNICATION NO. [2020-208](#)

Karen Sullivan, Health Officer requesting Council of Commissioners to authorize the Chief Executive to sign the Memorandum of Understanding between the Montana Department of Public Health and Human Services' Addictive and Mental Disorders Division and the Butte-Silver Bow Health Department.

[2020-208 Memorandum](#)

Concur and Place on File

17.COMMUNICATION NO. [2020-209](#)

Karen Sullivan, Health Officer requesting Council of Commissioners to authorize the Chief Executive to sign the Agreement between Butte-Silver Bow Health Department and Lee's Office City.

[2020-209 Agreement](#)



Concur and Place on File

18.COMMUNICATION NO. [2020-211](#)

Dave Palmer, Chief Executive requesting Council of Commissioners concurrence in the following re-appointment to the Tourism Business Improvement District Board of Trustees. This dedicated citizen has graciously agreed to serve on the board as follows.

Concur and Place on File

19.COMMUNICATION NO. [2020-212](#)

Dave Palmer, Chief Executive requesting Council of Commissioners concurrence in the following re-appointment to the Public Library Board. This dedicated citizen has graciously agreed to serve on the board as follows.

Concur and Place on File

20.COMMUNICATION NO. [2020-213](#)

Dave Palmer, Chief Executive requesting Council of Commissioners concurrence in the following re-appointment to the Greenway Service District. This dedicated citizen has graciously agreed to serve on the board as follows.

Concur and Place on File

21.COMMUNICATION NO. [2020-214](#)

Dave Palmer, Chief Executive requesting Council of Commissioners concurrence in the following re-appointment to the Archives Board. This dedicated citizen has graciously agreed to serve on the board as follows.

Concur and Place on File

22.COMMUNICATION NO. [2020-215](#)

Mark Neary, Public Works Director requesting Council of Commissioners to authorize the Chief Executive to pursue the Montana Department of Commerce TSEP grant funds in the amount of up to \$500,000 and associate documents for submittal on or before the June 12, 2020 deadline.

Concur and Place on File

23. COMMUNICATION NO. [2020-216](#)

Julia Crain, Superfund Date Administrator requesting Council of Commissioners to authorize the Chief Executive to sign the Amendment No. 1 to the State of Montana Department of National Resources and Conservation Contract No. RD-WMM-605, and extend the term to December 31, 2020

[2020-216 Amended Grant](#)

Concur and Place on File

24.COMMUNICATION NO. [2020-217](#)

Jon Sesso, Superfund Coordinator requesting Council of Commissioners to authorize the Chief Executive to approve the Superfund Division to pursue Montana DNRC RDG funds in the amount up to \$500,000 for the grant application for submittal by June 1, 2020.

Concur and Place on File



25.COMMUNICATION NO. [2020-218](#)

Mollie Maffei, Deputy County Attorney requesting Council of Commissioners to authorize the Chief Executive to sign an easement granting Fatbeam access to install fiber optic service on Parkmont. This has been approved by the Public Works.

[2020-18 Easement](#)

Concur and Place on File

26.COMMUNICATION NO. [2020-219](#)

Kristen Rosa, TIFID Administrator requesting Council of Commissioners to authorize the Chief Executive to sign an Option to Purchase Agreement with Oriden, LLC. The Option to Purchase Agreement is for a 160-acre parcel in Montana Connections located North of REC Silicon. The proposed use of the property is for energy development.

[2020-219 Agreement](#)

Concur and Place on File

Jim Fisher has questions, and the last time we sold property it was for \$2000 an acre, and now we are selling it for \$1500 an acre.

Kristen Rosa: the price was negotiated down to \$1500, because this parcel does not have water and other utilities. They did want to subdivide, and we did not, so we negotiated down on the price.

Mr Fisher make a motion to Concur and Place on file 2020-219. Cindy Shaw seconds the motion.

12 yeas 0 nays

27. COMMUNICATION NO. [2020-220](#)

J.P. Gallagher, Parks and Rec Director requesting Council of Commissioners to authorize the Chief Executive to sign the Construction Management (Appendix A) Scope of work, with Water Environmental Technologies Inc. (WET).

[2020-220 Scope of Work](#)

Concur and Place on File

28.COMMUNICATION NO. [2020-221](#)

Danette Gleason, Finance and Budget Director requesting Council of Commissioners for time on the June 3, 2020 Council of Commissioners agenda to give a presentation on an alternative method for assessing fees for the Countywide Road Maintenance District.

Hold in the Committee of the Whole until June 3 2020

29. COMMUNICATION NO. [2020-222](#)

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 May 13, 2020 in the amount of \$1,620,178.55 and for the week of May 20, 2020, which will be available after 6:00 pm on Tuesday May 19, 2020

Concur and Place on File

Brenden McDonough makes a friendly amendment to include the check run for the month, \$412,162.41 Cindy Shaw seconds the motion.

McDonough makes an amended motion to authorize Mr Morgan to sign the Expenditure list. Shaw seconds.

12 yeas 0 nays

SECTION 2: COMMUNICATIONS TO BE READ AND ACTED UPON



1.COMMUNICATION NO. 2020-210

Dave Palmer, Chief Executive respectively requests the Council of Commissioners authorization to sign the Consent Decree (CD) for the Butte Priority Soils Operable Unit.

Jon Sesso: The time has come to take a vote and have the Chief Executive to sign the Consent Decree.

John Sorich: Thanks to all who wrote letters. I will support the CD. Great job to all involved.

Cindy Shaw: Thanks to all the people who have worked on this. I feel honored and privileged to be a part of this. I will also say yes to the CD.

Michele Shea: Our citizens of Butte have made it clear that they want the CD. It is time to move dirt and get this signed.

Shawn Fredrickson: I am a 5 generation Butte person and my son is the 6th, I will be voting yes to the CD.

Brenden McDonough: Thanks to the Citizens of BSB for all their input. Chief Dave Palmer, the superfund department and the Commissioners that have all fought hard to get this done.

Dan Olsen: Thanks to all who have worked on this. EPA. State of Montana, Arco BP, Superfund who have worked 30 plus years. I also support the CD.

John Morgan: Thanks for all the comments, and our IT staff for all they have done.

I make a motion to concur and Place on file and ask that we individually express our votes.

Dan Olsen seconds the motion.

10 yeas 2 nays- Mr Fisher and Mr Anderson

SECTION 3: ORDINANCES AND RESOLUTIONS FOR INTRODUCTION

1.COUNCIL BILL NO. 2020-03

ORDINANCE NO. 2020-03

AN ORDINANCE ESTABLISHING A NEW CHAPTER OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) TO BE NUMBERED 12.17 AND TO BE ENTITLED “PARKLET/PEDLET PERMITS” AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL BILL NO. 2020-04

ORDINANCE NO. 2020-04

AN ORDINANCE AMENDING CHAPTER 8.02 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (BSB-MC) ENTITLED “VACANT BUILDINGS”, AND SPECIFICALLY AMENDING SECTIONS 8.02.020, 8.02.030, ENACTING A NEW SECTION 8.028.040, AND AMENDING BY RENUMBERING THE PRIOR SECTION 8.02.040 TO 8.04.050, RENUMBERING 8.02.050 TO 8.02.060, RENUMBERING AND AMENDING 8.02.060 TO 8.02.070, RENUMBERING 8.02.070 TO 8.02.080, RENUMBERING AND AMENDING 8.02.080 TO 8.02.090 AND APROVIDING FOR AN EFFECTIVE DATE HEREIN.

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

1.RESOLUTION NO. 2020-21

A RESOLUTION AMENDING THE BUDGET DURING FISCAL YEAR 2019-2020 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 LAW ENFORCEMENT



DEPARTMENT FROM THE UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS FOR CORNAVIRUS EMERGENCY SUPPLEMENTAL FUNDING TO BE APPROPRIATED FOR EXPENDITURES RELATED TO LOCAL LAW ENFORCEMENT DEPARTMENT AND DETENTION CENTER AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

John Morgan makes a motion to place on final reading, Shaw seconds. 12 yeas, 0 nays

John Morgan makes a motion to pass and place on final reading 12 yeas 0 nays

2. RESOLUTION NO. 2020-22

A RESOLUTION DIRECTING THE BUTTE-SILVER BOW LAND RECORDS DEPARTMENT TO MAIL NOTICE OF PENDING TAX DEED ISSUANCE TO ALL PERSONS CONSIDERED INTERESTED PARTIES FOR EACH PROPERTY FOR WHICH THERE HAS BEEN ISSUED A TAX CERTIFICATE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 15-18-212, MCA; FURTHER DIRECTING THE TREASURER TO ISSUE A TAX DEED FOR THOSE PARCELS OF PROPERTY WHERE THERE HAS BEEN ISSUED A TAX CERTIFICATE AND THE EXPIRATION DATE OF THE REDEMPTION PERIOD HAS EXPIRED AND THE REQUIRED PAYMENTS HAVE NOT BEEN MADE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

John Morgan makes a motion to place on final reading, Shaw seconds. 12 yeas, 0 nays

John Morgan makes a motion to pass and place on final reading 12 yeas 0 nays

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

No public comments on the phones.

CALENDAR OF OTHER MEETINGS AND EVENTS

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

ADJOURN

MEETINGS

THE COMMITTEE OF THE WHOLE MEETING WILL BE MAY 27, 2020 BUT THE OTHER SMALLER MEETINGS WILL RESUME AT A LATER DATE DUE TO COVID-19.

REPORTS

COMMITTEE OF THE WHOLE REPORT

MAY 13, 2020

TO THE HONORABLE CHIEF EXECUTIVE AND MEMBERS OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

Ladies and Gentlemen,

We, your Committee of the Whole Committee, respectfully recommend as follows:



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

1.COMMUNICATION NO. 2020-192

Leslie Clark, Human Resource Director requesting Council of Commissioners authorization for a presentation by Lori Fearon of Payne West Insurance regarding the July 1, 2020 Butte-Silver Bow health insurance renewal.

Presentation was held

SECTION 2. COMMUNICATIONS

1.COMMUNICATION NO. 2020-157

Eldon Beall, 315 S. Dakota Street requesting Council of Commissioners pull Communication No. 19-443 and Communication No. 2020-90 out of the Suspense File to be placed on the next Public Works Committee agenda.

Move Communication No. 19-443 and 2020-90 to the Committee of the Whole

2.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.

Place on File

3.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.

Place on File

4.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.

Place on File

5.COMMUNICATION NO. 19-578

Gary Rundle, Citizen requesting Council of Commissioners consideration to purchase property located at 1820 Banks Ave, Butte MT. I wish to redeem the property from Butte-Silver Bow before the tax sale in February.

Hold in Abeyance

6.COMMUNICATION NO. 19-582

Ed Banderob, Greeley Neighborhood Community Development Corporation requesting Council of Commissioners to invite a Montana DPHHS' Toxicologist to give a Presentation relative to the Hazards/Risks to human health of heavy metals contaminates present in the Butte-Silver Bow Community.

Hold in Abeyance

7.COMMUNICATION NO. 2020-04

Michael Townsend, Citizen requesting Council of Commissioners to consider the repurchase of my home located at 105 West Porphyry. I will comply with all Rules and Regulations of the County Enrichment Program.

Hold in Abeyance

8.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.

Place on File

9.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.

Place on File

10.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.

Place on File

11.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.

Place on File

12.COMMUNICATION NO. 2020-132

Jim Fisher, Commissioner District 6 requesting Council of Commissioners to consider drafting a Resolution that would amend the Butte-Silver Bow Charter pursuant to the attached certificate #2, to eliminate the twelve (12) elected Council of Commissioners and the elected Chief Executive positions. Those positions would be replaced with a Legislative Commission consisting of five (5) City-County Representatives elected at large by the electors of Butte-Silver Bow County Montana.

Note and Place on File

ADJOURN

FINANCE & BUDGET COMMITTEE MEETING REPORT

MAY 6, 2020

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, and Chairman John Morgan, respectfully recommends as follows: Expenditure report for the week of April 22, 2020 was reviewed and approved for the amount of \$836,549,.46 for the week of May 6, 2020.



District 1 - Shawn Fredrickson
District 2 - Michele Shea
District 3 - Chairman, John Morgan
District 4 - John Sorich
District 5 - Dan Olsen
District 6 - Jim Fisher
District 7 - Josh O'Neill
District 8 - Brendan McDonough
District 9 - Eric Mankins
District 10 - Bill Andersen
District 11 - Vice-Chair, Cindi Shaw
District 12 - Dan Callahan

YES
NO
YES
YES
YES
NO
YES
YES

YES
NO
ABSTAIN

Individual Poll Results

Meeting:

Topic: Butte-Silver Bow Council of Commissioners Regular Meeting
Host: Jason Parish
Number of attendees: 19

Poll:

Type: Individual results
Date: Wednesday, May 20, 2020
Starting time: 7:32 PM
Actual Duration:
Time limit:

Q1.Approval of the Minutes May 6 2020

	Answers	Results	%
A	Yes	11/19	58
B	No	0/19	0
C	Abstain	0/19	0
	No Answer	8/19	42

Attendees	A	B	C
Shawn Fredrickson	●		
cshaw	●		
emankins	●		
jpmorgan	●		
ehassler			
dolsen	●		
jfisher	●		
Julia Crain			
jsorich	●		
dcallahan	●		
mneary			
bmcdonough	●		
ejoyce			
Michele Shea	●		
dpalmer			
Jon			
dgleason			
mmaffi			
joneill	●		
✓Correct Answer			

Individual Poll Results

Meeting:

Topic: Butte-Silver Bow Council of Commissioners Regular Meeting
Host: Jason Parish
Number of attendees:20

Poll:

Type: Individual results
Date: Wednesday, May 20, 2020
Starting time: 8:38 PM
Actual Duration:
Time limit:

Q1.COMMUNICATION NO. 2020-198

Answers	Results	%
A Yes	12/20	60
B No	0/20	0
C Abstain	0/20	0
No Answer	8/20	40

Attendees	A	B	C
Shawn Fredrickson	●		
cshaw	●		
emankins	●		
jpmorgan	●		
ehassler			
dolsen	●		
jfisher	●		
Julia Crain			
jsorich	●		
dcallahan	●		
mneary			
bmcdonough	●		
ejoyce			
Michele Shea	●		
dpalmer			
Jon			
dgleason			
mmaffei			
joneill	●		
bandersen	●		
✓Correct Answer			

Individual Poll Results

Meeting:

Topic: Butte-Silver Bow Council of Commissioners Regular Meeting
Host: Jason Parish
Number of attendees:20

Poll:

Type: Individual results
Date: Wednesday, May 20, 2020
Starting time: 8:49 PM
Actual Duration:
Time limit:

Q1.COMMUNICATION NO. 2020-204

	Answers	Results	%
A	Yes	11/20	55
B	No	0/20	0
C	Abstain	0/20	0
	No Answer	9/20	45

Attendees	A	B	C
Shawn Fredrickson	●		
cshaw	●		
emankins	●		
jpmorgan	●		
ehassler			
dolsen	●		
jfisher	●		
Julia Crain			
jsorich	●		
dcallahan	●		
mneary			
bmcdonough	●		
ejoyce			
Michele Shea	●		
dpalmer			
Jon			
dgleason			
mmaffi			
joneill	●		
bandersen			
✓Correct Answer			

Individual Poll Results

Meeting:

Topic: Butte-Silver Bow Council of Commissioners Regular Meeting
Host: Jason Parish
Number of attendees:20

Poll:

Type: Individual results
Date: Wednesday, May 20, 2020
Starting time: 8:54 PM
Actual Duration:
Time limit:

Q1.COMMUNICATION NO. 2020-219

	Answers	Results	%
A	Yes	11/20	55
B	No	0/20	0
C	Abstain	0/20	0
	No Answer	9/20	45

Attendees	A	B	C
Shawn Fredrickson	●		
cshaw	●		
emankins	●		
jpmorgan	●		
ehassler			
dolsen	●		
jfisher	●		
Julia Crain			
jsorich	●		
dcallahan	●		
mneary			
bmcdonough	●		
ejoyce			
Michele Shea	●		
dpalmer			
Jon			
dgleason			
mmaffi			
joneill	●		
bandersen			

✓Correct Answer

Individual Poll Results

Meeting:

Topic: Butte-Silver Bow Council of Commissioners Regular Meeting
Host: Jason Parish
Number of attendees:20

Poll:

Type: Individual results
Date: Wednesday, May 20, 2020
Starting time: 8:57 PM
Actual Duration:
Time limit:

Q1.COMMUNICATION NO. 2020-222

	Answers	Results	%
A	Yes	12/20	60
B	No	0/20	0
C	Abstain	0/20	0
	No Answer	8/20	40

Attendees	A	B	C
Shawn Fredrickson	●		
cshaw	●		
emankins	●		
jpmorgan	●		
ehassler			
dolsen	●		
jfisher	●		
Julia Crain			
jsorich	●		
dcallahan	●		
mneary			
bmcdonough	●		
ejoyce			
Michele Shea	●		
dpalmer			
Jon			
dgleason			
mmaffei			
joneill	●		
bandersen	●		
✓Correct Answer			

Individual Poll Results

Meeting:

Topic: Butte-Silver Bow Council of Commissioners Regular Meeting
Host: Jason Parish
Number of attendees:20

Poll:

Type: Individual results
Date: Wednesday, May 20, 2020
Starting time: 8:33 PM
Actual Duration:
Time limit:

Q1.Consent Agenda

	Answers	Results	%
A	Yes	12/20	60
B	No	0/20	0
C	Abstain	0/20	0
	No Answer	8/20	40

Attendees	A	B	C
Shawn Fredrickson	●		
cshaw	●		
emankins	●		
jpmorgan	●		
ehassler			
dolsen	●		
jfisher	●		
Julia Crain			
jsorich	●		
dcallahan	●		
mneary			
bmcdonough	●		
ejoyce			
Michele Shea	●		
dpalmer			
Jon			
dgleason			
mmaffei			
joneill	●		
bandersen	●		
✓Correct Answer			

Individual Poll Results

Meeting:

Topic: Butte-Silver Bow Council of Commissioners Regular Meeting
Host: Jason Parish
Number of attendees: 19

Poll:

Type: Individual results
Date: Wednesday, May 20, 2020
Starting time: 9:32 PM
Actual Duration:
Time limit:

Q1.RESOLUTION NO. 2020-21

	Answers	Results	%
A	Yes	11/19	58
B	No	0/19	0
C	Abstain	0/19	0
	No Answer	8/19	42

Attendees	A	B	C
Shawn Fredrickson	●		
cshaw	●		
emankins	●		
jpmorgan	●		
ehassler			
dolsen	●		
jfisher	●		
jsorich	●		
dcallahan	●		
mneary			
bmcdonough	●		
ejoyce			
dpalmer			
Jon			
dgleason			
mmaffi			
joneill			
bandersen	●		
Michele Shea	●		

✓Correct Answer

Individual Poll Results

Meeting:

Topic: Butte-Silver Bow Council of Commissioners Regular Meeting
Host: Jason Parish
Number of attendees: 16

Poll:

Type: Individual results
Date: Wednesday, May 20, 2020
Starting time: 9:35 PM
Actual Duration:
Time limit:

Q1.RESOLUTION NO. 2020-22

	Answers	Results	%
A	Yes	11/16	69
B	No	0/16	0
C	Abstain	0/16	0
	No Answer	5/16	31

Attendees	A	B	C
Shawn Fredrickson	●		
cshaw	●		
emankins	●		
jpmorgan	●		
dolsen	●		
jfisher	●		
jsorich	●		
dcallahan	●		
mneary			
bmcdonough	●		
ejoyce			
dpalmer			
Jon			
mmaffei			
bandersen	●		
Michele Shea	●		

✓Correct Answer

Individual Poll Results

Meeting:

Topic: Butte-Silver Bow Council of Commissioners Regular Meeting
Host: Jason Parish
Number of attendees: 19

Poll:

Type: Individual results
Date: Wednesday, May 20, 2020
Starting time: 7:26 PM
Actual Duration:
Time limit:

Q1. ROLL CALL

	Answers	Results	%
A	Shawn Fredrickson	1/19	5
B	Michele Shea	1/19	5
C	John Morgan	1/19	5
D	John Sorich	1/19	5
E	Dan Olsen	1/19	5
F	Jim Fisher	1/19	5
G	Josh O'Neill	1/19	5
H	Brendan McDonough	1/19	5
I	Eric Mankins	1/19	5
J	Bill Andersen	0/19	0
K	Cindi Shaw	1/19	5
L	Dan Callahan	1/19	5
	No Answer	8/19	42

Attendees	A	B	C	D	E	F	G	H	I	J	K	L
Shawn Fredrickson	•											
cshaw											•	
emankins									•			
jpmorgan			•									
ehassler												
dolsen					•							
jfisher						•						
Julia Crain												
jsorich				•								
dcallahan												•
mneary												
bmcdonough								•				
ejoyce												
Michele Shea		•										
dpalmer												
Jon												
dgleason												

mmaffei

joneill

✓Correct Answer



Individual Poll Results

Meeting:

Topic: Butte-Silver Bow Council of Commissioners Regular Meeting
Host: Jason Parish
Number of attendees:20

Poll:

Type: Individual results
Date: Wednesday, May 20, 2020
Starting time: 9:30 PM
Actual Duration:
Time limit:

Q1.Suspension of the Rules for Passing Resolutions 2020-

	Answers	Results	%
A	Yes	10/20	50
B	No	0/20	0
C	Abstain	0/20	0
	No Answer	10/20	50

Attendees	A	B	C
Shawn Fredrickson	●		
cshaw	●		
emankins			
jpmorgan	●		
ehassler			
dolsen	●		
jfisher	●		
Julia Crain			
jsorich	●		
dcallahan	●		
mneary			
bmcdonough	●		
ejoyce			
dpalmer			
Jon			
dgleason			
mmaffei			
joneill	●		
bandersen			
Michele Shea	●		
✓Correct Answer			



Fritz Daily
1901 Roosevelt Ave.
Butte, MT 59701

May 14, 2020

Commissioners,

As the elected representatives of Butte Silver Bow it is imperative for you to receive quality reliable information in order to make quality informed decisions. That is especially true of legal advice from the County Attorney concerning the upcoming Consent Decree. As I have written to you in the past, ***this decision is one of the most important decisions that will ever be made in the history of Butte Montana, if not the very most important. The economic, environmental and social future of our great community depends on the quality of that decision.***

I don't write this email/letter to be critical of anyone. I write it as a lifelong Butte resident concerned about the future of my great community. I spent four years of my life and thousands of hours of research and dedication as a member of Silver Bow Creek Headwaters Coalition involved in a lawsuit against the State of Montana. Throughout the process I learned a great deal about the legal process and I have made a concerted effort to pass that knowledge along in the process—both positive and negative information. Simply put as I wrote in my historical report for the Butte Archives at the request of Ellen Crain—***I learned that the Judicial System is a very difficult legal process for any individual trying to do what is right and is in the best interest of the residents of the State. To put it bluntly, the legal system is not designed to help what I call the "little Guy!" If it was not for attorneys like Jim Goetz to represent folks like Sister Mary Jo, Ron and I on a contingency basis, a suit like ours would be impossible! As Sister Mary Jo McDonald stated at the conclusion of the successful lawsuit—"Sometimes David does actually beat Goliath!"***

In my view, while I personally do not know the County Attorney, as a former seven term Montana Legislator, I have great respect for her and for the Council. However, I believe much of the information in the recent Press Release by County Attorney Joyce and letter to the Council contains misguided information. I did not know, as I would suspect many of you did not know either, Ms. Joyce actually received legal Advice from Ryan McLane, an attorney with the law firm of Franz and Driscoll in Helena Montana in order to write you the letter!

"Additionally, it is worth noting that this contested stretch of Silver Bow Creek did not contain any free-flowing water at the time the Superfund law was enacted (1980) nor at the time the BPSOU was established (1991). Perhaps more significantly, this contested stretch of Silver Bow Creek has not had natural water flows since mining of the Berkeley Pit started in 1955. Open pit mining effectively cut off the headwaters source of flow to Silver Bow Creek. Presently, there is no public support to terminate mining activities in Butte."

Former District Judge Brad Newman handled the case and is one of the most well respected Judges in Butte and Montana's history. Judge Newman did not take this case lightly. Because of his due diligence, and extreme knowledge of Montana Law and Montana Constitution he was able to make the quality decision he did. Any quality attorney in the State of Montana would uphold and respect that decision. As every attorney knows--The Devil in the details!

The reality is, the "Law is the Law" and the "Constitution is the Constitution" as proven by Jim Goetz and confirmed by Judge Newman!

The most important point that needs to be made in this case is the fact that while the initial case dealt with the name of the Creek, the State of Montana, and not Silver Bow Creek Headwaters Coalition, initiated the claim that Silver Bow Creek from Texas Avenue to Montana Street was not a Creek and thus protected as waters of the State of Montana in Article IX Section 3 of the Montana Constitution that states---"All waters within the boundaries of the State are the property of the State, held in trust, for the use of its people.

At that point in the process the State totally changed the initial lawsuit purpose. They then made the claim in their process to defeat us at any cost that in fact the Creek from Texas Avenue to Montana Street was no longer a Creek because over the years the Creek had been changed and altered, rip rapped and thus was no longer a Creek and in essence was not protected as "waters of the State of Montana" as is the case in the Montana Constitution. This case has many similar characteristics to the Mitchell Slew Case and Stream Access in particular. Our attorney as an attorney for that case used many of the same Montana Law issues in presenting our case.

I do not write this letter as an insult to Eileen or to question her credibility, but I think it is important for you to have accurate quality information to make your decision. It is critical for you to know the history of Silver Bow Creek. Remember---"**Those who forget the lessons of history are bound to repeat the mistakes of history!**"

While I am sure the County Attorney is a competent attorney when it comes to her area of expertise dealing with criminal and county matters, Environmental Law is a specialty area of the Law not familiar and practiced by most attorneys. Judge Newman spent countless hours reading and researching Montana Law and the Montana Constitution before making his excellent quality informed decision. He also received numerous Briefs and held three Hearings open to the public on the issue. Butte and Montana owes him a great deal of credit for his efforts and this quality decision. **Obviously the State did not appeal his decision because the results in the Montana Supreme Court would have resulted in the same result. Not sure if any of his decisions have ever been overthrown by the Court.**

First of all, to insinuate that the members of Silver Bow Creek Headwaters Coalition are anti mining and support terminating mining activities in Butte is an insult to each of us and is absolutely false!

We are all strong supporters of the Montana Resources mine and that support can be confirmed by Mark Thompson of Montana Resources if you so desire. And to indicate that Silver Bow Creek has not had natural water flows since mining of the Berkeley Pit started in 1955 is even hard to believe that anyone who has lived and grown up in Butte could make such a false and inaccurate statement. Here are the facts:

- **Silver Bow Creek from its confluence at Dixie Creek and Yankee Doodle Creek above the Yankee doodle Tailing Pond, where is still exists, to the Warm Springs Ponds is classified as a "gaining stream"! Meaning---A stream that receives water emerging from a submerged spring or other groundwater seepage which adds to its overall flow. For you information cutthroat trout still survive in Silver Bow Creek above Yankee doodle Tailings Pond.**
- **Groundwater flowed to Silver Bow Creek and kept it as natural water flow until the French Drain was installed by the Atlantic Richfield Company in 2003-2005. At that point the Atlantic Richfield Company as written by The Trout Slayer on Facebook---"Atlantic Richfield {AR} and EPA have taken our creek channel to move their dirty storm water to their treatment ponds in the middle of our town. Now we can't use the channel for a creek because AR and EPA have taken it. How is EPA and AR allowed to take the channel from the public?"**
- Dixie Creek and Yankee Doodle Creek are not the only creeks that flowed to Silver Bow Creek. Horse Canyon Creeks that flowed from the Columbia Gardens entered Silver Bow Creek just west of the Concentrator and flowed to the Creek as a "natural water flow" along Continental Avenue until sometime in the early 1990's. My great friend Al Beavis a historic mine worker who worked for Montana Resources has told me that at least six creeks flowed off of the East Ridge to Silver Bow Creek.
- And while yes the Berkeley Pit did cut off the flow of the Creek, that absolutely did not happen in 1955 as indicated by the County Attorney and it did flow as a "natural water flow" until sometime in the 1960's.
- I also have numerous photos that I have attached that you may find of interest supporting my thoughts.

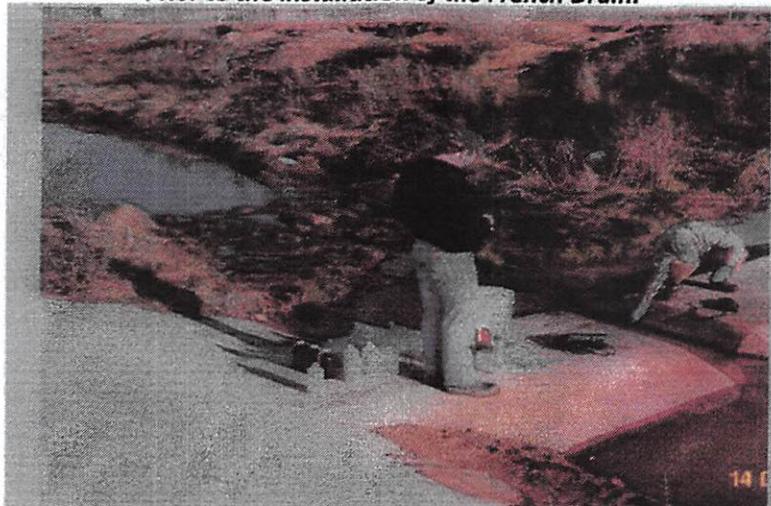
With that information, and there absolutely is much more including, **Discovery, Depositions, Mediation, Hearing Information, etc. and numerous meetings and phone conversations between the parties**, I would advise you as Council Members and especially the County Attorney to visit the Butte Archives to acquire the needed knowledge to make the important decision you are about to make. Jim Goetz the quality person that he is donated all of the legal work for you to learn the truth about Silver Bow Creek and its History. I also donated all of the material I acquired throughout the process and it is also available at the Archives.

In closing while I am not an expert I write this from my heart and recollected knowledge. This is my sole opinion as a former seven-term Legislator who has been involved and fought for the Stream Access issue in numerous sessions. I worked against and have witnessed numerous attempts by many to change that extremely important decision.

I believe strongly that if Butte Silver Bow, the EPA and the State are successful in their efforts to accept the inferior Cleanup and restoration of Silver Bow Creek from Texas Avenue to Montana Street using the fact that Silver Bow Creek from Texas Avenue is not a Creek, their logic/information and conclusion will be used extensively in the future to overturn Montana's Stream Access law! "Out of Staters" like Huey Lewis and Mr. Kennedy from the Ruby River will love this assessment and attempt once again to own the waters and deny Montana residents to access those waters. Please don't let that be your legacy!

Fritz Daily

Silver Bow Creek 1994---Bureau Of Mines Photo
Free Flowing Stream
Prior to the installation of the French Drain.



Davies, Barbara

From: Frank C. Boroni <madchemist@bresnan.net>
Sent: Sunday, May 17, 2020 1:24 PM
Cc: Sorich, John; Fisher, James; Mankins, Eric; McDonough, Brendan; Shea, Michele; Andersen, Bill; Shaw, Cindi; O'Neill, Josh; Olsen, Dan; Morgan, John; Callahan, Dan; Palmer, Dave; BSB Public Input; Editors; Fritz Daily
Subject: Three maps from the Library of Congress
Attachments: Silver Bow Creek-A.jpg; Silver Bow Creek-B.png; Silver Bow Creek-C.jpg

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 all:

I have attached three maps from the Library of Congress showing Silver Bow Creek flowing through Meaderville from the north. If you enlarge picture "Silver Bow Creek-A," you can clearly read Silver Bow Creek named on the creek that flowed through Meaderville from the north and see that it joined another creek around Texas Ave in picture "Silver Bow Creek-C."

This is incontrovertible proof that the upper Silver Bow Creek existed even beyond Texas Avenue.

These pictures also show that upper Silver Bow Creek was destroyed by open pit mining in the area as its location was where the pit is now.

Here is the link to the Library of Congress maps site where I got these pictures: <https://www.loc.gov/maps/?fa=location%3Amontana%7Clocation%3Abutte&all=true&st=slideshow>

Updated earlier email:

Reply to Commissioner Dan Olsen's email statement to me (15 May 20) that **"As it has been said many times, there never was a "creek" in that area, it was a wetlands due to the lack of gradient for the water to flow with the volume and intensity of a meandering creek"**

As it has been said many times: When a lie is told over and over and over, soon people believe it to be the truth.

I grew up in Meaderville, at 11 Harrison Street and 11 Main Street (my grandmother and great grandmother's homes). I had to walk to Holy Savior School every day of my first four grades. In doing so, I had to walk a bridge over Silver Bow Creek, flowing through Meaderville, many times and sometimes waded through it to the dismay of my parents.

We used to put nails in the water so we could turn them to copper. Its stream bed was at least 10 ft wide and in some places several feet deep. The lagoons/ponds fed by the creek claimed the life of a young Meaderville boy in the early 50's when he went swimming in one. My great-grandmother's home was next to the Alpine bar at 9 Main Street across from those ponds.

There was a highway bridge south of Meaderville over the creek and the railroad tracks. The bridge was part of the road from Butte to Helena. It was the continuation, traveling east, of Park Street in uptown Butte.

The Anaconda Copper Mining (ACM) company pumped mine water into Silver Bow Creek north of Meaderville. Sometime in the early 50's, the ACM Company built a Precipitating Plant to extract 97% pure copper from the mine water pumped into the creek. The Plant was located in North Meaderville. In the 50's, my father had the contract to supply tin cans to the Plant for the precipitation process. I road semi trucks with him and helped him with unloading the tin cans at the Plant many times in my teens.

There is no doubt that Silver Bow Creek was there, a rather full running creek from north of Meaderville, running near where the Concentrator is now located. In 1955, the ACM began open pit mining. Sometime in the 60's or early 70's, the creek was destroyed as the pit gobbled up it and Meaderville.

Watch the YouTube video at <https://www.youtube.com/watch?v=pNy6c9LGId8>. (Meaderville Montana Landscape 1959 – 1961) The first part of that video shows the Precipitating Plant fed by Silver Bow Creek and the Copper Sulfate icicles that grew from leaks in the side of the wooded bins that held the copper water from the creek while the iron cans were being dissolved.

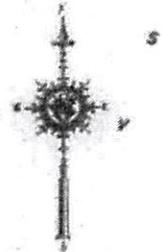
The other flow for the headwaters of Silver Bow Creek came from a couple of flows from the East Ridge through the Columbia Gardens. When the Gardens was built, the ACM company built a wooden trough to direct the water through the Gardens area. The trough was, in my recollection, at least 6ft deep, and 8 ft wide with a bridge crossing it at the upper pavilion so that people could cross over it. We used to wade in the water, which, during the spring thaw was quite a significant flow. In high school, we used to cool our picnic watermelons in the creek along side the upper Gardens' Pavilion.

Whoever says there never was a creek there, is woefully mistaken. I lived there, saw it was there, played in it there, remember clearly that it was there, as do so many other people who lived in Meaderville, and McQueen, and who live in Butte.

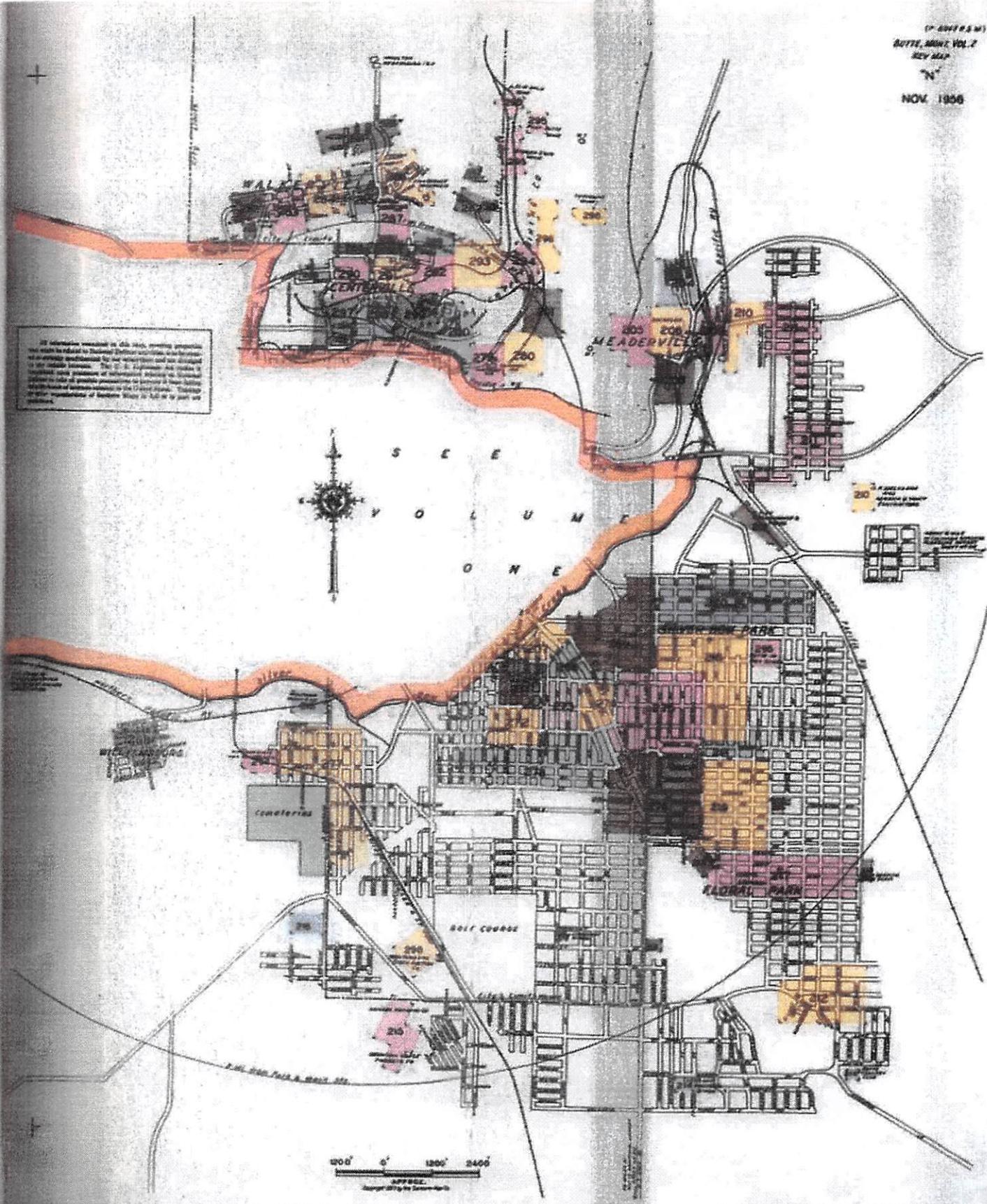
I am opposed to this Consent Decree being signed without the upper Silver Bow Creek, the section in question, being included for restoration. The Consent Decree must include language that explicitly states that the restoration of upper Silver Bow Creek will be completed and paid for by Arco with time being of the essence.

Sincerely,
Frank C. Boroni

All information contained on this map, including geographic names, is based on the latest available information. It is not intended to be used for navigation. The U.S. Government is authorized to reproduce and distribute reprints for government purposes not withstanding any copyright notation that may appear hereon. This map is the property of the U.S. Government and is loaned to you for your information only. It is not to be used for any other purpose.

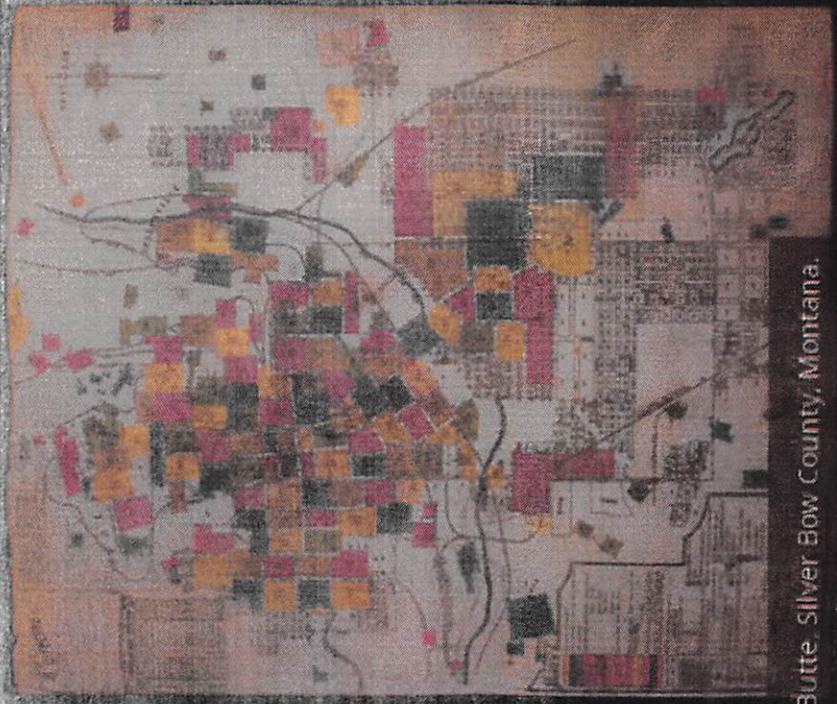


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View Slideshow Sort By Select



Sanborn Fire Insurance Map from Butte, Silver Bow County, Montana.

A vertical navigation bar on the right side of the screen. It contains a series of 12 square thumbnails. The second thumbnail from the top is highlighted with a white border, indicating it is the current slide in the slideshow. Above the thumbnails is a white arrow pointing to the right, and below them is a white arrow pointing to the left. At the very top of this bar is a small icon of a globe with a location pin.

Please complete the form below to submit your questions / comments to Butte-Silver Bow Council of Commissioners.

First Name	MaryKay
Last Name	Craig
Address1	518 W Granite St
Address2	Field not completed.
City	Butte
State	Montana
Zip	59701
Phone Number	406 723-3851
Email Address	marykathleencraig@gmail.com

Questions or Comments

Please select the Commissioner(s) related to your message:

Council Secretary , District 1 - Commissioner Cindy Perdue-Dolan, District 2 - Commissioner Sheryl Ralph, District 3 - Commissioner John Morgan (Chair), District 4 - John Sorich, District 5 - Commissioner Dan Olsen, District 6 - Commissioner Jim Fisher, District 7 - Commissioner Bud Walker, District 8 - Commissioner Brendan McDonough, District 9 - Commissioner Dan Foley, District 10 - Commissioner Bill Andersen, District 11 - Commissioner Cindi Shaw (Vice-Chair), District 12 - Commissioner Dan Callahan

Please leave your comments or questions below. (*Names need updating.)

May 5, 2020

Dear Commissioners,

I am submitting two Consent Decree documents through this portal. This one relates to Silver Bow Creek while the other covers all Priority Soils issues I raised in the ROD Amendment public comment period last July 11. It is submitted as an attachment here.

1) Silver Bow Creek

My creek comments to you are in my guest editorial in our daily paper yesterday, to wit:

April 4, 2020 edition The Montana Standard
Editor,

The myopia of a few who deem the first mile of Silver Bow Creek impossible to restore rests in their desire for immediate gratification. In my 29 years of work on Superfund issues in Butte I've gained a strong desire to provide future people of Butte with the "clean and healthy environment" that our Montana Constitution says is an inalienable right.

I'm a founder of 1995's Citizens for Labor and Environmental Justice, CLEJ, and brought that group to the Restore Our Creek Coalition in 2015. That means my priorities are similar to those of our Council of Commissioners who will decide on the degree of cleanup Butte receives in forever time. We'd all like to see ENVIRONMENTAL JUSTICE for Butte people.

And that will bring economic and social justice with it when a clean, healthful Butte is returned to us.

I grew up two blocks from the smelly, toxics-laden water, sans bugs, birds, or any life. Yet, ROCC looks forward to decades from now, post-mining, when clean water rushes down Dixie, Yankee Doodle and all the streams that created Silver Bow Creek.

ROCC is rooted in a vision of a future natural Silver Bow Creek. Yet, nothing in the Consent Decree recognizes substantively how this would be accomplished. So ROCC's vision prepares the way of the future creek based in scientific data from top Montana Bureau of Mines and Geology engineers who say the groundwater in the corridor will Interim step vital eventually clean itself. The ROCC vision:

- sees the worst contaminated tailings removed and
- allows interim recreational use by citizens of clean, flowing water
- through a temporary lined creekbed
- in a restored parklike setting.

These components are Butte citizen solutions to the lack of any specific commitment to a creek in promises made by the negotiating parties to the Consent Decree. Without this interim lined creekbed, future people here will have nothing on which to trust the negotiating parties that Silver Bow Creek will ever be usable again. And that's why the need for an initially lined creek is so vital.

Please ask our county commissioners be prepared for that day by insisting on a tangible promise now: an MOU outside the CD that is the beginning of clean water running from Texas Avenue to Blacktail Creek.

Future Butte people in perpetuity will thank them for the legacy of justice their forethought today will bring.

--- Mary Kay Craig has worked for the Clark Fork Coalition, is a past chair of the board of both Citizens Technical Environmental Committee, the regional American Lung Association, is spokesperson for CLEJ and its representative to ROCC.

2) Key Issues for Priority Soils Comments

Please make a part of your official comments the attached letter I sent July 11, 2019 into EPA's Priority Soils ROD Amendment public comment process. I was surprised to learn these types of comments were not passed along to all the BSB Council of Commissioners.

A. Note that I specifically asked that low-income renters of substandard housing on the Butte Hill be finally allowed to request and receive testing for Arsenic and Lead in their attics and yards, just as homeowners have been able to do for over a decade. This is a potentially serious Environmental Justice issue that has been neglected for the past 25 years, though addressed frequently with EPA by me and others. There has been no residential metals cleanup for the poor renters living in very old housing stock. I was a party to 18 monthly meetings of the BSB Lead Levels Advisory Council in early 1990's. From that grew the nationally acclaimed Residential Metals Abatement Program where yards and attics are tested by Butte-Silver Bow and, if lead or arsenic is higher than the "already highest in the nation standards" that EPA chose for Butte, the property is cleaned. My own dwelling was cleaned. But I am a home owner, not a renter. Since 1972 the Montana Constitution has guaranteed all citizens "a clean and healthy environment" as an inalienable right; yet, EPA has chosen that the ability to request metals cleanup is NOT open to any Butte renters. I have presented this disparity to the EPA, State DEQ, and BSB ever since the RMAP was created. After Citizens for Labor and Environmental Justice hosted a 2016 public meeting on this topic, EPA's community involvement coordinator followed up with assurance from EPA that they have the authority to, if necessary, force landowners to allow inspection of yards and attics and cleanup where warranted. Today the CD assures the public that this will happen. Great news, but what is different between the assurances over the years and today's assurance in the CD? Nothing. The people want to know how this will be accomplished. Will there be letters sent to folks in low-income housing offering the opportunity to request their homes be tested and cleaned if too much toxicity? This information should be included in the Work Plan accompanying the CD., but it is not. So I ask you Commissioners of BSB, an agent of the State, to now insist an action plan is either put into the Work Plan of the CD, or that a separate MOU, outlining the steps and timeline for this RMAP function be signed by the negotiating parties. Twenty-five years is too many for a known human health deficiency in Superfund cleanup. Please make sure you see a timeline for cleanup so that equity of low-income housing renters is prioritized ahead of the newly announced expanded cleanup options for

homeowner units outside the Priority Soils boundary. A logical and enforceable plan, please.

B. Stormwater Ponds are potentially dangerous. In the "last first mile" of Silver Bow Creek, the CD shows plans for stormwater ponds that will ebb and flow, depositing toxic metals between high and low water lines. Though pictures of attractive wrought iron fencing used elsewhere in the nation for stormwater public safety were provided by ROCC to the parties, the option to prevent vulnerable children from playing at the stormwater "beaches" was denied in the Consent Decree. Warning signage was chosen instead despite the fact little humans love to splash in water and cannot yet read. EPA cites its assumptions of risk to a hypothetical child from frequenting these fun water features, and concludes children are safe. No real data backs this up, not inside the Consent Decree nor elsewhere, I requested more information of EPA and was told I could find it on their web site. Indeed, I searched and did find the topic addressed; however, it again uses assumptions that are not logical without more input such as figures on how much arsenic and lead will come through the corridor. I was told that is not yet known. So how can the assumptions be valid? Will you Commissioners please, be the last stop gap to assure low-income, vulnerable children living near the creek corridor are not harmed by an attractive nuisance. No make that a poisonous attraction.

C. Citizens for Labor and Environmental Justice has continually decried the outsize amount of lead that will be allowed in Butte residences and soils. The 1200 ppm EPA wants Butte people to accept is not logical given the 200 ppm for Anaconda and a negligible amount allowed for most all others in the US. A similar situation exists for Arsenic here. Somehow because pigs or mice seemed to be able to endure a short-term study, Butte people shall be subjected to 1200 ppm of Lead. A simple, clear question to ask is why other cities in the country do not have the 1200 ppm standard if it is so safe?

If the EPA Responsiveness Summary had included all the comments submitted by interested citizens, rather than arbitrarily consolidating them into short general categories that then received general, nonspecific answers, your task would be much easier. Perhaps you could ask to access the previous public comments sent to the US EPA that so many citizens have submitted. Too many citizen concerns have simply been lumped into categories with dismissive answers instead of comprehensive, logical answers.

I intend these and the attached more detailed comments be

submitted with today's to the Federal judge who will rule on adequacy of this Superfund consent Decree. Again, that's because I was told by a public Superfund official that you have not yet been privy to all the matters of public concern that your volunteer neighbors brought to the EPA. And that's a shame when, as the final decision makers, neither you nor the judge, has been involved in Butte Superfund meetings over the decades while responsible citizens have been. Why not consider all the worries of those who've spent years of their lives trying to get an adequate cleanup for Butte.

I thank you very sincerely for your thoughtful attention to my own and other citizen concerns. After over a quarter century of Butte Priority Soils work, I hope you will take your time and not be pushed as you perform your due diligence toward decisions that will affect Butte businesses and people into perpetuity. It would be good if you could see your way to allow Butte people to learn what their neighbors have been concerned about so they might also find they would like to comment in kind with their own letters. If you have any questions about any of my statements, please contact me at 723-3851.

Attach a File

20-5-6 MK Craig to BSB Cmsnrs - comments to BPSOU ROD Amendment 7-11-19.docx

Attached again are the comments into EPA and DEQ that have not yet been shared with the BSB Cncl of Commissioners. Oh, my husband, George Waring, also wrote through the Commissioners' public website with his opinion. Is it lost forever, or should he resubmit it?

—
Mary Kay Craig
518 W. Granite St.
Butte, MT 59701
406 723-3851
marykathleencraig@gmail.com

Davies, Barbara

From: John Ray <bodinman2003@yahoo.com>
Sent: Monday, May 18, 2020 8:31 AM
To: BSB Public Input; Commissioners; Michelle Shea; Morgan, John; Shea, Michele; Sorich, John; Olsen, Dan; Jim Fisher; Bill Andersen District Ten; Andersen, Bill; Fisher, James; Callahan, Dan; McDonough, Brendan; Fredrickson, Shawn; O'Neill, Josh; Mankins, Eric; Sesso, Jon; Palmer, Dave; Maffei, Mollie; Cindi Shaw; Shaw, Cindi; Hassler, Eric; John Ray; Crain, Julia; Joyce, Eileen
Subject: Summary Comments—Butte Priority Soils Consent Decree

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Summary Comments—Butte Priority Soils Consent Decree

Dr. John W. Ray

There isn't anything really new to say regarding why I support the Consent Decree. In fact, there has been a full vetting of the arguments for and against.

So, please permit me to make just a few concluding remarks as public input:

1. There now seems to be general agreement that the Consent Decree is a good thing for Butte. The Decree provides for aggressive cleanup and removal; there is a comprehensive approach to storm water cleanup; there is significant waste removal, ground water is aggressively remediated; and so forth.
2. The agreement provides for far more than EPA could order under Superfund such as parks, trails, green spaces, water features and, very importantly, the expansion of the Residential Metals Abatement Program to virtually all of Butte.
3. The Current Consent decree provides for a level of cleanup that is unprecedented in terms of other Superfund cleanup sites in the country.
4. The alternatives to the Consent Decree are very distressing. Either we go back to the negotiating table, exert another few years in negotiations and end up with less than we have now **OR** EPA, in order to meet the delisting timeline, issues a Unilateral Administrative Order that gives a bare bones cleanup absent many of the attractive features in the current Consent Decree.
5. EPA has no authority to order Atlantic Richfield to provide for a Restored Silver Bow Creek. To hold the Consent Decree hostage to such an expectation is to demand that which legally cannot be.

- 6. The Consent Decree makes a restored Creek more likely in that it provides for preparatory work that would be necessary for a restored Creek to become a reality.**
- 7. Closing this chapter of Superfund in Butte will remove a significant drag on Butte's economy and provide for more jobs that will be created in implementing the terms of the Decree.**
- 8. Even given the constraints of the current health crisis, there have been abundant opportunities for significant and meaningful public input into the Council's decision. There is extensive public support for the Consent Decree.**
- 9. There will be significant opportunities for additional public comment after the Consent Decree is sent to Federal court and also after the Decree is approved.**

In short, I would argue that if the benefits and costs are weighed, the benefits of this Consent Decree far outweigh the negative. It is time to close this chapter of Superfund in Butte. It is time to move on. It is time for the Council of Commissioners to approve the Consent Decree. The risks of delay far outweigh the benefits to be gained now by a prompt approval of the Consent Decree.

Davies, Barbara

From: Andersen, Bill
Sent: Monday, May 18, 2020 11:50 AM
To: Mary Kay Craig
Cc: Morgan, John; Bill Andersen District Ten; Shaw, Cindi; Erik Mankins; Olsen, Dan; Sorich, John; Fredrickson, Shawn; Fisher, James; Michelle Shea; Callahan, Dan; McDonough, Brendan; BSB Public Input
Subject: Re: CD public comments of May 6 so far omitted from BSB Council meeting records

John can we be sure to have these comments read into the record at this Wednesday's meeting.

Bill

Sent from my iPhone

On May 18, 2020, at 4:07 AM, Mary Kay Craig <marykathleencraig@gmail.com> wrote:

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 Chairman Morgan and Council of Commissioners,

Comments I submitted through the Council's online Public Comment web page on May 6 were acknowledged by email (below), but were not read at that night's Council meeting, nor at the meeting of May 13. I'm aware a member of the Restore Our Creek Coalition followed up with you around May 7 regarding unread comments, so we thought surely they would be included in your May 13 meeting, but they were not. Unable to stream that meeting, I did listen to the entire meeting recording on Sunday, May 17, only to learn they were, once again, not included - not yet read into the public record.

My public comments go beyond issues discussed by any other commenters, as I've worked on Butte Superfund 29 years. I am a founder and advisor to Citizens for Labor and Environmental Justice, so perhaps MOST of you have not heard these concerns before. These are issues I sent into the US EPA and State NRD public comment periods over the past year, but I was told by a County Superfund manager that comments sent to other negotiating parties were not passed along to the Butte-Silver Bow County Commissioners for your consideration. Perhaps you should be allowed to see what are "public" comments about Butte's cleanup before you sign off on the CD. This is not the first time that comments from folks concerned with human health have been "lost." I'm just making sure you see mine. So please exercise your due diligence and consider each of the points I make - in the letter below and in my attachment.. Some, very little, is reiteration of my stance as a part of the five-year long volunteer advocacy work for a getting to a restored Silver Bow Creek for future people of Butte.. Most of the following relates to ENVIRONMENTAL JUSTICE for the low-income folks on the Butte Hill - voiceless. Hey, challenge! ...I'll give \$5 bucks to any one of you who can say you've already heard all the points I present to you below. Game on!

First, the cover letter to my comments dated 5/6/20:

Online Form Submittal: Contact Council of Commissioners

1852 Florida
Butte Mt. 59701
5/13/20

RE: Silver Bow Creek and the Consent Decree

Nine million to 15 million dollars to construct an irrigation ditch between the Civic Center and the KOA. An ethical use of scarce resources?

I attended the meeting at Montana Tech on 14 January during which Water and Environmental Technologies presented their conceptual design of a meandering— one-percent hydraulic gradient— replacement for the open sewer that had a name other than Silver Bow Creek.

Before the meeting, I had the misconception that the stream being considered would follow its original channel through Shirt Tail Flats. I have fond memories of that channel. My father grew up next to its northern bank in the southernmost house on California Street.

Figure 8 in the WET design shows the ditch, after crossing Harrison Avenue, trends south, borders Columbus Plaza, takes a right turn, and then borders Schneider's and Baker's fences as it trends westerly.

The design water flow rate for the irrigation ditch is 10 cubic feet per second— 4488 gallons per minute— a flow-rate about 50% higher than that needed to keep the Berkeley Pit at a static water level.

Mr. Robert Manning, the Irish engineer, and his equation, revealed to me that the irrigation ditch would be about 31 inches wide, and maybe 8 inches deep at its centerline. The methods given in CRANE Technical Paper 410 verify the dimensions. The stream width will thus be less than a quarter of Bell Creek, which was running at 44 cubic feet per second on 11 May.

In 1988, MSE became the operating contractor of a Superfund based cooperative program between the EPA and the DOE. I was the manager of the first project executed under the program. The Resource Recovery subprogram had the objective of finding ways to make valuable products from mining waste. MSE Pilot testing of Berkeley Pit water helped develop the design of the Horse Shoe Bend Plant. The water from the polishing plant is a very valuable resource.

Shirt Tail Flats should be stripped mined to a layer below that of the tailings; it should be backfilled with rock and limestone, and covered with soil on which native plants and trees can grow, irrigated by polishing plant water. Stagnant detention ponds should not be part of the area's remediation; we have enough pestilence and need no more mosquitoes.



Stephan T. Kujawa, PhD., PE

stkujawa@montana.com

Davies, Barbara

From: R Edward Banderob <REBanderob@outlook.com>
Sent: Tuesday, May 19, 2020 9:12 AM
To: BSB Public Input
Subject: Public - Input - Comment for May 20 Council Meeting

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BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS
REGULAR MEETING AGENDA, WEDNESDAY, May 20, 2020

PUBLIC COMMENT ON ANY ITEMS ON THE AGENDA

R. Edward Banderob, 2601 Grand Ave.

Reference: SECTION 2: COMMUNICATIONS TO BE READ AND ACTED UPON

Number 1. COMMUNICATION NO. 2020-210 - requesting the Council of Commissioners authorization to sign the Consent Decree (CD) for the Butte Priority Soils Operable Unit.

Most certainly sign the CD. It is a pencils down, done deal. Take what we can get while the getting is good. Hire the out of town contractor(s) to move the dirt.

We have; to meet water quality standards, to save the fish, to protect the environment.

But please remember the scope of this CD does not even include what is needed to protect human health!

It does not include long term monitoring (testing) for, and mitigation of, hazardous to human health airborne heavy metals originating from the residue of the historic mine waste deposits that will be left.

--
Sent From My Old Clunker
Phone: 406 723 3736 Email: REBanderob@outlook.com

Davies, Barbara

From: Morgan, John
Sent: Wednesday, May 20, 2020 4:18 PM
To: BSB Public Input
Subject: Fwd: CD for BPSOU: Approve

John Morgan
Sent from wireless device

Begin forwarded message:

From: Eric Mankins <mankinsea@gmail.com>
Date: May 20, 2020 at 4:16:17 PM MDT
To: "Morgan, John" <jpmorgan@bsb.mt.gov>
Subject: Re: CD for BPSOU: Approve

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.

Please Read

On Wed, May 20, 2020 at 3:59 PM Barbara Gregovich <BGBMONTANA1@msn.com> wrote:

Hello Eric – I support the approval of the Consent Decree (CD) for the Butte Priority Soils Operable Unit (BPSOU).

Also, I support the Restore Our Creek (ROCC) Project, as well. I believe that the Silver Bow Creek can and should, one day, be restored, as long as no new pumping would be required, and that a restored creek is compatible with the cleanup. I especially appreciated the information and clarifications they published in the Montana Standard on Sunday, May 17, 2020. https://mtstandard.com/restore-our-creek/pdf_c5100b2e-99e3-11ea-987a-cfb83ede306d.html?utm_medium=social&utm_source=email&utm_campaign=user-share

Sincerely,

Barbara Gregovich

[1301 W Porphyry St](#)

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Sincerely,

Barbara Gregovich

[1301 W Porphyry St](#)

Butte, MT 59701

406-782-3470

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).