

# Upper Clark Fork River Basin Steering Committee

November 2004

Governor Martz and Members of the Montana Legislature  
State Capitol  
Helena, MT 59620

Dear Governor Martz and Legislators:

As required by 85-2-439(9) MCA, the Upper Clark Fork River Basin Steering Committee (Steering Committee) hereby submits "Ten Years Of Private Instream Flow Rights In The Upper Clark Fork Basin," a report on the Clark Fork River basin instream flow pilot program. The report must evaluate the effects of all change approvals issued to maintain and enhance streamflows to benefit the fishery resource.

In assessing the lessons learned from the study, the report finds that:

- ≡ No adverse effects on other water users in the drainages where leases have been approved have occurred, largely because the safeguards in the statute are a substantial discouragement to projects which might have adverse effects on other users; and
- ≡ Private leases and changes to instream use have proven to be a flexible tool that can provide substantial fisheries benefit in specific instances where flows are limiting fisheries.

Based on these and other lessons listed, the report's primary recommendation is that Montana's statewide private leasing law, 85-2-408 MCA, should be made permanent.

The Steering Committee exists pursuant to 85-2-338 MCA. It was created originally to prepare a water management plan for the upper Clark Fork River basin, the area above Milltown Dam drained by the Clark Fork River and its tributaries. The plan, entitled *Upper Clark Fork River Basin Water Management Plan (Plan)*, was transmitted to Montana's Governor and Legislator in December 1994. In addition to submitting this report, the Steering Committee is now charged with carrying out several tasks consistently with the *Plan*, including:

- ≡ Providing a forum for all interests to communicate about water issues;
- ≡ Providing education about water law and water management issues;
- ≡ Identifying short-term and long-term water management issues and problems and identify alternatives for resolving them;
- ≡ Assisting in facilitating the resolution of water-related disputes; and
- ≡ Advising government agencies about water management and permitting activities.

Members of the Steering Committee are appointed by the basin's six county commissions, six conservation districts, and the director of the Montana Department of Natural Resources and Conservation.

Thank you.

Sincerely,

Gerald Mueller

Steering Committee Facilitator