

St. Mary Rehabilitation Working Group

2020 Strategic Plan Update

The St. Mary Rehabilitation Working Group (SMRWG) is updating its 20017-2019 strategic plan for 2020. Currently the SMRWG has \$97,000 in 2019 State DNRC funds available and another \$300,000 in 2020-2021 to meet these goals.

The SMRWG, working through Bear Paw Development, has engaged the services of Water Strategies, a Washington, D.C. firm specializing in federal water issues. After meeting with the SMRWG, Water Strategies is currently working on the following issues, as developed and approved by the SMRWG and the Milk River Joint Board of Control (MRJBC):

1. Adjust cost allocation formula. Currently irrigators are responsible for 74% of all maintenance, repairs and rehabilitation. The ability of irrigators to repay the costs associated with rehabilitation of the St. Mary Diversion has been exceeded. It is proposed that an allocation of 15%-25% of reimbursable funds for irrigators is more realistic and in line with their ability to pay. Congressional action must take place in Senate and House Water Resource Development Act (WRDA) by end of February 2020.

This may be the most difficult of these priorities to achieve, and at least as difficult, if not more so, than finding the money.

At this time, Water Strategies and the SMRWG is working with the Montana Congressional Delegation to develop legislation authorizing a draft of that language (see attached) would change the cost allocation and project meeting specific criteria to receive federal funding with a 75% federal cost share for specific projects. This will also Offset.—The St. Mary Diversion and Conveyance Works project authorized under section 5103 of the Water Resources Development Act of 2007 (121 Stat. 1234) is deauthorized (01/2020).

2. Seek an appropriation of 100% Federal cost share to finish the design of the St. Mary Diversion structure. The Bureau of Reclamation (BOR) has estimated this at \$2.5 million (01/2020). This appropriation is needed by April 1, 2020 due to the legal challenge to shut the water off by Alliance for Wild Rockies to the BOR due to Endangered Species Act concerns for Bull Trout, an endangered species.

3. Seek funding sources for the replacement of the St. Mary Diversion will require local, state, federal contributions. In 2014 the BOR estimated the cost of construction and fish screen at \$40 million. Adjusting for inflation of 3% annually this cost now in 2020 would be closer to \$50 million. The federal government is in a difficult financial situation, and this is not going to be easy, but this project has some features and relationships going for it that other projects do not, including two Indian water right

settlement agreements, ESA issues, and international use of water. The State of Montana has provided non-reimbursable bonding in the amount of \$10 million and bonding loan in the amount of \$40 million to repair the St. Mary system but it must accompany a Federal Match.

<http://dnrc.mt.gov/divisions/water/management/docs/st-mary-rehabilitation-project/state-cost-share-information.pdf>

The 2005 Montana Legislature authorized the sale of \$10 million in state bonds for state support of the St. Mary Project. Sale of bonds and appropriation of funds is contingent on receipt of federal cost share. (HB 540, Chapter 499, Laws of 2005)

<https://leg.mt.gov/bills/2019/billpdf/HB0008.pdf>

St. Mary's Diversion Project

Local Share \$40,000,000

(b) The loan in this subsection (4) is contingent on the following:

(i) the federal government entering into an agreement with the state that designates the federal and state share of the total project cost;

(ii) the forming of a water users' association of Montana users of the waters flowing from the Milk River that includes cities, towns, districts, water user associations, and other unassociated individuals and entities; and

(iii) the water users' association demonstrating to the satisfaction of the department of natural resources and conservation its financial capacity, through water user fees or other available sources of funding, to pay the annual costs of the loan repayment over the term of the loan.

4. Determine realistic costs of rehabilitation. Will require coordination, cooperation with Blackfeet, BOR and MRJBC. A \$3.7 million feasibility study for the St. Mary Diversion rehabilitation is contained in the Blackfeet Compact legislation and will assist in this effort. It may also be necessary to issue an RFP for engineering services to develop realistic and affordable rehabilitation plans. Coordinate with the Fort Belknap tribe on mutually beneficial water related opportunities for federal legislation.

The Blackfeet Compact has passed, and they are working on implementation. The legislation contains a \$3.7 million-dollar engineering feasibility study for BOR to develop rehabilitation plans for the St. Mary Diversion Project (01/2020). The Fort Belknap Compact is S. 3113.