

**Upper Clark Fork River Basin Steering Committee
Meeting Summary
September 26, 2011**

Introductions

Gerald Mueller, members of the Upper Clark Fork River Basin Steering Committee (Steering Committee), and others in attendance introduced themselves. Those in attendance included:

Members	Group/Organization Represented
Jules Weber	Powell County
Dave Lewis	State Senate District 42 & Lewis and Clark County
Jim Dinsmore	Granite Conservation District
Darryl Barton	Clark Fork River Technical Advisory Committee and the City of Deer Lodge
Bob Benson	Clark Fork Coalition (CFC)
Peter Nielsen	Missoula County
Holly Franz	PPL Montana, LLC
Stand Bradshaw	Montana Trout Unlimited

Agency

Ann Schwend	Department of Natural Resources and Conservation (DNRC)
Mike McLane	DFWP

Staff

Gerald Mueller	Facilitator
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Agenda

- Review August 18, 2011 Meeting Summary
- Updates
 - Trustee Restoration Council Proposed Long Range Restoration Priorities and Fund Allocation Guidance Plan
 - Clark Fork Task Force November 1, 2011 Water Supply Conference
 - Other Organizations
- Proposal to Combine the Steering Committee & Task Force
- Proposal for Settling CSKT Off-Reservation Water Right Claims in the Clark Fork River Basin
- Public Comment
- Next Meeting

August 18, 2011 Meeting Summary

The Steering Committee made no change to this meeting summary.

Updates

Trustee Restoration Council Proposed Long Range Restoration Priorities and Fund Guidance Plan Document - Gerald Mueller had asked Commissioner Connor to report on the proposed changes to the Upper Clark Fork River Basin Advisory Council's (UCFRBAC's) 12/15/10 Long Range Guidance Plan proposal. Commissioner Connor is a member of the UCFRBAC. Dan

Villa of the Governor's office proposed the changes at the August 29, 2011 Trustee Restoration Council (TRC) meeting. The TRC has set a public comment period on the document with the changes that ends on Tuesday, October 11, 2011.

Because she was unable to attend today's meeting, she discussed the changes in an email to Mr. Mueller. Mr. Mueller presented the following summary of the points she made.

- It's decision time.
- A large portion of the UCFRBAC document was accepted.
- The changes to the document included:
 - The Clark Fork Watershed Education Program was extended;
 - The constraint that recreation projects must offer natural resource restoration benefits was dropped;
 - The area for the expenditures of remainders for the Streamside Tailings Operable Unit/ Silver Bow Creek remediation fund was defined as upper Clark Fork basin above Lost Creek.
- Comments on the revised document should be positive and acknowledge that a large portion of the UCFRBAC plan was accepted.

Comment - The UCFRBAC guidance plan document stated that the restoration fund should be spent at priority restoration sites. The August 29 changes maintain this requirement.

Comment - Missoula County believes that expenditures from the restoration fund should be guided by a plan. While a guidance document is a good idea, it is not a plan. Early indications are that projects may be considered in 2012 without a plan.

Question - Is development of a restoration plan underway?

Answer - I am not aware that it is underway. The revised document states:

The (TRC) recognizes that NRDP staff will develop, within 2 months time of the approval of this plan by the Trustee, a more specific planning process for Trustee consideration and approval that may include additional policies and practices deemed necessary to develop the restoration plans for aquatic and terrestrial resources and to fully comply with federal and state law regarding restoration planning.

Question - Can the Streamside Tailings Operable Unit/ Silver Bow Creek remainders be spent on restoration and remediation?

Answer by Peter Nielsen - Both.

Comment - The highest priority for expenditures from the restoration fund should be the river.

Response by Peter Nielsen - The priority areas are those set out in the state's original natural resources damage litigation. The decision on the guidance document will not affect the Clark Fork River \$26 million remediation fund.

Comment - The remediation fund may not be large enough.

Comment - The Lost Creek boundary for the area in which Streamside Tailings Operable Unit/ Silver Bow Creek remainders can be spent is problematic. They should be allowed to be spent throughout the Deer Lodge and Clark Fork valleys.

Comment - The true priority for restoration should be the entire system.

Clark Fork Task Force November 1, 2011 Water Supply Conference - Gerald Mueller reported that the Clark Fork River Basin Task Force (Task Force) will convene the second of its Clark Fork River basin water supply conferences on November 1 at the Missoula DoubleTree Hotel. The Task Force held its first conference, which focused on the coming water supply, last April. The November 1 conference will review the past water year weather and stream flows and the management activities by counties and conservation districts in response to the high water.

Other Organizations - Darryl Barton reported that the Clark Fork River Technical Assistance Committee (CFRTAC) will host a public meeting on Tuesday, October 4, 2011 to discuss Superfund cleanups on the Clark Fork River and Railroad Roundhouse. The meeting will begin at 7 pm at the Pen Convention Center, 925 Main Street, Deer Lodge (across the street from the Old Prison Museum). At the meeting, Mr. Barton will provide an introduction and background on the Clark River project. Brian Bartkowiak, Montana Department of Environmental Quality (DEQ), will present work done on the project thus far and work to come at the Trestle Area (Bum Bridge) and the upper Clark Fork River. Joyce Ackerman, Environmental Protection Agency (EPA), will discuss the cleanup of the Railroad Roundhouse area in Deer Lodge. Representatives from DEQ, EPA, NRDP, Powell County, the City of Deer Lodge and CFRTAC will be on hand to answer questions.

Question - Does disagreement still exist between EPA and DEQ regarding this project?

Answer - The residential cleanups have not been contentious, but the stream bank cleanups have been. Next year, DEQ is planning begin the first phase of the stream bank work below the Warm Springs ponds. Because of the disagreement, only about 100 feet of the bank will be cleaned next year as a sample project.

Question - Are the agencies still arguing about the slickens?

Answer - Yes, they do not agree about the amount and depth of the cleanup or whether it should be paid for from remediation or restoration funds. DEQ supports more and deeper cleanup and paying for the work from remediation funds. Removal versus in situ cleanup is not the issue.

Question - What is the difference between remediation and restoration?

Answer - Remediation addresses health and safety, while restoration seeks to restore natural conditions.

Proposal to Combine the Steering Committee & Task Force

At its August 18, 2011 meeting, the Steering Committee directed Mr. Mueller to draft a proposal to combine the Steering Committee with the Task Force introduced this topic. Mr. Mueller reviewed the content of the draft, which he had circulated to the Steering Committee prior to this meeting using PowerPoint slides. The draft proposal is attached below in Appendix 1. The content of the slides follows.

- Combining the two groups appears feasible because of their similar statutory mandates, their similar focus on water management planning and activities in their respective basins, and their partial membership overlap.
- The Steering Committee should become a committee of the Task Force.

- Funding for the Steering Committee for FY2012-13 would be provided through the Task Force RRGLP grant.
- The Task Force facilitator would serve the Steering Committee as well.
- The Steering Committee's development of an upper basin flow plan could become a work plan item in the Task Force's revision of the Clark Fork Plan.
- Steering Committee members could continue to be designated pursuant to 85-2-338(1) and (2).
- All Steering Committee members could become Task Force members, or as is the case now, only some Steering Committee members could be designated as Task Force members.
- In its new guise, the Steering Committee could continue to focus on the upper basin.

Question - If the Steering Committee becomes a committee of the Task Force, how frequently would it meet?

Answer - Meeting frequency would be determined by the Steering Committee depending on its work plan; however, we discussed last month meeting quarterly.

Comment - The proposal would benefit the Task Force by increasing its communication with the upper Clark Fork sub-basin and perhaps providing an example for work in other sub-basins.

Comment - This proposal increases the likelihood of future funding through the legislature for the Task Force.

Comment by Ann Schwend - In its funding for watershed groups, the DNRC Conservation and Resource Development Division (CARD) wants to focus funding on projects rather than administration.

Question – Several groups have “upper Clark Fork” in their name. Is there a reason to change the name of the Steering Committee?

Answer - There are many groups with Clark Fork in their name which causes confusion; however, no change is necessary if the two groups are combined.

Comment - If all Steering Committee members were designated as Task Force members, the upper Clark Fork would probably be over represented compared to other areas of the basin.

Response - Currently, Jim Dinsmore represents the upper basin on the Task Force. Holly Franz also is a Task Force member, but she represents PPL Montana, LLC.

Comment - The Steering Committee should continue to be represented on the Task Force by one member.

Comment - All Steering Committee members should be encouraged to attend Task Force meetings.

Steering Committee Action - Those members present at this meeting agreed to request that the Steering Committee and the Task Force be combined by making the former a committee of the latter. Gerald Mueller was directed to send the proposal to the Task Force on behalf of the Steering Committee reflecting today's discussion.

Proposal for Settling CSKT Off-Reservation Water Right Claims in the Clark Fork River Basin

Gerald Mueller reviewed the proposal made by the State of Montana to settle the off-reservation water right claims by the Confederated Salish and Kootenai Tribes. These claims arise from court decisions interpreting language in Stevens treaties including the 1855 Treaty of Hell Gate. The Hell Gate Treaty reserves to the Confederated Salish and Kootenai Tribes the “right of taking fish at all usual and accustomed places, in common with citizens of the Territory”. As stated in the State proposal, “Language in similar treaties in the Pacific Northwest have been interpreted (by courts) to secure to tribes protectable rights in stream flows and other aspects of water rights to ensure that the right to take fish means more than simply the ability to dip a net into the water and have it come out empty.” The State proposal is available at the following web address.

<http://dnrc.mt.gov/rwrcc/Compacts/CSKT/2011/August31/ProposalForResolution.pdf>

The proposal contains provisions specific to the Kootenai, Swan, upper Flathead, Bitterroot, and upper Clark Fork sub-basin of the Clark Fork River basin. Mr. Mueller summarized these provisions as follows:

Kootenai and Swan

- Instream flow rights with time immemorial priority dates.
 - Provides biological benefits to the ecosystem;
 - Protects existing uses; and
 - Preserves for the DNRC the ability to permit some new uses.

Upper Flathead

- Includes the North, Middle, and South Forks of the Flathead River, Stillwater and Whitefish River drainages.
 - DFWP and CSKT co-ownership of Murphy Rights on the Flathead River above Flathead Lake, as well as on multiple reaches of the North, South and Middle Forks of the Flathead River.
 - DFWP and CSKT co-ownership of water right claims related to Rogers Lake.

Bitterroot

- DFWP and CSKT co-ownership of contracts for the delivery of specified volumes of water from Lake Como and Painted Rocks reservoir.
- DFWP and CSKT co-ownership of water right claims for public recreation uses.

Upper Clark Fork

- DFWP and CSKT co-ownership of the water rights formerly associated with the Milltown Dam.
- Plan necessary to minimize impacts from an exercise of the Milltown rights in strict priority.
- Establish specific flow targets for various Clark Fork tributaries that identify both the flow needs of that given watershed or stream reach and the expected flow contribution of a drainage based upon its size and hydrology.

Mr. Mueller explained that the State considers its proposal to be a framework that lacks “...leaves many important details to be filled in...” At the August 31, 2011 compact negotiating session, the State encouraged the interested parties and general public to submit questions and comments

about the framework. Mr. Mueller suggested that the Steering Committee submit a letter to the Compact Commission raising the following questions:

- How will water rights change occur, through change process or legislative adoption of the compact?
- Will the instream flow right be tied to the river hydrograph?
- What is the amount and duration of the instream flow right?
- How will the tributary targets be set?
- Consequences for not meeting the targets?

He also asked if the Steering Committee wants to instigate communication within the basin about the off-reservation water rights proposal. He noted that the negotiating parties have stated publicly that they intend to have a draft compact ready for discussion by the end of next summer and to submit legislation to adopt the compact to the 2013 legislature.

Finally, Mr. Mueller reviewed information previously supplied by Mike McLane concerning the Clark Fork River hydrograph at Milltown and the sum of DFWP's Blackfoot Murphy water right and the claims made by his agency in its water reservation application in the late 1980s which was based on a wetted perimeter analysis. This information is included below in Appendix 2.

Highlights of the subsequent Steering Committee discussion follows.

Question - How can the State cede authority to the CSKT?

Answer by Mike McLane - The compact will have to be approved by the legislature. The proposed framework provides for shared ownership of water rights and contracts rather than ceded authority.

Comment - Finding water to mitigate development of new water right permits is difficult in the Missoula area. One approach that might be tried would be to change the Bitterroot water supply contracts owned by DFWP to include as a purpose providing mitigation for new ground water right permits.

Comment - Looking at the Milltown hydrograph, one might conclude that the combination of the DFWP Blackfoot Murphy right and the reservation application wetted perimeter value may constrain water use in the upper basin beginning sometime in August. However, by that time in many years a 1904 priority date would not impact many upstream water uses because many more senior water rights have already been curtailed.

Comment - Spring time flows are critical for filling upper basin reservoirs. These flows might be impacted by a Milltown water right change to instream flow to benefit the fishery.

Comment - The Chief Montana Water Judge and water masters have told me that after the adjudication, sub-basin water use may continue to be administered locally. If this is the case, it is not clear how a water rights call to protect a Milltown instream flow right would happen.

Comment - DFWP fishery biologists have said that variations in flow are as important to the aquatic ecosystem as absolute flow levels because the fluctuations frequently trigger biological responses related to migration and reproduction.

Comment - The State and the CSKT are attempting to develop a mechanism based on hydrographs and water supply forecasts that would facilitate sharing water shortages between instream flow and consumptive uses on the reservation. A similar approach might be applied for the Milltown instream rights.

Comment - The State should identify which water rights in the upper Clark Fork might be at risk to water right calls under its proposal.

Comment - The State should identify the relative contribution of the Blackfoot and Clark Fork Rivers to the Milltown instream flow right.

Comment - The Compact Commission should be asked if the State and the CSKT would have independent rights to make a water rights call under the State proposal.

Comment - Until we have answers to our questions about how the instream flow water rights would be defined and management, public meetings on the State's framework proposal would not be useful.

Steering Committee Action - Those members present at this meeting agreed to direct Mr. Mueller to prepare a letter to the Compact Commission asking Mr. Mueller's questions listed plus three questions asking what water rights might be at risk to a water rights call by DFWP and/or the CSKT, what the relative contribution of the Blackfoot and Clark Fork Rivers would be to the Milltown instream flow, and whether State and the CSKT would have independent rights to make a water rights call. Mr. Mueller was also directed to circulate a draft of the letter to the Steering Committee so that members can pose other questions and comment on the draft.

Public Comment

There was no additional public comment.

Next Meeting

The next meeting was scheduled for Tuesday, October 25, 2011 at a location in Deer Lodge to be announced.

Appendix 1
Upper Clark Fork River Basin Steering Committee
C/O Gerald Mueller
440 Evans
Missoula, MT 59801
(406)543-0026

MEMORANDUM

Date: September 30, 2011

To: Clark Fork River Basin Task Force

From: Gerald Mueller

RE: Proposal to Combine the Upper Clark Fork River Basin Steering Committee with the Clark Fork River Basin Task Force

At its September 28, 2011 meeting, the Upper Clark Fork River Basin Steering Committee (Steering Committee) agreed to seek combining with the Clark Fork River Basin Task Force (Task Force). A list of the Steering Committee members in attendance at the meeting is attached below.

More specifically, the Steering Committee agreed to the attached proposal for making the Steering Committee a committee of the Task Force and directed me to convey the proposal to the Task Force for consideration at its October meeting. I will add the proposal to Monday's meeting agenda after the updates at about 10:15 a.m.

**Steering Committee Member Attendance
September 28, 2011 Meeting**

Members	Group/Organization Represented
Darryl Barton	Clark Fork River Technical Advisory Committee and the City of Deer Lodge
Bob Benson	Clark Fork Coalition
Stan Bradshaw	Trout Unlimited
Jim Dinsmore	Granite Conservation District
Holly Franz	PPL Montana, LLC
Dave Lewis	State Senate District 42 & Lewis and Clark County
Mike McLane	Montana Department of Fish, Wildlife and Parks (for Pat Saffel)
Peter Nielsen	Missoula County (for Commissioner Michele Landquist)

**Proposal to Combine the Upper Clark Fork River Basin Steering Committee
And the
Clark Fork River Basin Task Force
September 28, 2011**

Summary

This paper proposes combining the Upper Clark Fork River Basin Steering Committee (Steering Committee) and the Clark Fork River Basin Task Force (Task Force) by making the Steering Committee a committee of the Task Force. Funding for the Steering Committee would be provided through the Task Force. This combination would continue to allow representatives of a broad range of upper Clark Fork River basin water interests to focus on upper basin water management issues.

Background

The Steering Committee and the Task Force are basin water management entities created by state statute, 85-2-338 and 85-2-350 respectively. Copies of these statutes are attached. As will be discussed in the ensuing sections, the two groups have similar responsibilities but address different areas. The Steering Committee addresses the upper Clark Fork River basin, i.e., the drainage area of the Clark Fork and the Blackfoot Rivers and their tributaries above the confluence of the Clark Fork River and the Blackfoot River. The Task Force addresses the entire Clark Fork River basin.

Steering Committee - The Steering Committee was formed in 1991 as a result of competing interests in unappropriated stream flows in the upper basin. Agriculture interests seeking more water for irrigation, on one hand, and fishery/instream flow interests, on the other, filed for water reservations on the Clark Fork River and/or its tributaries. Rather than face the expense and uncertainty of a contested case hearing in the water reservation process, the two sides jointly and successfully sought legislation to create the Steering Committee as an inclusive water management planning entity charged with writing a water management plan for the basin and to close the basin to new appropriations while the plan was being written. The legislation specified the interests to be represented on the Steering Committee and designated the Director of the Montana Department of Natural Resources and Conservation (DNRC) to appoint the group's members. In 1997, the Steering Committee won passage of legislation allowing the basin's counties and conservation districts to appoint a majority of the group's members. Each of the basin's six counties and each of six conservation districts were authorized to make an appointment. The DNRC director continues to be responsible for appointing additional members to ensure that committee membership includes a balance of affected basin interests.

In addition to preparing and amending the water management plan, the statutory duties of the Steering Committee include:

- 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 alternatives

for resolving them;

- Identifying the potential beneficiaries of and a funding mechanism for new and expanded water storage sites;
- Assisting in facilitating the resolution of water-related disputes;
- Providing coordination with other basin management and planning efforts;
- Advising government agencies about water management and permitting activities;
- Consulting with local governments within the Upper Clark Fork River basin; and
- Reporting periodically to the legislature.

The Steering Committee adopted and presented to Montana's governor and legislature the *Upper Clark Fork River Basin Water Management Plan (UCF Plan)* in 1994. Key recommendations in the plan included permanently closing the upper basin to new water right appropriations, conducting a study of instream flow leasing in which a public or private entity could lease an existing water right for instream flows from a willing lessor, and continuing the Steering Committee as an ongoing basin water planning and management. The 1995 legislature largely adopted these recommendations. Also in 1995, the DNRC adopted the *UCF Plan* as the first basin chapter in the *State Water Plan*.

The Steering Committee has agreed to revise the 1994 *UCF Plan* focusing on an unmet basin need, a basin stream flow plan to compliment the basin remediation and restoration plans. The flow plan would include developing target flows for reaches of the upper Clark Fork River mainstream and tributaries, sources of water to meeting the targets, and an upper basin drought plan.

Through its first 16 years, the Steering Committee was funded from was funded from private foundation and state grant programs. During the FY2008-09 and FY2010-11 bienniums, the Steering Committee was supported through the DNRC Water Resources Division budgets. The Steering Committee proposed an annual budget for FY2012-13 totaling \$12,000. This budget did not include updating the basin hydrologic and water use information for the *UCF Plan* update. The Water Resources Division budget does not include funding for the Steering Committee, and a grant application to the DNRC Watershed Planning Assistance Grant Program was denied. As a result, the Steering Committee lacks funding for FY2012-13.

Task Force - The Task Force was formed pursuant to 85-2-350 in 2001. It was created as a result of an issue that arose in the relicensing of a hydropower dam, Avista's Noxon Rapids and Cabinet Gorge Project. During multi-party negotiations regarding the relicensing, the DNRC raised concerns about the affect of the Noxon Rapids hydropower water rights on existing and future water uses in the Clark Fork basin. The State of Montana and Avista agreed to provisions in the Project license that would have provided for future water development and protection of water uses based on water rights junior to Avista's rights. However, the Federal Energy Regulatory Commission declined to include the agreement in the Avista hydropower license. At the governor's direction, legislation was then drafted authorizing the Task Force and charging it with developing a water management plan for the Clark Fork River basin that would protect the security of water rights, promote the orderly development of water, and provide for the conservation of water. Members of the Task Force were to be appointed by an entity designated by the governor to ensure that all watershed and viewpoints within the basin are adequately represented. This legislation was passed by the 2001 legislature.

In 2004, the Task Force adopted and provided to the governor and the legislature the *Clark Fork Basin Watershed Management Plan (Clark Fork Plan)*. In 2005, most of this plan was adopted

by DNRC as a separate chapter in the *State Water Plan*. Also in 2005, the legislature passed a bill making the Task Force permanent and specifying its responsibilities as:

- Identify short-term and long-term water management issues and problems and alternatives for resolving any issues or problems identified;
- Identifying data gaps regarding basin water resources, especially ground water;
- Coordinating water management by local basin watershed groups, water user organizations, and individual water users to ensure long-term sustainable water use;
- Providing a forum for all interests to communicate about water issues;
- Advising government agencies about water management and permitting activities in the Clark Fork River basin;
- Consulting with local and tribal governments within the Clark Fork River basin; and
- Making recommendations, if recommendations are considered necessary, to the department for consideration as amendments to the Clark Fork River basin provisions of the State Water Plan.

The Task Force has been funded initially from interest on the Resource Indemnity Trust, from state general funds, and from state grant programs. The 2011 legislature awarded the Task Force a Renewable Resources Grant and Loan Program (RRGLP) grant of \$63,000 for the FY2012-13 biennium.

Since the beginning of the Task Force, some of its members have also been members of the Steering Committee. Currently two Steering Committee members also serve on the Task Force. Although represented by different individuals, one water organization has also been represented on both groups.

The Task Force has also been facilitated by the same individual that facilitates the Steering Committee.

The Task Force is engaged in a revision to the 2005 *Clark Fork Plan*, a key element of which will address drought in the basin.

Proposal

The DRNC Water Resources Division has suggested combining the Steering Committee and the Task Force by making the former a committee of the latter. Funding for the Steering Committee for FY2012-13 would be provided through the Task Force RRGLP grant, and the Task Force facilitator would serve the Steering Committee as well. Combining the two groups appears feasible because of their similar statutory mandates, their similar focus on water management planning and activities in their respective basins, and their partial membership overlap. The Steering Committee's development of an upper basin flow plan could become a work plan item in the Task Force's revision of the *Clark Fork Plan*. Creation of a committee to address the upper Clark Fork may also provide a model for other Task Force committees for other portions of the entire basin such as the Bitterroot or upper Flathead.

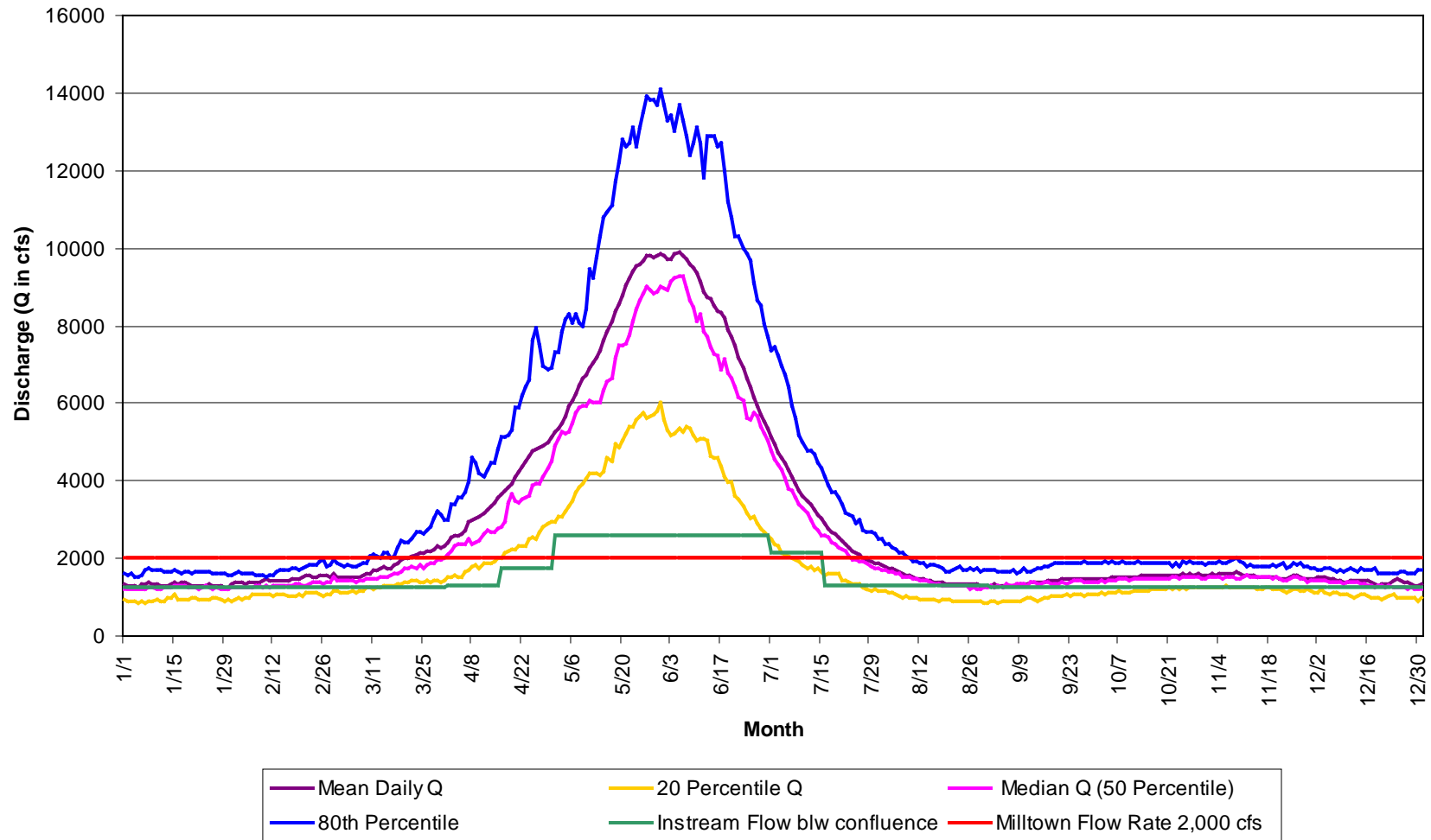
Combining the two groups would not appear to require statutory changes. Steering Committee members could continue to be designated pursuant to 85-2-338(1) and (2). All Steering Committee members could become Task Force members, or as is the case now, only some Steering Committee members could be designated as Task Force members. In its new guise, the Steering Committee could continue to focus on the upper basin.

Providing funding for the Steering Committee was not anticipated when the Task Force grant

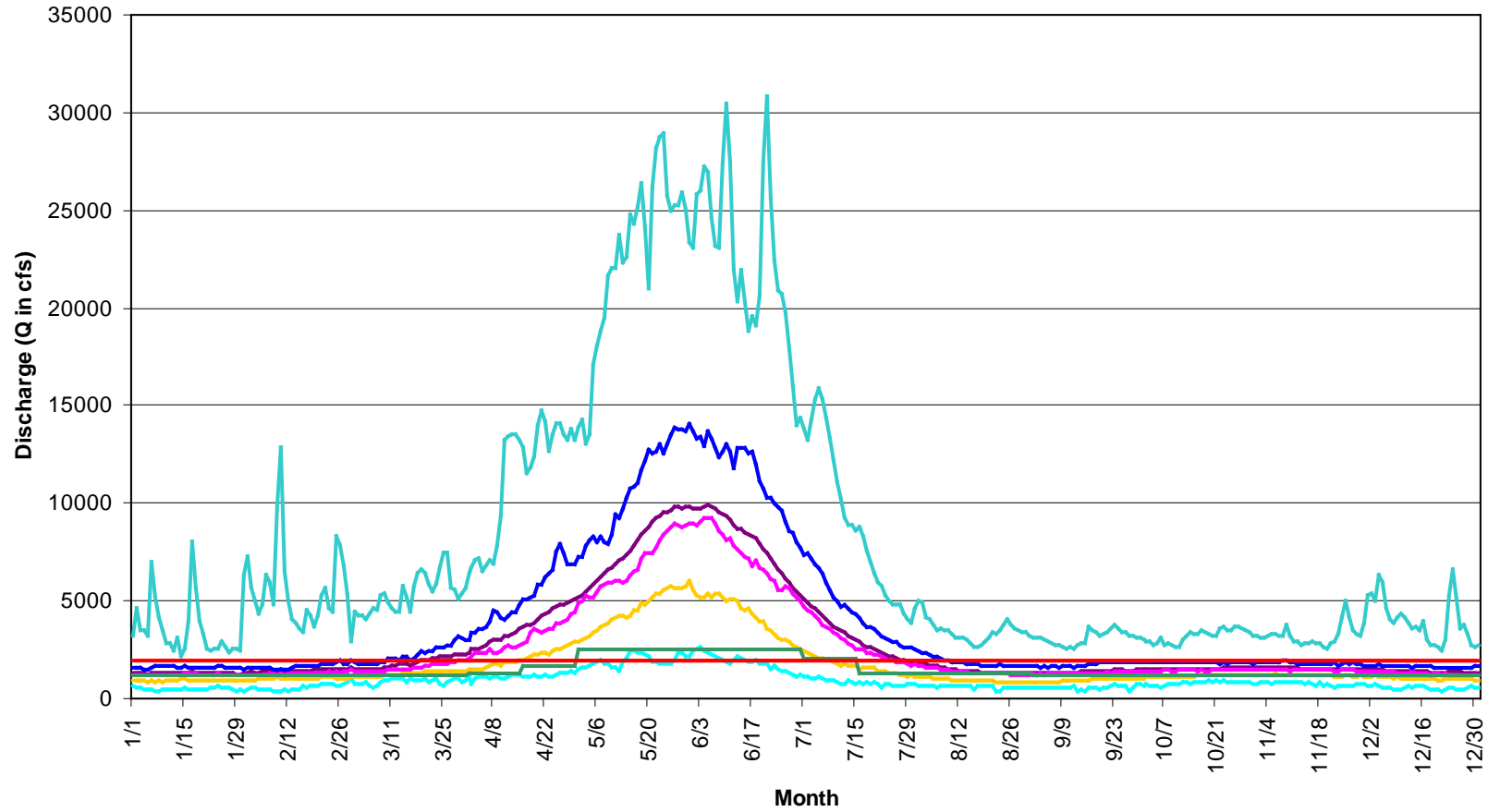
was submitted. Beginning with January 2012, facilitation services for the Task Force must be chosen through a competitive solicitation. Task Force facilitation duties may be expanded to include working with the Steering Committee. If the combination occurs, the Steering Committee and Task Force could decide whether to continue with a separate revision of the *UCF Plan* or fold the revision and the flow plan into the *Clark Fork Plan* revision. The Task Force would have to develop a revised budget reflecting the incorporation of the Steering Committee as a Task Force committee.

Appendix 2

Clark Fork R. abv Missoula v Instream and Hydro Q



Clark Fork R. abv Missoula v Instream and Hydro Q



RE: Upper Clark Fork discharge compared to hydropower rights & instream flows

Date: 9/29/2009

Attached are two charts, hydrographs, which compare USGS flow statistics based upon data collected just below Milltown dam. Milltown dam is, or was located just below the confluence of the Blackfoot and Clark Fork Rivers.

The USGS gage, Clark Fork above Missoula # 12340500, is located 2.8 river miles below the dam at the Bandman Bridge. There is one small perennial tributary, Marshall Creek, that has inflow between the dam and this gage. This stream has a base flow in the range of 1 –3 cfs. Data values were derived for a period of record beginning in 1930 and ending December 31, 2008.

Plotted on the attached charts are daily mean flow values published by USGS as accessible via there web site. More specifically the flow levels plotted include mean daily, median daily (50 percentile or average), 20 percentile (a very low flow) and 80th percentile (a good water year)

One chart also displays the maximum and minimum daily (highest and lowest value) discharge recorded at this gage for the period of record. These extreme values were left off the second chart to provide a larger scale that allows better visual interpretation.

For comparison I also plotted on this hydrograph

- the peak flow rate of the Milltown dam water right (2,000 cfs) and
- an instream flow value.

This instream flow value is the sum of

- a. of the WetP value for Clark Fork River Reach 1 (mouth of Rock Creek to mouth of Blackfoot) as published in the Clark Fork Water Reservation EIS, and
- b. the instream flow value asserted on the Blackfoot River “Murphy Right” Statement of Claim for Existing Water Right.

From this visual display it is apparent that Milltown dam was unlikely to receive 2,000 cfs inflow on a regular and predicable basis from January 1 to until some time in mid March and from maybe as early as July 10 in very low water years to December 31. However, examining the maximum flow recorded data it is also clear that flows above 2,000 cfs can and has occurred, at least one, on every day of the year.

It is also clear that the WetP values needed to maximize feeding habitat for salmonids are met under most stream conditions. However, as we have seen the last eight years, under very low stream flow conditions especially as they coincide with peak irrigation demand stream flow can drop significantly below the WetP instream flow value.

This year is a very good example. The Wet’ Murphy Right value for this date is 650 cfs. While we had near average snow pack and rain fall last winter and spring May, June, August and Sept. precipitation is well below average. Temperatures in September have been much higher than normal. Irrigation demands has extended nearly 3 weeks longer that usual. Flows at Bonner today are 489 cfs.