



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

10 October 2011

Vivian Hammill, Chairwoman  
Clark Fork Restoration Trustee Council  
Box 200801  
Helena, MT 59620-0801

Re: long range restoration priorities and fund allocation guidance plan for  
Clark Fork NRD funds

Dear Ms. Hammill:

Thank you for the opportunity to comment on the Trustee Restoration Council's draft "Upper Clark Fork River Long Range Restoration Priorities and Fund Allocation Guidance Plan." Montana Trout Unlimited represents 3,400 conservation-minded anglers, including approximately 1,300 organized within the three TU chapters with a primary interest in the upper Clark Fork basin. We have participated in NRD-related decisions since the original natural resource damage litigation was revived in the late 1980s. We and our chapters have also received grant funding through the NRD program for projects that replaced and restored injured aquatic resources in the upper Clark Fork basin. We are committed to ensuring the NRD funds are spent effectively and efficiently in consort with the stated goals of the original litigation and the settlement decrees, which are to restore, replace or enhance injured aquatic, terrestrial and groundwater resources. Please consider the following recommendations.

### **Funding allocations**

We strongly support the Trustee Restoration Council's proposed allocation plan for the three injured resources. The percentages dedicated for each resource tracks with the original claims the state filed, the litigation position of the State of Montana and the consent decrees that resolved the majority of the case. Hewing to these percentages fits squarely with the public's long-held expectations of how much settlement money would be directed to each resource. Further, we support the Trustee Restoration Council's proposal to include in its calculus how much has

already been spent in grants for each resource. To date, grant expenditures for restoring, replacing and enhancing aquatic resources have been much less than those dedicated to groundwater and terrestrial resources. Some interpreted this as a sign of disinterest among the public or agencies in completing aquatics-related restoration work. However, among the primary reasons NRD funding has been limited for aquatics restoration projects is that NRD legal staff for years recommended grant funding for aquatics work in the Clark Fork corridor not be approved until a consent decree for the river was completed. This reduced funding opportunities significantly. Further, organizations such as TU have been waiting for FWP and the NRD program to complete their aquatics prioritization plan. By holding off on major proposals, it ensured improved coordination on priorities, better enabling efficient and effective expenditures. Today the picture is clearer and we have projects to recommend in consort with the agencies' priorities.

### **Recreational projects**

We are disappointed the proposed guidance plan eliminates the Advisory Council's recommendation that recreation projects "offer natural restoration benefits, not just recreational benefits." We support using NRD funds for creating or enhancing recreation. However, to ensure these investments are consistent with the original damage claims and the consent decrees, it seems reasonable to favor projects that offer multiple benefits. There will always be more recreational opportunities than funding available in the upper Clark Fork basin. So it makes sense for the State to ensure wise use of funding by favoring projects that offer both recreational and restoration benefits – especially because restoration or replacement of natural resources were the primary objectives of the claims.

### **Leftover Silver Bow Creek Remediation Funding**

The NRD staff proposed road map recommended that leftover Silver Bow Creek remediation money be placed into the general restoration fund for the whole upper basin. We supported this recommendation because it is consistent with the consent decree, which doesn't limit the geographic distribution of these funds. The Advisory Committee, after much discussion and a unanimous vote, recommended the money be put in a reserve for restoration of aquatic and terrestrial resources in Silver Bow Creek, Butte Area One, the Anaconda Uplands, Dutchman Flat and upper Clark Fork River Superfund areas. The Trustee Restoration Council recommends the money be spent only at sites in and upstream of the Lost Creek watershed, a significant diminishment in scope to both the NRD staff and Advisory Committee's recommendations, which have a basis in the consent decrees and public expectations.

The Trustee Restoration Council's recommendation is not consistent with the outcome of the NRD litigation and it seems arbitrary and unnecessarily limiting. We recommend the Trustee Restoration Council modify its proposal to allow the leftover money to be spent in the upper basin, perhaps limit it to above Garrison or

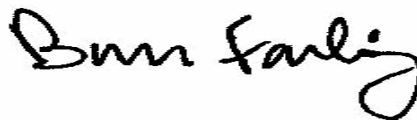
Deer Lodge to ensure all hard-hit areas are eligible for this funding. Alternately, the Trustee Restoration Council could recommend this money be put into a reserve fund, only to be tapped once remediation is complete in the upper basin. At that time the State will have a better idea where restoration could most effectively and efficiently enhance remediation. It may be that the money is best spent above Lost Creek, or it may be that it will be available for valuable projects downstream. The problem with limiting this funding to Lost Creek and upstream is that good, cost-effective projects that leverage other funds could go wanting simply because they are downstream of Lost Creek. And in turn, projects with less value would get funded simply because they are upstream of this arbitrary boundary. If a boundary must be drawn it would be better if it included a larger portion of the damaged area, which is why Garrison or Deer Lodge makes much more sense.

### **Developing Restoration Plans**

We agree with the Trustee Restoration Council directing NRD staff to devise a process for developing a restoration plan for aquatic and terrestrial resources. We're not sure this can occur within two months, but certainly now that FWP has completed its prioritization plans, and organizations such as ours and the Clark Fork Coalition have identified potential projects, it shouldn't take very long. This blueprint, however, should guide all funding from this point on. We believe all projects now being contemplated, including the "early restoration proposals" the Trustee Restoration Council is recommending be favored in 2012, be coordinated with the restoration plans. Once restoration plans are completed, we recommend the Advisory Council and Trustee Restoration Council re-establish a grant program for spending a portion of the remaining funds, consistent with the restoration plans and priority resources.

Again, thanks for the opportunity to comment. We look forward to our recommendations being seriously considered.

Sincerely,

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

Bruce Farling  
Executive Director

cc.  
Attorney General Steve Bullock  
Director Mary Sexton  
Director Joe Maurier  
Director Richard Opper  
William Rossbach

