



PO Box 7186 Missoula, MT 59807 (406) 543-0054

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Carol Fox
Montana Natural Resource Damage Program
1301 East Lockey
P.O. Box 201425
Helena, MT 59620

Dear Carol,

Thank you for the opportunity to comment on the draft restoration plans for aquatic and terrestrial resources for the upper Clark Fork River and its tributaries. These comments are in addition to and support comments the program has received from individual TU chapters, TU national's Upper Clark Fork River Restoration Project, and TU national's Montana Water Project.

Montana TU and its 13 chapters have been active proponents of effective remediation and restoration of the Clark Fork River and its tributaries since the early 1970s. We have also been active in restoration activities in watersheds throughout the state in that same period. We don't normally trumpet our accomplishments, but we think it might be instructive for NRD staff and others to understand the depth of our understanding and experience in habitat and flow restoration to increase confidence in the value of our recommendations. For example:

- Montana TU in the late 1980s worked with FWP to create the original River Restoration Program in the wildlife agency, a program that was later greatly expanded by our efforts in the 1995 Legislature to create the Future Fishery Improvement Program. The FFIP has funded tens of millions of dollars in fishery restoration projects, leveraging the state dollars by over time by at least 4:1. (sometimes with NRD dollars). TU chapters or Montana TU have been sponsors or partners in dozens of FFIP projects, involving channel restoration, flow augmentation, elimination of passage barriers, riparian habitat improvements, and other proven restoration activities.

- In the 1989 Montana TU worked with FWP to create the first water rights leasing program for instream flows. In 1995, we negotiated with agricultural groups to modify state water use law to create a similar program that allows private interests to lease water rights for instream flows in the Clark Fork and then statewide. Montana TU, its chapters and its national water project have since engaged in numerous flow-related transactions.
- Montana TU and its partners at the Clark Fork Coalition were active proponents of the mid-1980s proposal to establish water reservations for instream flows (using accepted hydrological methodologies) in the Upper Clark Fork watershed. That effort led to the collaboration that created a water management plan for the Upper Clark Fork, a closure on new surface water rights in the upper basin and formal establishment of the Upper Clark Fork Basin Steering Committee, which has served as a sounding board for water management in the upper Clark Fork region.
- In the 1980s, and later in the early 2000s, Montana TU, its Bitterroot Chapter and later TU's Montana Water Project provided necessary support and funding to create a permanent dedication of stored water from Painted Rocks Reservoir for maintaining crucial summer flows in the Bitterroot River. The work of the Water Project's legal staff, in fact, ensures that this dedication of water will occur in perpetuity. This project helps inform our ideas of what is possible, for example, with the Silver Lake system.
- TU chapters in the upper Clark Fork region have been partners in hundreds of restoration projects in Clark Fork tributaries, including the Bitterroot and Blackfoot River watersheds. Efforts in the Blackfoot alone have resulted in millions of dollars of restoration that have demonstrably proven that tributary enhancement measurably and significantly improves mainstem fisheries.
- Montana TU and its national organization have small grant programs that provide funds for restoration projects implemented by local TU chapters. These projects have, among other things, served as pilot ventures for different field methods.
- Montana TU and its national organization have been deeply involved in numerous FERC relicensing projects in the state (including on the lower Clark Fork), and together with advocacy related to flow improvements in tailwaters at federal and state dam projects throughout Montana, have helped us gain a deep understanding of empirical relationships between flows and fishery benefits.

Again, we only point these items out to demonstrate that our recommendations, as well as the 13 TU project abstracts TU entities have submitted for the draft

aquatics restoration plan, have been informed by decades of experience in restoration of aquatic habitats.

Recommendations and Endorsements

Montana TU generally supports the proposed plan and priorities for aquatics restoration. We strongly urge NRD to ensure that the plans are ultimately adaptive in nature to accommodate changing conditions, including potential changes in ownership, landowner cooperation, development of new science, economic factors, the success of remediation and the ability of project sponsors to navigate complicated administrative processes, such as that involving changes of use for water rights. We find most of the estimated costs to be reasonable. We recommend NRD give serious consideration to the recommendations of the professionals at TU's Montana Water Project related to the water-use change process, sequencing of funding with lease approval, and the development of an instream flow market.

We further recommend that projects that have identified entrainment of fish as a limiting factor are implemented only after a detailed assessment of losses and alternatives have been evaluated. Though we endorse and have developed projects utilizing fish screens, we have learned that before deciding to install a fish screen, cost: benefit evaluations informed by good field data are important. Sometimes alternatives to fish screens are available (perhaps modifying seasonal water management, use of irrigation blow-off points, and even manual removal of fish). Sometimes entrainment losses are offset by compensatory responses in the local trout population. That said, installation of fish screens should be given serious consideration anytime there is entrainment of native fishes, especially if the losses are deemed significant at the population level.

We also recommend that NRD staff take a closer look at the importance of tributary enhancement to improvement of the mainstem fishery and migratory life-histories. We have learned through implementation of more than 100 projects in the Blackfoot River watershed that tributary enhancement directly improves recruitment of important native and wild fishes to mainstem habitats. Telemetry data, as well as post-project monitoring, indicate that the movement of Montana's salmonids, especially native species, is much wider than previously thought. We have also learned that life-history diversity and life-stage requirements require different habitats, and that healthy tributaries – both physical habitat and flows -- are key to the revival of any mainstem fishery, including the Clark Fork. Therefore, though NRD and FWP have rightly prioritized the lower Little Blackfoot, Brown's Gulch, German Gulch, Warm Springs Creek and Racetrack Creeks as Priority 1 streams, it is not unlikely that many of the Priority 2 streams, such as the upper Little Blackfoot River, Harvey Creek, Flint Creek and Mill and Willow Creeks could ultimately prove to be just as important for not only resident fish populations, but also for recruitment of recreational fisheries to the Clark Fork River.

We largely support the plans for terrestrial resources, and especially endorse the proposal for the Confluence Project at Rock Creek (project #48). This project brings great value because of its location, its benefits to both terrestrial and important aquatic resources, and because the project sponsor has assembled an extraordinary complex of matching funds and management partners (including Montana TU and its local chapter).

We also support the plan's recommendations for recreation projects. It includes several access sites long-supported by local TU volunteers.

A Final Observation

We believe NRD staff have done an outstanding job in developing balanced restoration plans for aquatic and terrestrial resources. The product has been based on scientific rigor, and been informed by substantial public involvement. Importantly, the products are also consistent with the intent and outcomes of the original claims for injuries and the consent decrees reached with Arco.

Despite this we know some interests in the upper basin believe it is necessary to diverge from the reasonable public expectation that NRD funds are to be used on behalf of all citizens of the state of Montana for restoration, replacement or enhancement of injured groundwater, aquatic and terrestrial wildlife resources in the Clark Fork basin above the confluence of the Blackfoot River. These interests believe most if not all the outstanding balance of unencumbered NRD funds should be spent in the Silver Bow Creek drainage, and that the respective percentages of funding dedicated to the three resources be modified so that less is spent on aquatic and wildlife resources, and that none of it be dedicated to work in tributaries.

We believe that the upper basin deserves significant NRD funding, especially to replace injured groundwater sources, as well as to restore or replace damaged aquatic and terrestrial habitats. And we have supported projects proposed there. However, it is instructive to note that to date nearly \$112 million of NRD funds have been spent or otherwise allocated to projects in Butte-Silverbow County alone, while another \$24 million has been dedicated to projects in Anaconda-Deer Lodge County. In comparison, Powell, Granite and Missoula Counties in combination have received less than \$30 million for restoration, replacement and enhancement. It's also important to mention that a significant portion of the aquatic and terrestrial dollars will likely be dedicated to projects in the Butte-Anaconda areas. Further, those two communities are slated to receive more than \$40 million for additional investments to replace injured groundwater resources. And all of that is in addition to hundreds of millions of dollars that have been, or will be, invested in remediation in the two upper basin counties.

The damages inflicted on the upper Clark Fork basin by mining and smelting originating in Butte and Anaconda has been widespread. Not all injuries occurred in the two upper basin counties. Some of the damages to downstream aquatic and

terrestrial resources have been so severe, and the loss of use having occurred for such a long period, that it is clear the best investment of limited dollars is often found in replacement projects in tributaries below Warm Springs.

The point is this: Even with the recommendations in these draft plans, the upper basin will still in the end receive the overwhelming majority of total NRD funds for local projects. Further, the damage downstream has been so severe, that the best bang for the buck is sometimes found in tributary projects. To not recognize these realities, and to then diverge from the recommendations in these plans, would do a great disservice to the many Montanans statewide that support restoration of the upper Clark Fork from Butte to Milltown.

Thanks for the opportunity to comment.

Sincerely,

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

Bruce Farling
Executive Director