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The CD & the Creek - take the time to do it right

A Guest Column for *The Montana Standard* by Evan Barrett
April 25, 2020

On April 1, I was the first person to participate as an electronic testifier at a remote, meeting of the BSB Council of Commissioners. As the twelve commissioners, complying with social distancing protocols, were shown from home in a small box on the screen, I phone-in a comment on an important matter. My disembodied voice was heard by the commissioners and the viewing/listening public as I sought to impress them of my concern. They listened, unable to observe my face or body language, common ways to help determine meaning in testimony. There was no opportunity for questions or exchange if members might want it.

I was asserting that it was wrong to pressure forward on the Superfund Consent Decree review through this virus-induced artificial public comment process that will not provide the level of quality public participation the important topic deserves.

Then, on April 15, I was driving around for an hour listening on my car radio to more comment presented to this other-worldly process. I am technologically savvy but that night I could not get properly connected to the proceeding on my computer.

On May 6, I will be in virtual attendance again as the Council takes more comment. This time I am going to try to use video (not done before) so council members might see my face as well as my voice. It might work better, but, who knows?

The Council should try to get input from citizens in the normal way -- face-to-face with their voters. It might take a little more time, but that time would be good for public participation and for fixing a problem with the CD.

Our local government wants to see the Silver Bow Creek restored. They've said it many times, in many ways. But now, they've been presented with a Hobson's choice -- "take what's in the CD or nothing at all."

The Council seems to want to approve the CD with its benefits while it also would like to see Silver Bow Creek restored. But, the CD as formulated, does not allow us to have both. But, the Council's been told they have a black and white, up or down, binary choice -- the CD as presented or nothing.

That Hobson's choice is unfair, unnecessary, arbitrary, and has an artificial deadline.

As to a so-called deadline, none of the other CD parties has given a deadline on Butte citizen's consideration of the 1000 page CD. They've actually said Butte should "take the time that is needed." There actually isn't a deadline.

The Hobson's choice is also arbitrary. Nothing in the EPA's CD process requires parties to swallow an all-or-nothing choice. If the council discovered language that would

unexpectedly cost the county \$1 million a year, Butte wouldn't approve it. They'd go back into the negotiations and fix the problem. Well, if you can go back into negotiations for that, then going back to remove impediments on creek restoration is possible, too. Saying they have no choice is arbitrary.

We do have a problem. Despite the rhetoric, there are significant impediments to creek restoration built into the CD. Yet the CD brings much good with it. This problem needs to be solved. Either change the CD language or solve it outside the CD.

Fixing this dilemma might take a little time. But the hidden pressure of an artificial deadline and an arbitrary take-it-or-leave-it process, is limiting our community's ability to "have our cake and eat it, too." We can have the valuable CD and future creek restoration, but we must work to achieve that goal.

If we can take the time, even wait until a normal council process is available, one that is not artificial or forces citizens to play Russian Roulette with their health in order to participate, I think we can sit down right now and craft a memorandum of understanding. One that lays out a plan, outside of the CD, that provides for creek restoration over time by pledging the parties to cooperation and coordination in getting that important task done. And it can be done while still insuring that future creek restoration adheres to the Atlantic Richfield/EPA remedy.

But, to insure to the people that the creek will actually be restored in the future, we should get that MOU done and signed before the Council signs the CD. Remember, the parties have given Butte the "time it takes" to make things right. Let's take that time, use it wisely, and do the right thing for Butte's future. And hopefully get back to a normal process in our Council meetings as well.

Evan Barrett, now retired, is a community activist and advocate of restoring Silver Bow Creek. He is a member of the Restore Our Creek Coalition, but these are his personal views.

(764 words in the body)