

## Omissions Paint False Impression of NRD Restoration in Montana

*Carol Fox, M.S. Restoration Chief – Montana Natural Resource Damage Program*

Atlantic Richfield Company (ARCO) has provided only bits and pieces of the Montana Natural Resource Damage (NRD) story and by doing so has painted a false impression of NRD litigation and restoration in Montana.

In 1999, Montana partially settled its NRD lawsuit with ARCO. It settled claims valued at \$640 million for \$215 million. Since it settled for less than its full claim, the State cannot implement its original restoration plan. Other important facts omitted include:

Half of Montana's claim was for compensable damages. Due to the severity of the contamination left by ARCO, the public lost fishing, hunting, and other

recreational services in the Clark Fork River Basin and surrounding areas, and lost use of more than 600,000 acre-feet of groundwater. Acquiring unimpaired wildlife habitat or recreational access directly compensates the public for this lost use and fits well within Montana's compensable damages claim.

For three out of its nine restoration claims, the State selected natural recovery. Had it selected the most intensive actions, Montana's total claim would have been more than a billion dollars.

Because final settlement has not been reached, Montana, with public support, adopted a conservative, temporary policy of spending only the interest from the partial damages award until the NRD litigation is resolved.

Montana is now funding upgrades of Butte's water system out of the damages

recovery, which is a lower cost alternative identified in its 1995 restoration plan. If ARCO had settled for the full amount claimed, the more intensive alternative could have been implemented. Also, out of the \$215 settlement, \$80 million was for the EPA remediation plan for Silver Bow Creek. That plan is being fully implemented and Montana's intensive restoration alternative is also being implemented, including mine tailings removal and reestablishment of fish and wildlife habitat.

Considering the entire claim, including compensable damages, and recognizing that there are parts of Montana's original restoration plan that are outdated or cannot be implemented at this time, what has been spent on restoration and replacement projects well matches Montana's NRD claim.

Contact Carol Fox at [cfox@state.mt.us](mailto:cfox@state.mt.us)



**HARGIS+ASSOCIATES, INC.**  
HYDROGEOLOGY • ENGINEERING

Allocation  
Litigation Support  
Expert Witness Testimony  
Water Supply/Development  
Groundwater & Soil Contamination  
Assessment & Remediation  
CERCLA/Superfund  
Fate & Transport

[www.hargis.com](http://www.hargis.com) 800.554.2744

SAN DIEGO DALLAS PHOENIX TUCSON