

Draft Conceptual Framework for an
Upper Clark Fork River Basin Restoration Priorities Road Map
Executive Summary

This document outlines the Natural Resource Damage Program's proposed conceptual framework for how the Upper Clark Fork River Basin (UCFRB) Restoration Fund be prioritized via earmarking after the settlement of the UCFRB natural resource damage litigation. With the conclusion of its UCFRB natural resource damage litigation, the State enters a phase of transition for how it spends the damages recovered through its three natural resource damage settlements. Some of the settlement funds are earmarked for specific uses in the 1999 Consent Decree for the Silver Bow Creek site, in the 2005 Consent Decree for the Milltown site, and in the 2008 Consent Decree for the Butte Area One, Smelter Hill Area Uplands, and Clark Fork River sites. The majority of the damages awarded in the 1999 settlement that were deposited in the Restoration Fund, however, were not earmarked. This conceptual proposal focuses on further allocations of unearmarked Restoration Funds that are schematically represented in the attached flow chart.

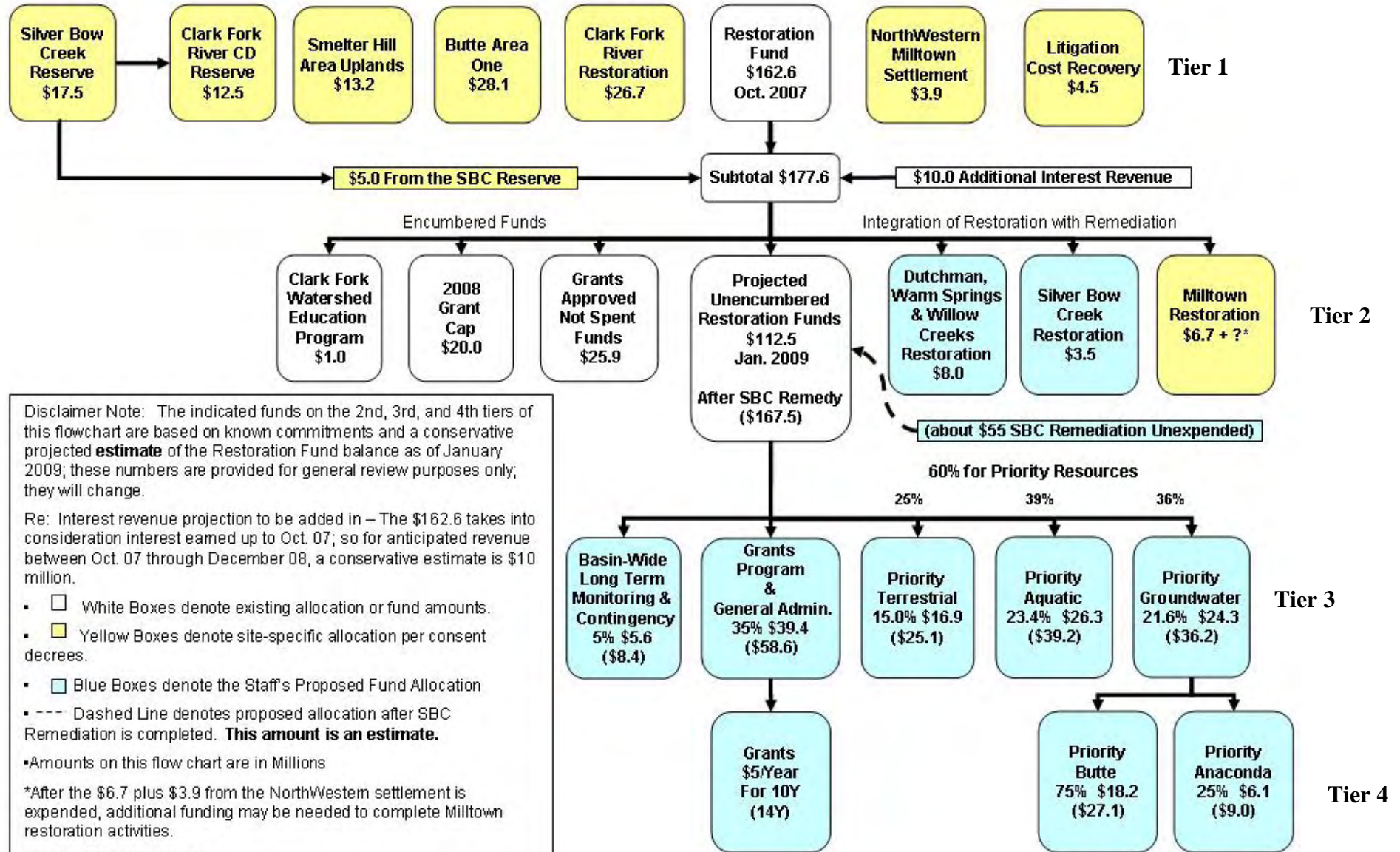
Tier 1 of the flow chart indicates the various funding accounts that either exist now or will be added as a result of the 2008 Consent Decree. All these accounts are interest-bearing and, except for the Restoration Fund, are explicitly earmarked for priority restoration work at injured sites, reserves, or reimbursement of costs.

Tier 2 of the flow chart involves the existing or proposed Restoration Fund commitments for: 1) funds approved for, but not yet spent on, approved grant projects; 2) funds reserved for 2008 grant projects; 3) funds approved for continuation of the Clark Fork Watershed Education Program as a contracted service for four additional years; and 4) funds for integration of remediation and restoration at the sites where that integration is already underway or sufficiently planned such that the funding needed to complete the integration is known. This latter funding category includes: 1) the needed funds to complete the integration of restoration with remediation along Silver Bow Creek and along the Blackfoot and Clark Fork Rivers at their confluence at Milltown; and 2) the needed funds to complete the Dutchman project, which involves integrating remediation and restoration of Warm Springs Creek and Willow Creek and the acquisition of the Ueland/Dutchman lands and water rights from ARCO.

Tier 3 represents how the NRDP proposes the balance of the Restoration Fund be allocated to five separate interest-bearing accounts, once the Tier 2 priority allocations are subtracted. As proposed, sixty percent (60%) of the remaining money in the Restoration Fund would be allocated to groundwater, aquatic, and terrestrial priority funds based on a split of the natural resource claims settled in the 1999 Consent Decree, established as 36% for groundwater resources, 39% for aquatic resources, and 25% for terrestrial resources. The priorities for these funds will be resource-based and established by a prioritization planning process for each natural resource category. Of the remaining 40% of the balance, 35% would be allocated for future grant projects and 5% would be allocated for basin-wide, long-term monitoring and contingency needs. When the remediation of Silver Bow Creek is completed in 2012, any leftover Silver Bow Creek remediation funds, which are allocated to the Restoration Fund under provisions of the 1999 Consent Decree, would be similarly divided up and deposited in these five accounts.

Draft UCFRB NRD Fund Allocation Flow Chart

February 2008



Disclaimer Note: The indicated funds on the 2nd, 3rd, and 4th tiers of this flowchart are based on known commitments and a conservative projected **estimate** of the Restoration Fund balance as of January 2009; these numbers are provided for general review purposes only; they will change.

Re: Interest revenue projection to be added in – The \$162.6 takes into consideration interest earned up to Oct. 07; so for anticipated revenue between Oct. 07 through December 08, a conservative estimate is \$10 million.

- White Boxes denote existing allocation or fund amounts.
- Yellow Boxes denote site-specific allocation per consent decrees.

- Blue Boxes denote the Staff's Proposed Fund Allocation

- Dashed Line denotes proposed allocation after SBC Remediation is completed. **This amount is an estimate.**

*Amounts on this flow chart are in Millions

*After the \$6.7 plus \$3.9 from the NorthWestern settlement is expended, additional funding may be needed to complete Milltown restoration activities.

*SBC – Silver Bow Creek