

**Clark Fork River Basin Task Force  
Renewable Resources Grant Application  
May 15, 2010**



**Submitted to:**

Montana Renewable Resource Grant & Loan Program

**Submitted by:**

DNRC- Water Resources Division on behalf of the Clark Fork River Basin Task Force  
1424 9th Avenue P.O. Box 201601  
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# Step 1: Application Summary

1. Name of Applicant(s) DNRC Water Resources Division
2. Project Title Clark Fork River Basin Task Force
3. Federal Tax Identification Number \_\_\_\_\_
4. Type of Entity State Government  
(City, county, tribal government, district, other)
5. Type of Project Education and Implementation  
(Irrigation, municipal, groundwater study, other.)
6. Project Location Clark Fork River Basin of the Columbia  
(Include a map of the project area and latitude/longitude coordinates or township, range and section)
7. State Senate District 1-7, 37-38, 42-50 State House District 1-14, 73-76, 84-100
8. Population Served by Project \_\_\_\_\_ 9. Households Served by Project \_\_\_\_\_  
(if applicable) (if applicable)
10. Number of Farms or Ranches Served by Project \_\_\_\_\_  
(if applicable)
11. Number of Acres Served by Project \_\_\_\_\_  
(if applicable)
12. County Silver Bow, Deer Lodge, Granite, Ravalli, Powell, Missoula, Mineral, Sanders, Lincoln, Lake, Flathead

## Proposed Funding Sources

Enter the source and amount of all possible funding for this project. Total the amount for each source. Even if you have not yet applied for the funds or have not yet received a commitment from the source, list the funds. The total amount of the proposed funding may be greater than the estimated total project cost indicated below.

Proposed Project Budget		
Funding Source (grant/loan or cash reserves)	Amount	Committed/Uncommitted
RRGL Grant	\$72,000	
DNRC, WRD	\$16,738	Committed
	\$	
	\$	
	\$	
	\$	
<b>TOTAL</b>	<b>\$88,738</b>	

Note: Committed monies must have a written letter committing funds to the project.

Estimated Total Project Cost \$ 88,738.00

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**Authorizing Statement**

An authorized agent representing the applicant must, by his/her signature, indicate that the application for funds and expenditure of matching funds, as represented, is officially authorized.


**A. Grant Authorization**

I hereby declare that the information included in and all attachments to this application are true, complete, and accurate to the best of my knowledge, and that the proposed project complies with all applicable state, local, and federal laws and regulations.

I further declare that, for DNRC Water Resources Division (Applicant Name), I am legally authorized to enter into a binding contract with the Department of Natural Resources and Conservation to obtain funding if this application is approved. I understand that all funds must be authorized by the Montana Legislature and that grant funds will become available only as Resource Indemnity Trust Fund interest is earned.

DNRC Water Resources Division  
Applicant Name

5/13/10  
Date

  
Authorized Representative (signature)

Division Administrator  
Title

**B. Loan Authorization**

I hereby declare that the information included in and all attachments to this application are true, complete, and accurate to the best of my knowledge, and that the proposed project or activity complies with all applicable state, local, and federal laws and regulations.

I further declare that, for \_\_\_\_\_ (Applicant Name), I am legally authorized to enter into a binding contract with the Department of Natural Resources and Conservation to obtain loan financing if this application is approved. I understand that all funds must be authorized by the Montana Legislature, that loan funds will become available after the sale of state bonds, and that I will be expected to enter into a Bond Purchase Agreement when funding is available and according to my construction schedule.

\_\_\_\_\_  
Applicant Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Representative (signature)

\_\_\_\_\_  
Title

## Step 2: Proposal Abstract

**Applicant Name: DNRC Water Resources Division**

**Project Title: Clark Fork River Basin Task Force**

The Montana Department of Natural Resources and Conservation (DNRC) seeks a grant of \$72,000 to fund the work of the Clark Fork River Basin Task Force (Task Force) during fiscal years 2012 and 2013. The Task Force is a statutory entity; it exists pursuant to 85-2-350 MCA which sets forth its membership and duties. Section 85-1-203 paragraphs (2) and (3) MCA require DNRC to formulate and adopt a state water plan, including as a chapter a basinwide plan for the Clark Fork River Basin. Section 85-1-203(4)(a) directs DNRC to continue to utilize the Task Force for recommendations regarding the Clark Fork River basin plan. A copy of 85-2-203 is included below as Appendix 1. In 2004, the Task Force wrote the *Clark Fork Basin Watershed Management Plan (Plan)*, most of which DNRC adopted as a chapter in the state water plan in 2005. The *Plan* identified a source of water to meet future basin municipal and industrial uses, a contract between the state and the Bureau of Reclamation for water stored in Hungry Horse Reservoir. It also identified options to protect the security of water rights, provide for the orderly development of water, and conserve water in the basin. This grant will benefit the well-being of the people and environment of the Clark Fork basin by enabling the Task Force to continue to meet its statutory duties, to continue to assist the DNRC in its Hungry Horse water contracting activities, to continue its review and revisions of the *Plan*, and to make recommendations to DNRC for revising the Clark Fork basin chapter of the state water plan.

## **Step 3: Resource and Citizen Benefits Narrative**

**Applicant Name: DNRC Water Resources Division**

**Project Title: Clark Fork River Basin Task Force**

### **Part 1: Conserve, Manage, Develop, or Preserve Natural Resources**

This grant proposal addresses the renewable resource fundamental to Montana's economy and quality of life: water. As discussed below, funding this application will benefit the conservation, development, management, and preservation of Clark Fork River basin water resources by enabling the Task Force to: make recommendations to DNRC for revising and implementing the Clark Fork basin chapter of the state water plan; carry out its statutory duties; and implement its FY 2012-2013 work plan activities that address the revision and implementation of the basin management plan as well as its statutory duties. These work plan activities are listed below in Appendix 2.

### **Recommendations for Revising the Clark Fork Basin Chapter of the State Water Plan**

Section 85-1-203 MCA requires DNRC to submit to the 2015 legislature a basinwide plan for the Clark Fork basin as a section of the state water plan. This statute in 85-2-203(4)(d) directs the Task Force to make recommendations to DNRC regarding the Clark Fork basinwide plan. In 2004, the Task Force adopted the *Plan*, and in the following year DNRC adopted most of the 2004 *Plan* as a separate section of Part II of the state water plan. The Task Force is currently beginning a revision of its 2004 *Plan* in light of the requirements of 85-1-203 MCA. The Task Force plans to complete this revision by the end of FY2012-2013 and provide recommendations for amending the Clark Fork state water plan section by the end of the biennium.

The components of a basin water management plan include an inventory of the basin hydrology and water uses, an assessment of future water needs, identification of water sources to meet those needs, and a framework to manage and allocate water use within the basin. The 2004 *Plan* inventoried basin hydrology and water uses in basin and subbasin profiles. It identified water stored in Hungry Horse reservoir as a possible source of water for future basin needs and for increasing the security of existing water uses. The 2004 *Plan* also evaluated the existing water management framework and identified options and made recommendations for protecting the security of water rights and for providing for the orderly development and conservation of water in the future. After the 2004 *Plan* was issued, as part of its Hungry Horse initiative, the Task Force requested DNRC to estimate the amount of water that would supply new basin's consumptive water uses for fifty years. The initiative will be discussed below. Through its 2012-2013 work plan activities, the Task Force will update the 2004 *Plan* and make recommendations to DNRC for amending the Clark Fork River basin section of the state water plan.

### **Task Force Statutory Duties**

Section 85-2-350 MCA specifies duties for the Task Force. This same statute requires Task Force members, who are appointed by the DNRC Director, to represent all watersheds and viewpoints within the basin. By executing these duties, the Task Force ensures that basin water users and interests understand and provide input to basin water management. Section 85-2-350(3) states that the Task Force shall:

(a) identify short-term and long-term water management issues and problems and alternatives for resolving any issues or problems identified;

- (b) identify data gaps regarding basin water resources, especially ground water;
- (c) coordinate water management by local basin watershed groups, water user organizations, and individual water users to ensure long-term sustainable water use;
- (d) provide a forum for all interests to communicate about water issues;
- (e) advise government agencies about water management and permitting activities in the Clark Fork River basin;
- (f) consult with local and tribal governments within the Clark Fork River basin;
- (g) make recommendations, if recommendations are considered necessary, to the department for consideration as amendments to the state water plan provided for under 85-1-203 related to the Clark Fork River basin; and
- (h) report to:
  - (i) the department on a periodic basis;
  - (ii) the environmental quality council annually; and
  - (iii) the appropriations subcommittee that deals with natural resources and commerce each legislative session.

The Task Force carries out these duties through its monthly public meetings, by convening annual conferences and workshops, through publications, and through legislative reports. These activities will be discussed in more detail in Technical Presentation section of this application.

#### **Task Force FY 2012-2013 Work Plan Activities**

Appendix 2 to this application is a Task Force FY2012-2013 work plan activities. It lists major Task Force topics identified to date for revising and implementing the 2004 *Clark Fork Basin Watershed Management Plan (Plan)* including undertaking a new initiative, basin drought planning. These actions address the development, management, and conservation of basin water resources as will now be discussed briefly.

Watershed Profiles - Water management depends on knowledge of water resources. The 2004 *Plan* summarized available information about physical water availability, existing appropriations, and availability of water for future use in the basin as a whole and in each of its six watersheds. It also identified key information and knowledge gaps for each. As a part of the *Plan* revision, the Task Force will update the watershed profiles.

Hungry Horse Initiative - Completing the Hungry Horse initiative will be critical to the development and management of water resources in the basin. The *Plan* found that no water has been reserved for future use in the Clark Fork basin and that hydropower water rights at the bottom of the basin are likely to constrain the legal availability of water for new appropriations and put water uses based on water rights junior to the hydropower right at risk most of the time. More specifically, the *Plan* concluded that, "Except during the 22 days during May and June in 3 years out of 10, water is not likely to be available for appropriation in the Clark Fork River basin, and any appropriation with a priority date junior to November 19, 1974, is potentially subject to a call by Avista (the hydropower water right holder)." The constraint posed by the hydropower water right was confirmed by a DNRC 2006 water right permit decision that was later clarified in a DNRC memo to exclude that portion of the basin above the Confederation Salish and Kootenai Tribes (CSKT) Reservation. Negotiations are also underway between the state, CSKT, and the

federal government to determine the CSKT reserved water rights. While the amounts of the reserved rights have not been determined, the priority date for these rights is not in question. The CSKT will have the senior rights in the basin. The CSKT rights may affect the legal availability of water for new uses and pose risk for calls on water rights above the reservation. To provide a source of water for future basin uses and increase the security of existing water rights, the 2004 *Plan* recommended that the state open discussions with USBR (United States Bureau of Reclamation) to determine the availability and cost of temporary and long-term contracting options and to determine a quantity of firm storage available from Hungry Horse Reservoir for Montana uses other than hydropower. To implement this recommendation, the DNRC first estimated that an additional 100,000 acre feet of water would supply new municipal and industrial consumptive uses in the Clark Fork basin for a 50 year period. It then entered into a memorandum of understanding with the USBR spelling out the process by which it will negotiate a contract with USBR for a block of 100,000 acre feet of water stored in Hungry Horse. Once the contract is concluded, DNRC would be able to lease the stored Hungry Horse water to new and existing water users in the basin without adversely affecting existing water rights. The initial step in the contracting process, a reallocation by the USBR of Hungry Horse project costs among the existing uses of Hungry Horse water (hydropower, endangered species, recreation, and flood control) and two new uses, municipal and industrial will soon be completed. To complete the contracting process, the USBR will complete the National Environmental Policy Act compliance, the state and the USBR will negotiate the terms of the contract, and the Congress will have to approve the cost reallocation study. Over FYI 2012-2013, the Task Force will monitor the contracting process, review interim products from it, and seek to develop the means to implement leases of Hungry Horse water to basin water users. One of the key implementation steps addressed in the work plan activities is developing a hydrologic model of the Clark Fork River to schedule and manage releases from Hungry Horse to meet new water uses and to increase the security of water uses based on water rights junior to the lower basin hydropower rights.

Options to Protect the Security of Water Rights - The Task Force had three statutory mandates for the 2004 basin water management plan. The first of these was to identify options to protect the security of water rights. In addition to the Hungry Horse initiative, the work plan activities contained in Appendix 2 include four related to this topic: examining the relationship between the adjudication and the DNRC water right change process; examining the process for determining the historic beneficial use of water by the Water Court and DNRC; identifying options to reduce the burden on existing water rights holders to protect their rights; and considering any proposal for a water right closure for the entire Clark Fork River. Hungry Horse water releases could increase the security of existing water rights by mitigating water right calls on existing junior water rights.

Options for the Orderly Development of Water - This topic was the second statutory mandate for the initial basin water management plan. Completing the Hungry Horse initiative is only one of the topics included in the Task Force work plan activities that will affect the orderly development of water resources in the basin. Orderly development will depend on the completion of the adjudication of basin water rights and determination of the CSKT reserved water rights, and the work plan calls for monitoring the status of both. Other activities under this heading include: considering the DNRC cumulative impact analysis prior to the issuance of new surface and ground water rights; continuing to monitor exempt well issues and proposed statutory changes related to exempt wells; evaluating the role of and opportunities for increased water storage in the

basin; assessing the fate of existing water rights associated with dams that have been removed or other water uses have ceased; identifying and assessing options for providing mitigation water for new ground water permits, including water marketing proposals; providing education about aquatic invasive species and the means for preventing their spread into the basin; and continuing to examine basin water management needs.

Options for Conserving Water - This was the third statutory mandate for the initial water management plan. The Task Force work plan activities calls for additional work on this topic by examining how the existing regulatory system provides opportunities for or barriers to the reuse of water. Also, the Montana Department of Commerce Community Technical Assistance Program is developing model subdivision regulations, and the Task Force will review them.

Drought Planning - In 2009, the legislature passed Senate Bill 303, which is encoded as 85-1-203 MCA. One of its provisions was the requirement that the state water plan sections for Clark Fork basin include an analysis of the effects of frequent drought and new or increased depletions on the availability of future water supplies. The Task Force work plan activities include conducting this analysis and for determining the amount of water now allocated to instream flows in the basin.

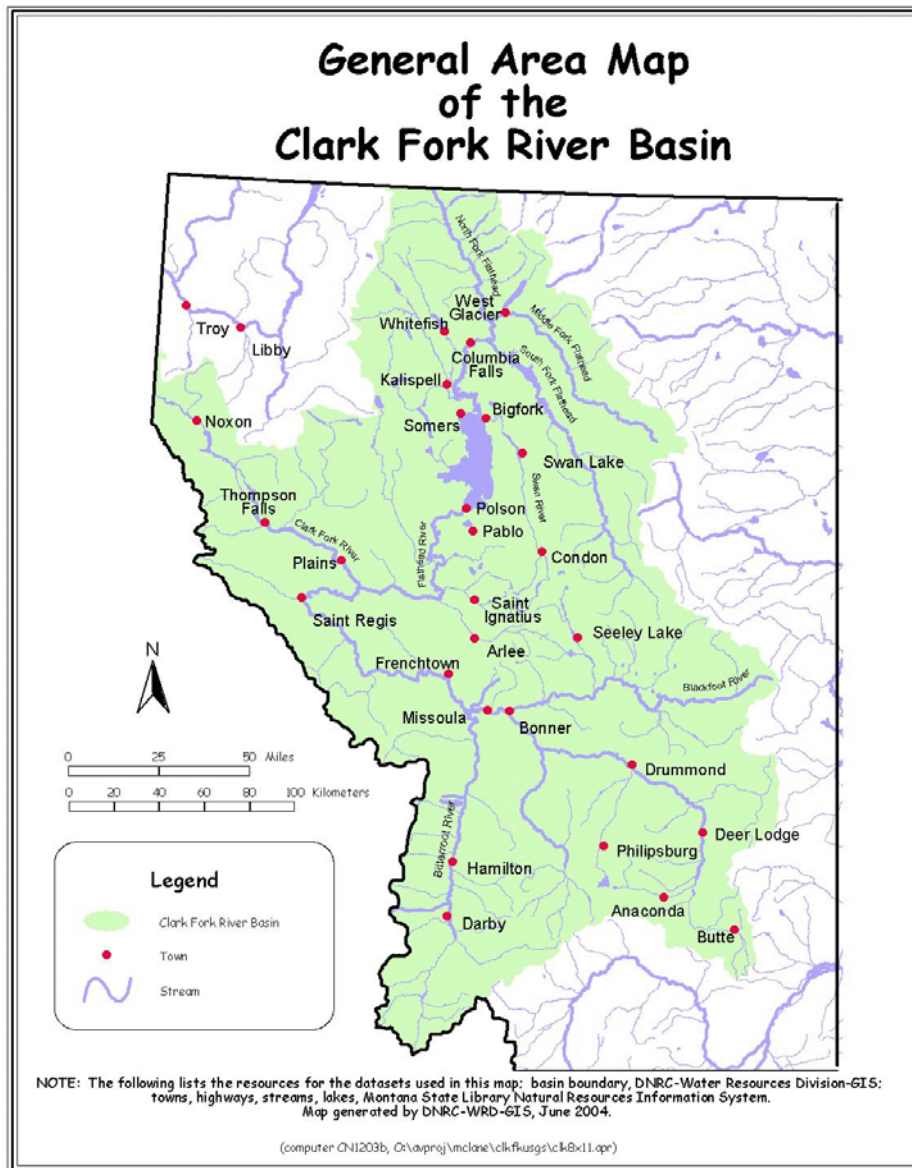
## Step 4: Technical Narrative

**Applicant Name: DNRC Water Resources Division**

**Project Title: Clark Fork River Basin Task Force**

### 1. Project identification

This grant application requests funding to continue the work of the Clark Fork River Basin Task Force (Task Force). The Task Force is a water management planning entity established pursuant to 85-2-350 MCA that addresses the entire Clark Fork River Basin, which is the area in green in the following figure. Members of the Task Force are appointed by the DNRC Director and must be representative of the basin water interests and watersheds. The Task Force is charged by this same statute with preparing proposed amendments to the state water plan provided for under 85-1-203 MCA related to the Clark Fork River basin, along with other duties that will be discussed below.



## 2. Task Force History

The statute authorizing the Task Force passed in 2001 in response to a concern about the future availability of water in the Clark Fork River basin. This concern arose during the Federal Energy Commission relicensing of the Avista Noxon Rapids and Cabinet Gorge hydroelectric project. The state and Avista negotiated an agreement that would have provided for future water development and protection of junior users, but the agreement was not implemented. Instead, the 2001 legislature passed HB 397 establishing the Task Force and requiring it to develop a water management plan for the basin that identified options to protect the security of water rights and provide for the orderly development and conservation of water in the future.

Because its funding provided by the legislature did not begin until July 1, 2002, the Task Force met for the first time on July 23, 2002. Initial Task Force members were designated by the Montana Consensus Council, the entity designated by the governor to convene it. Members are now appointed by the DNRC director. After twenty-five Task Force meetings and six public meetings on the draft plan, the Task Force adopted the *Clark Fork Basin Watershed Management Plan (Plan)* on August 16, 2004. The 2004 *Plan* was provided to Montana's governor and legislature. It is available online at the following web address.

[http://dnrc.mt.gov/wrd/water\\_mgmt/clarkforkbasin\\_taskforce/water\\_mgmt\\_plan.asp](http://dnrc.mt.gov/wrd/water_mgmt/clarkforkbasin_taskforce/water_mgmt_plan.asp)

In 2005, the DNRC adopted most of the 2004 *Plan* as a separate section of Part II of the State Water Plan. Four of the *Plan's* twenty-six recommendations, 7-4, 7-5, 8-2, and 8-3, were not adopted by DNRC. The *Plan's* recommendations and conclusions were included in its chapter 11, a copy of is included below in Appendix 3. Also in 2005, the legislature passed House Bill 236 making the Task Force permanent.

Since the *Plan* adoption, during the remainder of 2004 through April 2010, the Task Force met another forty-six times. Through 2009, the Task Force activities focused on implementing the 2004 *Plan*. Beginning in 2010, the Task Force began work on revising the 2004 *Plan*.

In addition to its monthly meetings, the Task Force has convened four conferences on basin water management issues: the Ground Water Technical Conference (September 27, 2006), the Ground Water Policy Conference (November 6, 2006), the Water Supply and Growth Conference (March 10-11, 2008), and the Conjunctive Water Management Conference (June 8-9, 2009). The proceedings of these conferences are available online on the Task Force web page cited above. The Task Force also held two Clark Fork River Basin Roundtables (May 6, 2009 and March 4, 2010) to bring together all of the basin watershed groups and other entities working on water related issues. The Roundtables provided their participants with the opportunity to share information about current basin water management plans, activities, and research, to identify common issues and concerns and next steps for addressing them, and to identify opportunities for increased collaboration. The Task Force also convened the Flathead Basin Hydrologic Modeling Workshop (January 26, 2010) to bring together representatives of organizations that are or have conducted hydrologic modeling in the Flathead River basin to discuss questions concerning the techniques and data used in the modeling, the modeling issues that have arisen, and modeling data sources and gaps.

Other Task Force publications have included a newsletter, the "Clark Fork River Basin Water Plan News," an issue paper on the Hungry Horse initiative, "Hungry Horse Reservoir and Clark

Fork River Basin Water Use”, and a policy paper entitled, *Managing Montana’s Water: Challenges Facing the Prior Appropriation Doctrine in the 21<sup>st</sup> Century*.

The Task Force obtained passage by the Montana Legislature of a joint resolution and several statutes addressing water management issues related to implementation of the 2004 *Plan*. A listing of these legislative actions follows.

- House Joint Resolution 3 in 2005 entitled “A Joint Resolution of the Senate and the House of Representatives of the State of Montana Urging the Montana Department of Natural Resources and Conservation to Enter into Negotiations with the United States Bureau of Reclamation to Determine the Availability and Cost of Water Stored Behind Hungry Horse Dam for Which the State of Montana Might Contract to Support Future Water Development and Existing Water Use in the Clark Fork River Basin.”
- House Bill 609 in 2005 entitled, “An Act Providing That Injunctive Relief Is Available for a Person Trying to Enforce a Water Right; Providing That a Person Trying to Enforce a Water Right Must Be Awarded Reasonable Costs and Attorney Fees; Amending Sections 27-19-201 and 85-2-125, MCA; and Providing an Immediate Effective Date.”
- House Bill 443 in 2007 which appropriated \$260,000 to fund the first step in the Hungry Horse contracting process. The bill was entitled, “An Act Providing an Appropriation to the Department of Natural Resources and Conservation to Pay for Conducting a Cost Allocation Study for Additional Water Uses in the Clark Fork River Basin; and Providing an Effective Date.”
- Senate Bill 324 in 2007 entitled, “An Act Requiring an Agency That Requires an Aquifer Test to Forward Copies of the Test Results to the Bureau of Mines and Geology; Requiring a Well Driller to Designate the Location of the Well Being Drilled Using Two Methods; Defining "Aquifer Test"; and Amending Sections 85-2-501 and 85-2-516, MCA.”
- Senate Bill 376 in 2007 entitled, “An Act Providing That the Department of Natural Resources and Conservation May Enter into a Contract with the United States for Water Held in Federal Reservoirs as a Means of Protecting the State's Interest in those Waters; Providing that the State May Contract for Water from Existing Federal Reservoirs if When the Water Is Put to Beneficial Use, It Is Used Within the Basin in Which the Reservoir is Located; Limiting the Amount of Water That Can Be Leased from the State as the Result of Contracts for Water from Federal Reservoirs When the Water Will Be Put to Beneficial Use in a Basin Other than the Basin Where the Federal Reservoir Is Located; Providing That There Is a Limit to the Amount of Water for Which the Department May Contract from Any Federal Reservoir; Amending Section 85-2-141, MCA; and Providing an Immediate Effective Date.”

### **3. Purpose of the Project**

The purpose of this project is to fund the Task Force during FY2012-2013 so that it can continue to carry out its statutory duties set forth in 85-2-350 and DNRC can meet its statutory responsibility found in 85-1-203. During FY2012-2013, the Task Force will benefit the conservation, development, management, and preservation of the Clark Fork basin water resources through the following tasks.

Executing the Task Force Statutory Duties - Section 85-2-350 MCA lists specific duties for the Task Force. These duties are quoted in Step 3 of this application and will not be repeated here. Specific activities that the Task Force will undertake to meet these duties include:

- Continuing to hold nine to ten Task Force meetings per year to provide a forum for all

interests to communicate about water issues, identify short-term and long-term water management issues and problems and alternatives for resolving them, and identify data gaps regarding basin water resources, especially ground water.

- Convening conferences and workshops to address water management topics. While the specific conference topic or topics for FY2012-2013 have not been chosen, they might include reuse of water, conjunctive water management, ground water recharge, groundwater and surface water interactions, and mitigation alternatives for water right permits.
- Convening the Clark Fork River Basin Roundtable to coordinate the water management, planning, and research activities by local basin watershed groups, water user organizations, and interested individuals.
- Issuing policy papers on water management topics such as water right enforcement, the water right permit cumulative impact analysis, and alternatives for addressing exempt wells.
- Conducting listening sessions with local government officials.
- Reporting to the DNRC and legislative committees such as the Water Policy Interim Committee.

Implementing the Task Force FY 2012-2013 Work Plan Activities - The major topics identified by Task Force to date for revising and implementing the 2004 *Plan* are as follows.

#### Topic - Watershed Profiles

- Review and update as appropriate the watershed profiles contained in the *Plan*. As stated above, the profiles summarize the available information about physical water availability, existing appropriations, and availability of water for future use in the basin as a whole and in each of its six watersheds

#### Topic - Hungry Horse Initiative

- Monitor the contracting process, which includes the following steps:
  - Finalize the United States Bureau of Reclamation (USBR) Cost Reallocation study;
  - Conduct the NEPA analysis;
  - Negotiate the contract;
  - Obtain required Congressional approvals.
- Review interim contracting products such as the cost reallocation study.
- Ensure that the means exist to implement leases of Hungry Horse water to basin water users through the following steps:
  - Request a DNRC legal analysis of BOR Hungry Horse water rights and the state's authority to contract with the BOR and lease water to basin water users;
  - Request DNRC to identify the staffing and budgeting resources necessary to negotiate the contracts and implement the leases;
  - Develop a model to schedule Hungry Horse releases to supply the consumptive amounts of new uses and to of junior users;
    - Convene the Clark Fork Basin Hydrologic Modeling Technical Advisory Committee;

#### Topic - Options to Protect the Security of Water Rights

- Examine the relationship between the adjudication and the DNRC water right change process.
- Examine the process for determining the historic beneficial use of water by the Water Court and DNRC.
- Identify options to reduce the burden on existing water rights holders to protect their rights.

- Consider any proposal for a water right closure for the entire Clark Fork River basin, including conditions on such a closure.

#### Topic - Options for the Orderly Development of Water

- Continue to monitor the status of the adjudication of Clark Fork basin water rights and negotiation of the Confederated Salish and Kootenai Tribes reserved water rights.
- Consider the scale of the impact that would be a concern and the area over which the impact would occur for a cumulative impact analysis prior to the issuance of new surface and ground water rights.
- Continue to monitor exempt well issues and proposed statutory changes.
- Seek clarification regarding a county's authority to require community wells.
- Define the need for additional water storage in the basin.
- Evaluate the options for increased water storage or increased use of water now stored.
- Prioritize areas in the basin where additional storage would be worthwhile.
- Assess the fate of existing water rights associated with dams that have been removed or other water uses have ceased.
- Identify and assess options for providing mitigation water, including marketing.
- Provide education about aquatic invasive species and the means for preventing their spread into the basin.
- Examine basin water management needs.

#### Topic - Options for Conserving Water

- Examine how the existing regulatory system provides opportunities for or barriers to the reuse of water.
- Review the model subdivision regulations under development by Montana Department of Commerce Community Technical Assistance Program.

#### Topic - Drought Planning

- Determine the amount of water now allocated to instream flows in the basin.
- Analyze the effects of frequent drought and new or increased depletions on the availability of future water supplies.
- Identify options for drought planning in the basin.

Making Recommendations to DNRC for Revising the Clark Fork Basin Chapter of the State Water Plan - Section 85-2-350(3)(g) MCA directs the Task Force to make recommendations, if recommendations are considered necessary, to DNRC for consideration as amendments to the state water plan provided for under 85-1-203. The Task Force has begun the process of revising its 2004 *Plan* in light of the requirements of 85-1-203 MCA. The Task Force plans to complete this revision and provide recommendations for amending the Clark Fork state water plan section by the end of FY2012-2013.

#### **4. Current Condition of the Clark Fork Basin Water Resources**

As described in the discussion of the Hungry Horse initiative in Step 3, Resource and Citizen Benefits, the basic issue that led to creation of the Task Force and its statutory mandate is unresolved. No water has been reserved for future use in the Clark Fork basin and hydropower water rights at the bottom of the basin both constrain the legal availability of water for new appropriations and put water uses based on water rights junior to the hydropower right at risk

most of the time. In response to a recommendation in the 2004 *Plan* and two legislative actions requested by the Task Force, passage by the 2005 legislature of HJR3 and appropriation of \$260,000 by the 2007 legislature, DNRC is pursuing a contract with the USBR for a block of water stored in Hungry Horse reservoir that it can then lease to basin water users to provide for future water uses and to increase the security of existing water rights. The initial step in the contracting process, a cost reallocation study by the USBR, is nearing completion. The USBR is reallocating the Hungry Horse project costs to the existing and two new project uses, municipal and industrial uses. All of the steps in the contracting process are set forth in the June 23, 2008 memorandum of understanding (MOU) between the USBR and the DNRC. The MOU is included below in Appendix 2. The total cost of completing this process and the total time required to do so is uncertain. The most expensive step according to the MOU will be preparation of an environmental impact statement in compliance with the National Environmental Policy Act. Its estimated cost is \$1,000,000 to \$2,000,000. UBSR has told the Task Force that a contract may be completed by 2014.

Other conditions that produce uncertainty regarding basin water resources are the lack of completion of both the state water rights adjudication and the reserved water right compact between the state, the Confederated Salish and Kootenai Tribes and the federal government. Also, only one area of the Clark Fork, the Blackfoot watershed, currently has a drought plan in place.

## **5. Desired Outcome**

The desired outcome of this project is the Task Force revising the basin water management plan including provisions addressing drought and recommendations to the DNRC regarding to the Clark Fork section of the state water plan in compliance with 85-1-203 MCA. In addition, by the end of FY2013, the Task Force intends to pursue significant progress towards completion of a contract between the DNRC and the USBR for water stored in Hungry Horse reservoir and towards development of a hydrologic model of the Clark Fork basin to allow releases from Hungry Horse to be scheduled and managed. Also, the Task Force will monitor the adjudication and reserved water right compact negotiation, but it has no authority to determine the pace or outcome of either process.

## **6. Alternatives That Will Accomplish the Same or Substantially Similar Goals as That of the Proposed Project**

As stated above, the proposed project for which this grant application is submitted is funding for the Task Force so that it can carry out its statutory responsibilities and DNRC can utilize its recommendations for the Clark Fork River basin section of the state water plan in compliance with 85-1-203 MCA. Since its inception, the Task Force has been funded by legislative appropriations, first from the Resource Indemnity Trust, then through the Montana Consensus Council budget, and most recently from Renewable Grant and Loan Program funds. Three alternatives to this grant proposal exist. The first two involve seeking different funding sources. One alternative source might be a separate legislative appropriation to support the Task Force budget. Another is to seek private funding. A third alternative is to have DNRC assume the staffing and funding of the Task Force directly. Rather than hiring facilitation services for the Task Force, DNRC could use existing staff to organize and conduct Task Force activities, including its monthly meetings, conferences, workshops, etc., and to prepare Task Force meeting summaries, reports, policy papers, etc.

## **7. Costs and Benefits of Each Alternative and the Reasons for Selection of the Preferred Alternative**

Because the preferred and the three alternatives involve different funding sources, a cost-benefit comparison of them is not relevant. Assessing the likelihood of achieving the resources necessary to achieve the desired outcome is. A separate legislative appropriation was not chosen because of the projected structural deficit in the state budget for the coming biennium. Similarly, given the budget cuts facing DNRC, direct department staffing and funding of the Task Force directly is not feasible. Finally, private funding through foundations appears unlikely because the Task Force is a statutory entity with statutory duties. Given this situation, the DNRC Water Resources Division opted to pursue an RRGLP grant.

## **8. Provide a Specific Description of the Project Implementation Plan**

The Task Force acts through its ground rules and by developing and implementing a work plan. The work plan is executed through monthly meetings at which technical and policy briefings and discussions occur, through conferences and workshops, through other meetings such as local government consultations conducted by the Task Force facilitator and/or Task Force members, and through the preparation of policy papers and other publications. Some activities including the conferences and roundtables have been carried out through a contract with the University of Montana Department of Geography which has arranged for facilities on the UM campus and students to staff and prepare proceedings for the events. Monthly meetings and other Task Force activities are organized and conducted by the Task Force facilitator who is a contractor to the DNRC. Specific studies, such as the development of the watershed profiles for the 2004 *Plan*, have been developed by contractors. As will be discussed in Step 5 of this application, DNRC has acted as the Task Force fiscal agent. A DNRC Water Planning acts as the liaison between the department and the Task Force, drafting and overseeing implementation of contracts.

The process used by the Task Force to develop the 2004 *Plan* was summarized in the *Plan's* first chapter:

Development of the management plan began with a series of expert briefings to provide a shared understanding of basin hydrology and water use, Montana water law and the water appropriation process, and existing constraints on basin water management. The Task Force also developed a shared vision of how basin waters should be used and managed (see Chapter 2). The Task Force then identified and discussed issues arising from the three statutory plan mandates and alternatives for addressing them: identify options to protect the security of water rights; provide for the orderly development of water; and provide for the conservation of water in the future (see chapters 6, 7, 8, and 9). Chapter 10 discusses a strategy for overseeing implementation of the plan and for revising it as warranted as basin conditions change. From the alternatives, the Task Force developed the recommendations and conclusions included in Chapter 11.

The Task Force also took specific steps to provide for public participation prior to adopting the 2004 *Plan*. These steps were also summarized in the *Plan's* first chapter:

Because they did not see an issue of immediate and compelling public interest, Task Force participants opted not to conduct formal public meetings until after the draft plan (including alternative recommendations to which the public might respond) was written. Throughout plan development, however, individual Task Force members discussed various topics with their constituents. The Task Force also printed a newsletter, *Clark Fork River Basin Water*

*Plan News*, which discussed the Task Force’s legal mandate and the three mandatory plan topics, protection of the security of water rights; the orderly development of water; and the conservation of water in the future. After the draft of this plan was written and distributed in both summary and complete form via the internet and through paper copies, Task Force members held meetings to solicit oral and written comments during July 2004 in Deer Lodge, Upsata Lake near Ovando, Hamilton, Ronan, Thompson Falls, and Kalispell. The Task Force then revised the draft plan in light of the public comments.

As of the time of the preparation of this grant application, the Task was beginning the process of revising 2004 *Plan*. It was reviewing the status of the recommendations and conducting listening sessions with basin local governments to identify issues that should be addressed in the revision of the plan. Based on this review and the listening sessions to date, the Task Force developed the FY2012-2013 work plan activities included in Appendix 1. By the end of FY2011, the Task Force will have converted this list of activities to a work plan for revising the 2004 *Plan* and preparing recommendations to DNRC for revision of the Clark Fork River basin section of the state water plan. The work plan will include specific tasks, the specific entities responsible for executing them, and a time line for completing them. The work plan will include provisions for public involvement in the *Plan* revision.

**9. Project Time Schedule**

Because the Task Force has not yet adopted a work plan for revising the 2004 *Plan*, this schedule is tentative.

<u>Task</u>	<u>Completion Date</u>
1. Carry out the Task Force statutory duties	Ongoing
2. Pursue implementation of the Hungry Horse initiative	Ongoing
3. Develop a work plan for revision the 2004 <i>Plan</i>	June 2011
4. Revise the 2004 <i>Plan</i>	June 2013
5. Make recommendations to the DNRC for revising the Clark Fork River basin section of the state water plan	June 2013

**10. Supporting Technical Documentation**

Supporting technical documentation includes the Task Force ground rules, a list of its current members, the Montana statute, 85-1-203 addressing the state water plan and the DNRC and Task Force obligations concerning it in Appendix 1, the FY2012-2013 work plan activities in Appendix 2, the Task Force policy paper, “Hungry Horse Reservoir and Clark Fork River Basin Water Use,” USBR-DNRC Hungry Horse MOU in Appendix 2, and the 2004 *Plan*.

## **Step 5: Project Management Narrative**

**Applicant Name: DNRC Water Resources Division**

**Project Title: Clark Fork River Basin Task Force**

The DNRC and the Task Force have well-established processes for managing activities related to development and implementation of the basin water management plan. The DNRC acts as the Task Force fiscal agent and disburses its funds. Staff from the DNRC Water Resources Division serves as the liaison between the department and the Task Force, drafting and overseeing implementation of contracts consistent with department requirements. The DNRC has contracted for a facilitator to provide the following services to the Task Force: arrange for, conduct, and prepare summaries of Task Force meetings; draft policy papers and other publications; prepare quarterly and annual reports on the Task Force meetings, activities and events; prepare and present annual reports to the Environmental Quality Council, Water Policy Interim Committee or other Legislative Committees as requested; prepare an end of project report; plan and coordinate with selected contractors to convene technical or policy related conferences and the Clark Fork Basin Watershed Roundtable conference. Gerald Mueller has acted as the Task Force facilitator since its inception in 2002.

As discussed in previous sections of this application, the Task Force's statutory duties include: consulting with local and tribal governments within the Clark Fork River basin; coordinating water management by local basin watershed groups, water user organizations, and individual water users to ensure long-term sustainable water use; and providing appropriate opportunities for public participation in studies of water management in the Clark Fork River basin. It has done so through several mechanisms including: its monthly public meetings; Task Force member consultations with the entities they represent, local government officials, and basin water interests; invited presentations basin government, non-governmental entities, and other organizations; providing Task Force meeting agenda and summaries, issue papers, conference proceedings and other publications online through the DNRC Water Resources Division web page; public meetings on the draft 2004 *Plan*; and by convening conferences and workshops on water management issues. All Task Force activities have been and will be open to the public.

## Step 6: Financial Presentation

### 1. Total Budget

The total budget for this project for FY2012-2013 is \$91,538, or \$45,769 per year. Of this total, \$74,800 would come from this grant request and \$16,738 from the Natural Resource Operations Budget (DNRC general funds). Because of the challenges facing the state budget for FY2012-2013, the status of the \$16,738 is uncertain. Due to the nature of the Task Force and its mandate, it will not have the construction, operation, or maintenance costs of a renewable resource project such as a dam or water treatment plant. No loans are requested to support the Task Force so loan costs are not applicable. The DNRC Water Resources Division (WRD) will administer the grant at no charge to the grant. WRD will issue and administer contracts pursuant to the grant and disperse grant funds. The project budget categories are, therefore, not consistent with the budget forms in the application and the revised form included below is provided instead.

The expense categories in the budget are: facilitation services, conferences, technical contracted services, publications and education, meeting expenses, and Task Force member mileage and per diem. Each of these expense categories and amounts will now be discussed.

Facilitation Services - The Task Force has an existing facilitator, Gerald Mueller, who arranges for, conducts, and prepares summaries of Task Force meetings; drafts policy papers and other publications; prepares quarterly and annual reports on the Task Force meetings, activities and events; prepares and presents annual reports to the Environmental Quality Council, Water Policy Interim Committee or other Legislative Committees as requested; prepares an end of project report; plans and coordinate with selected contractors to convene technical or policy related conferences and the Clark Fork Basin Watershed Roundtable conference. The \$20,000 annual total for the facilitation services category includes \$18,000 annually for facilitator time (277 hours/year at \$65/hour), \$1,500 per year for facilitator travel (2,000 miles annually @ \$.50/mile) and \$500 annually per diem for meals and lodging while traveling, and \$500 annually for expenses. The biennial total for this category is \$40,000.

Conferences - As discussed above in the history section of the Technical Presentation in Step 4 above, the Task Force has periodically held public conferences on basin water management topics as well as the Clark Fork River Basin Roundtable. This budget anticipates that the Task Force plans to hold one conference and the Roundtable each year during FY2012-2013. The annual total this category is \$14,369, and covers facility and equipment rental, speakers, and staffing and reporting. For past conferences and roundtables, the DNRC has contracted with the University of Montana Department of Geography which has arranged for facilities on the UM campus and students to staff and prepare proceedings for the events. Food and parking at conferences have been paid for by a nominal registration fee. This practice will likely be continued. If the Natural Resource Operations Budget funds are not available during FY2012-2013, then only one conference and one roundtable will be held during the biennium, and the budget total for this category will be reduced to \$6,000 annually and \$12,000 for the biennium.

Technical Contracted Services - To assist with the preparation of the 2004 *Plan*, the DNRC contracted with a hydrologist to prepare profiles of the Clark Fork River basin and each of its

five watersheds. Funding is included in this budget totaling \$5,000 per year or \$10,000 for the both years to assist the Task Force in revising the 2004 *Plan*. Examples of the purpose of technical contract services may be updating the watershed profiles or analyzing the frequency of basin droughts. These contracted services are assumed to cost \$100 per hour.

Publications and Education - This budget includes \$2,000 annually or \$4,000 for the biennium to pay for publications and other educational activities such as an issue of the “Clark Fork River Basin Water Plan News” to explain the draft revision of the *Plan*. In 2008, the Task Force printed 300 copies of *Managing Montana’s Water: Challenges Facing the Prior Appropriation Doctrine in the 21<sup>st</sup> Century* at a total cost of \$1,698.

Meeting Expenses - This budget includes \$2,400 annually or \$4,800 for the biennium to pay for meeting rooms and lunches during meetings. The annual total assumes ten Task Force meetings and quarterly meetings of a Task Force advisory committee, the Clark Fork Basin Hydrologic Modeling Technical Advisory Committee.

Task Force Member Mileage and Per Diem - In addition to lunch at meetings, the only compensation provided to Task Force members has been mileage to meetings and registration fees and per diem at Task Force conferences and roundtables. Task Force members donate hundreds of hours per year preparing for and attending Task Force meetings.

**Applicant Name DNRC Water Resources Division Budget Form**

**Clark Fork River Basin Task Force - 2012-2013 Budget**

Project Expenses			Project Revenues	
Item	Annual Amount	Biennial Category Totals	DNRC Grant	Natural Resource Operations Budget
Facilitation Services				
Time (\$65/hr and 23 hr/month)	\$18,000			
Travel and per diem (2,000 miles annually @ \$.50/mile & \$500 annually for lodging and meals)	\$1,500			
Supplies	\$500			
Totals	\$20,000	\$40,000	\$40,000	\$0
Conferences (2 per year)	\$14,369	\$28,738	\$12,000	\$16,738
Technical Contracted Services (50 hr/yr \$100/hr)	\$5,000	\$10,000	\$10,000	\$0
Publications and Education	\$2,000	\$4,000	\$4,000	\$0
Meeting Expenses (lunches and room rental)	\$2,400	\$4,800	\$4,800	\$0
Task Force Member Mileage and Per Diem	\$2,000	\$4,000	\$4,000	\$0
Totals		\$91,538	\$74,800	\$16,738

## Step 7: Environmental Narrative

**Applicant Name: DNRC Water Resources Division**

**Project Title: Clark Fork River Basin Task Force**

The preferred and alternatives for this project provide funding for the Task Force, which is a statutory water management planning entity for the Clark Fork River basin. Funding for the Task Force during FY2012-2013 will enable the Task Force to revise the 2004 *Clark Fork Basin Watershed Management Plan (Plan)*, continue to pursue the Hungry Horse initiative describe in Steps 3 and 4 of this application, and make recommendations to DNRC for revision of the Clark Fork Section of the state water plan. Because it is a planning entity, the Task Force does not take actions that will affect the natural or human environment. Implementation of the *Plan* will be up to the state and basin local governments and water users. For example, while the 2004 *Plan* identified water stored in Hungry Horse as a possible source of water for basin water uses other than hydropower, the DNRC and not the Task Force is acting to implement the Hungry Horse initiative through the contract with the United States Bureau of Reclamation (USBR). As discussed in Steps 3 and 4 above, the Hungry Horse initiative is subject to the National Environmental Policy Act process, and the USBR anticipates preparing and environmental impact statement to address it.

The Task Force will, however, benefit the natural and human environment by identifying options for the conservation, development, management, and preservation of Clark Fork River basin water resources. As discussed in Steps 3 and 4 above, the revised *Plan* will continue to identify options to protect the security of water rights and to provide for the orderly development and conservation of water in the basin. It will also address drought planning. Through the Task Force, the revision of the *Plan* will provide for a public involvement process similar to that used in developing an environmental impact statement.

## Environmental Checklist

**Impact Type :** **N** – No impact/not applicable    **B** – Potentially beneficial    **A** – Potentially adverse    **P** – Agency approval/permits required    **M** – Mitigation required

PHYSICAL ENVIRONMENT	
Impact Type	Resource and Description of Potential Impact to the Resource
N	<p><b>1. Soil suitability, topographic and/or geologic constraints (e.g., soil lump, steep slopes, subsidence, seismic activity)</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>2. Hazardous facilities (e.g., power lines, hazardous waste sites, acceptable distance from explosive and flammable hazards including chemical/petrochemical storage tanks, underground fuel storage tanks, and related facilities such as natural gas storage facilities and propane storage tanks)</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>3. Surrounding air quality (e.g., dust, odors, emissions)</b></p> <p><i>Comments and source of information:</i></p>
B	<p><b>4. Groundwater resources and aquifers (e.g., quantity, quality, distribution, depth to groundwater, sole source aquifers)</b></p> <p><i>Comments and source of information:</i> Through the Hungry Horse initiative, the Task Force is pursuing a source for future basin municipal and industrial water development and to protect existing water uses consistent with state water law. See the <i>Clark Fork Basin Watershed Management Plan</i>, the Clark Fork River basin section of the state water plan, the Task Force policy paper, “Hungry Horse Reservoir and Clark Fork River Basin Water Use,” and the June 23, 2008 USBR-DNRC Memorandum of Understanding. The Task Force plans to consider reuse of water in the basin and address drought planning in the revised plan.</p>
B	<p><b>5. Surface water/water quality, quantity, and distribution (e.g., streams, lakes, storm runoff, irrigation systems, canals)</b></p> <p><i>Comments and source of information:</i> See number 4 above.</p>

N	<p><b>6. Floodplains and floodplain management (Identify any floodplains within one mile of the boundary of the project.)</b>  <i>Comments and source of information:</i></p>
B	<p><b>7. Wetlands (Identify any wetlands within one mile of the boundary of the project and state potential impacts.)</b></p> <p><i>Comments and source of information:</i> Drought planning mandated by 85-1-203 MCA that the Task Force plans to include in its revision of the <i>Clark Fork Basin Watershed Management Plan</i> may benefit wetlands.</p>
B	<p><b>8. Agricultural lands, production, and farmland protection (e.g., grazing, forestry, cropland, prime or unique agricultural lands) Identify any prime or important farm ground or forest lands within one mile of the boundary of the project.</b></p> <p><i>Comments and source of information:</i> Through the Hungry Horse initiative, the Task Force is pursuing a source of water to protect existing water uses in the Clark Fork River basin consistent with state water law. See number 4 above. Drought planning mandated by 85-1-203 MCA that the Task Force plans to include in its revision of the <i>Clark Fork Basin Watershed Management Plan</i> may benefit agricultural lands and production.</p>

Impact Type	Resource and Description of Potential Impact to the Resource
B	<p><b>9. Vegetation and wildlife species and habitats, including fish (e.g., terrestrial, avian, and aquatic life and habitats)</b></p> <p><i>Comments and source of information:</i> Drought planning mandated by 85-1-203 MCA that the Task Force plans to include in its revision of the <i>Clark Fork Basin Watershed Management Plan</i> may benefit the basin fishery.</p>
B	<p><b>10. Unique, endangered, fragile, or limited environmental resources, including endangered species (e.g., plants, fish, or wildlife)</b></p> <p><i>Comments and source of information:</i> Drought planning mandated by 85-1-203 MCA that the Task Force plans to include in its revision of the <i>Clark Fork Basin Watershed Management Plan</i> may benefit the basin fishery.</p>
N	<p><b>11. Unique natural features (e.g., geologic features)</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>12. Access to, and quality of, recreational and wilderness activities, public lands and waterways, and public open space</b></p> <p><i>Comments and source of information:</i></p>

<b>HUMAN POPULATION</b>	
N	<p><b>1. Visual quality – coherence, diversity, compatibility of use and scale, aesthetics</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>2. Nuisances (e.g., glare, fumes)</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>3. Noise – suitable separation between housing and other noise-sensitive activities and major noise sources (aircraft, highways, and railroads)</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>4. Historic properties, cultural, and archaeological resources</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>5. Changes in demographic (population) characteristics (e.g., quantity, distribution, density)</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>6. General housing conditions – quality, quantity, affordability</b></p> <p><i>Comments and source of information:</i></p>

<b>Impact Type</b>	<b>Resource and Description of Potential Impact to the Resource</b>
N	<p><b>7. Businesses or residents (for example, loss of, displacement, or relocation)</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>8. Public health and safety</b></p> <p><i>Comments and source of information:</i></p>
B	<p><b>9. Local employment – quantity or distribution of employment, economic impact</b></p> <p><i>Comments and source of information:</i> By providing a source of water for future municipal and industrial uses, the Hungry Horse initiative may benefit the basin economy and employment. The Task Force is pursuing the Hungry Horse initiative. See number 4 under Physical Environment above.</p>

B	<p><b>10. Income patterns – economic impact</b></p> <p><i>Comments and source of information:</i> See the immediately preceding number 9.</p>
B	<p><b>11. Local and state tax base and revenues</b></p> <p><i>Comments and source of information:</i> By providing a source of water for future municipal and industrial uses, the Hungry Horse initiative may benefit the basin economy and the local and state tax base and revenues. See number 9 above.</p>
N	<p><b>12. Educational facilities – schools, colleges, universities</b></p> <p><i>Comments and source of information:</i></p>
B	<p><b>13. Commercial and industrial facilities – production and activity, growth or decline</b></p> <p><i>Comments and source of information:</i> The</p>
N	<p><b>14. Health care – medical services</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>15. Social services – governmental services (e.g., demand on)</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>16. Social structures and mores (standards of social conduct/social conventions)</b></p> <p><i>Comments and source of information:</i></p>
B	<p><b>17. Land use compatibility (e.g., growth, land use change, development activity, adjacent land uses, and potential conflicts)</b></p> <p><i>Comments and source of information:</i> The Task Force is required to consult with local and Tribal governments in revising the <i>Clark Fork Basin Watershed Management Plan</i>. The Task Force will seek to incorporate water issues relevant to basin local and tribal governments in the plan revision.</p>

Impact Type	Resource and Description of Potential Impact to the Resource
B	<p><b>18. Energy resources – consumption and conservation</b></p> <p><i>Comments and source of information:</i> The Hungry Horse initiative may benefit basin hydroelectric power production by increasing protection of lower basin hydropower water rights.</p>
N	<p><b>19. Solid waste management</b></p> <p><i>Comments and source of information:</i></p>
B	<p><b>20. Wastewater treatment – sewage system</b></p> <p><i>Comments and source of information:</i> The Task Force plans to consider reuse of water in the basin and address drought planning in the revised plan.</p>
N	<p><b>21. Storm water – surface drainage</b></p> <p><i>Comments and source of information:</i></p>
B	<p><b>22. Community water supply</b></p> <p><i>Comments and source of information:</i> Through the Hungry Horse initiative, the Task Force is pursuing a source for future municipal water development in the basin consistent with state water law. See the <i>Clark Fork Basin Watershed Management Plan</i>, the Clark Fork River basin section of the state water plan, the Task Force policy paper, “Hungry Horse Reservoir and Clark Fork River Basin Water Use,” and the June 23, 2008 USBR-DNRC Memorandum of Understanding.</p>
N	<p><b>23. Public safety – police</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>24. Fire protection – hazards</b></p> <p><i>Comments and source of information:</i></p>

N	<p><b>25. Emergency medical services</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>26. Parks, playgrounds, and open space</b></p> <p><i>Comments and source of information:</i></p>

Impact Type	Resource and Description of Potential Impact to the Resource
N	<p><b>27. Cultural facilities, cultural uniqueness, and diversity</b></p> <p><i>Comments and source of information:</i></p>
N	<p><b>28. Transportation networks and traffic flow conflicts (e.g., rail; auto, including local traffic; airport runway clear zones – avoidance of incompatible land use in airport runway clear zones)</b></p> <p><i>Comments and source of information:</i></p>
B	<p><b>29. Consistency with local ordinances, resolutions, or plans (e.g., conformance with local comprehensive plans, zoning, or capital improvement plans)</b></p> <p><i>Comments and source of information:</i> The Task Force is required to consult with local and Tribal governments in revising the <i>Clark Fork Basin Watershed Management Plan</i>. The Task Force will seek to incorporate water issues relevant to basin local and tribal governments in the plan revision.</p>
N	<p><b>30. Private property rights – Is there a regulatory action or project activity that reduces, minimizes, or eliminates the use of private property?</b></p> <p><i>Comments and source of information:</i></p>

**Clark Fork River Basin Task Force  
2010 Renewable Grant and Loan Program Grant Application**

**Appendix**

## Appendix 1

### Montana Code Annotated Section 85-1-203

**85-1-203. State water plan.** (1) The department shall gather from any source reliable information relating to Montana's water resources and prepare from the information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may:

- (a) conduct studies;
- (b) adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies;
- (c) perform research or employ other competent agencies to perform research on a contract basis; and
- (d) hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the "state water plan". The state water plan may be formulated and adopted in sections, with some of these sections corresponding with hydrologic divisions of the state. The state water plan must set out a progressive program for the conservation, development, utilization, and sustainability of the state's water resources and propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses.

(3) Sections of the state water plan must be completed for the Missouri, Yellowstone, and Clark Fork River basins, submitted to the 2015 legislature, and updated at least every 20 years. These basinwide plans must include:

- (a) an inventory of consumptive and nonconsumptive uses associated with existing water rights;
- (b) an estimate of the amount of surface and ground water needed to satisfy new future demands;
- (c) analysis of the effects of frequent drought and new or increased depletions on the availability of future water supplies;
- (d) proposals for the best means, such as an evaluation of opportunities for storage of water by both private and public entities, to satisfy existing water rights and new water demands;
- (e) possible sources of water to meet the needs of the state; and
- (f) any legislation necessary to address water resource concerns in these basins.

(4) (a) The department shall create a water user council in both the Yellowstone and Missouri River basins that is inclusive and representative of all water interests and interests in those basins. For the Clark Fork River basin, the department shall continue to utilize the Clark Fork River basin task force established pursuant to [85-2-350](#).

(b) The councils in the Missouri and Yellowstone River basins consist of representatives of existing watershed groups or councils within the basins.

- (c) Each council may have up to 20 members.
- (d) Each water user council shall make recommendations to the department on the basinwide plans required by subsection (3).

(5) Before adopting the state water plan or any section of the plan, the department shall hold public hearings in the state or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2

consecutive weeks in a newspaper of general county circulation in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

(6) The department shall submit to the environmental quality council established in [5-16-101](#) and to the legislature at the beginning of each regular session the state water plan or any section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.

(7) The legislature, by joint resolution, may revise the state water plan.

(8) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate component of the inventory.

(9) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

(10) In developing and revising the state water plan as provided in this section, the department shall consult with the environmental quality council established in [5-16-101](#) and solicit the advice of the environmental quality council in carrying out its duties under this section.

## Appendix 2

### Clark Fork River Basin Task Force Fiscal Year 2012-2013 Work Plan Activities

#### 1. Introduction

In 2004, pursuant to a statutory mandate, the Clark Fork River Basin Task Force adopted the *Clark Fork Basin Watershed Management Plan (Plan)*. This *Plan* included eleven chapters, five of which were: watershed profiles (chapter 3), hydropower water rights and basin water use (chapter 6), options to protect the security of water rights (chapter 7), strategies to promote the orderly development of water (chapter 8), and options for conserving water (chapter 9). To address the hydropower water rights and basin water use, the *Plan* recommended the state to "...open discussions with USBR (United States Bureau of Reclamation) to determine the availability and cost of temporary and long-term contracting options and to determine a quantity of firm storage available from Hungry Horse Reservoir for Montana uses other than hydropower." The state has begun negotiating for a contract for a block of water stored in Hungry Horse Reservoir. This work plan is organized around these same topics plus one more, drought planning. The latter arising from a new statutory mandate found at 85-1-203(3)(c). Specific activities related to each of these six topics will be set forth below.

#### 2. Watershed Profiles

2.1 Review and update as appropriate the watershed profiles contained in the *Plan*.

#### 3. Hungry Horse Initiative

3.1 Monitor contracting process, including:

- § Finalize the Bureau of Reclamation Cost Reallocation study;
- § Conduct the NEPA analysis;
- § Negotiate the contract;
- § Obtain required Congressional approvals.

3.2 Review interim contracting products such as the cost reallocation study.

3.3 Ensure that the means exist to implement leases of Hungry Horse water to basin water users through the following steps:

- Request a DNRC legal analysis of BOR Hungry Horse water rights and the state's authority to contract with the BOR and lease water to basin water users;
- § Request DNRC to identify the staffing and budgeting resources necessary to negotiate the contracts and implement the leases;
- § Develop a model to schedule Hungry Horse releases to supply the consumptive amounts of new uses and to of junior users;
  - § Convene the Clark Fork Basin Hydrologic Modeling Technical Advisory Committee;

#### 4. Options to Protect the Security of Water Rights

4.1 Examine the relationship between the adjudication and the DNRC water right change process.

4.2 Examine the process for determining the historic beneficial use of water by the Water Court and DNRC.

4.3 Identify options to reduce the burden on existing water rights holders to protect their rights.

4.4 Consider any proposal for closing the entire Clark Fork River basin to new water rights as well as conditions on such a closure.

## **5. Options for the Orderly Development of Water**

- 5.1 Continue to monitor status of the adjudication of Clark Fork basin water rights and negotiation of the Confederated Salish and Kootenai Tribes reserved water rights.
- 5.2 Consider the scale of the impact that would be a concern and the area over which the impact would occur for a cumulative impact analysis prior to the issuance of new surface and ground water rights.
- 5.3 Continue to monitor exempt well issues and proposed statutory changes.
- 5.4 Seek clarification regarding a county's authority to require community wells.
- 5.5 Define the need and opportunities for additional water storage in the basin.
- 5.6 Evaluate the options for increased water storage or increased use of water now stored.
- 5.7 Prioritize areas in the basin where additional storage would be worthwhile.
- 5.8 Assess the fate of existing water rights associated with dams that have been removed or other water uses have ceased.
- 5.9 Identify and assess options for providing mitigation water and water marketing such as use of existing storage or the Grass Valley marketing proposal.
- 5.10 Provide education about aquatic invasive species and the means for preventing their spread into the basin.
- 5.11 Examine basin water management needs.

## **6. Options for Conserving Water**

- 6.1 Examine how the existing regulatory system provides opportunities for or barriers to the reuse of water.
- 6.2 Review the model subdivision regulations under development by Montana Department of Fish, Wildlife and Parks.

## **7. Drought Planning**

- 7.1 Determine the amount of water now allocated to instream flows in the basin.
- 7.2 Analyze the effects of frequent drought and new or increased depletions on the availability of future water supplies.

## Appendix 3

### 2004 Clark Fork Basin Watershed Management Plan Chapter 11 - Recommendations and Conclusions

A summary of the recommendations and conclusions listed by Chapter follows.

#### Chapter 6 - Hydropower Water Rights and Basin Water Use

The State of Montana should open discussions with USBR to determine the availability and cost of temporary and long-term contracting options and to determine a quantity of firm storage available from Hungry Horse Reservoir for Montana uses other than hydropower.

#### Chapter 7 - Options to Protect the Security of Water Rights

- 7-1 The State of Montana should complete the state-wide adjudication of water rights by:
- Establishing a reasonable goal, such as 5 years, for achieving enforceable water rights decrees in the Clark Fork basin.
  - Providing additional resources for the adjudication process by:
    - Providing additional funding for the Water Court and DNRC; and
    - Re-prioritizing DNRC's existing resources to focus on the adjudication.
- 7-2 All reasonable efforts should be made to ensure that the adjudication results in durable and accurate water rights. To improve the accuracy of the water rights adjudication the Montana Water Court should formally announce that it will examine claims with DNRC issue remarks to which no objections have been filed and resolve those it finds to be inaccurate.
- 7-3 The State of Montana and the Confederated Salish and Kootenai Tribes should move as rapidly as possible to resolve the status through negotiation or litigation.
- 7-4 The Montana Legislature and DNRC should work together to ensure that DNRC has adequate funding and staffing to carry out its water related responsibilities in a prompt and efficient manner.
- 7-5 The State of Montana should act to reduce the burden on existing water rights holders to protect their rights through:
- Direction from the Montana Legislature in an appropriation to DNRC to investigate and enforce water rights.
  - Direction from the Montana Legislature to DNRC to provide mediators to resolve water right disputes.
  - Administration by DNRC of a program that trains, selects, and evaluates water commissioners.
  - Sharing the cost of the water commissioners by all rights holders according to their share of the total basin water rights rather than just those receiving water.

- 7-6 The Montana Legislature could explicitly authorize a judge to award attorney fees to a private party bringing a successful action for an illegal use of water when diversions are made without a water use permit or existing water right.
- 7-7 DNRC could rules which it is currently developing rules to establish criteria for objecting to water rights permit and change applications that increase the burden on applicants while reducing the burden on existing rights holders in an expeditious manner.

## **Chapter 8 - Options for the Orderly Development of Water**

- 8-1 While the adjudication does not determine either the legal or physical availability of water for future appropriations, without completing it, full knowledge of water rights cannot exist, and additional water development may be at risk to future adjudicatory rulings by the Water Court, particularly in the Flathead and Blackfoot sub-basins in which preliminary decrees have not been issued.
- 8-2 DNRC should change the water rights permitting requirements and process by requiring an evaluation of cumulative impacts before granting surface or groundwater permits.
- 8-3 The regulation and management of surface and groundwater should conform to the legal standard that water is a unitary resource by:
- Amending the 35 gpm/10 acre-feet exemption to require a permit for groundwater wells that are developed as part of a common project, such as a subdivision.
  - Development of a legally defensible definition of a hydrologic connection between surface and groundwater.
  - Requiring applicants for a groundwater permit to provide information demonstrating the nature of the surface-groundwater connection.
- 8-4 The State of Montana should issue water leases as well as new water right permits to allow new water developments.
- 8-5 The State of Montana should examine and develop appropriate rules for authorization and management of groundwater augmentation to enhance basin water supplies or recharge groundwater resources as potential management.
- 8-6 The Legislative Water Policy Committee should be re-established to increase the focus on water issues and water education for legislators.
- 8-7 The Montana Legislature should appoint interim committees to consider:
- The ongoing water rights adjudication; and
  - Establishing specialized water courts to oversee water administration instead of relying district courts.

- 8-8 Single- and multi-purpose organizations such as conservancy or irrigation districts that can manage or participate in the management of water quantity could be created when they would be effective at the scale at which the management would occur.
- 8-9 Individual and water user organizations could provide for water use by existing and future users by:
- Examining options for increasing water use through use of high spring flows and snow melt (rain on snow events);
  - Increasing water storage;
  - Actively managing return flows;
  - Continuing to use water leasing and water marketing as management tools; and
  - Protecting and rehabilitating wetlands through active floodplain and wetland management, bank storage, etc.
- 8-10 Additional research is needed to:
- Evaluate the availability of the basin's groundwater, its recharge rate, and groundwater-surface water interrelationships.
  - Define more accurately sub-basin hydrology and water, biological, and economic relationships.
  - Study water availability to identify places of stress and the impacts of sewer system installations on water quality.
- 8-11 Ongoing monitoring by of stream flow, groundwater, and snow pack is critical to both research and water management; funding should be provided to state and federal agencies to continue this monitoring.

## **Chapter 9 - Options for Conserving Water**

- 9-1 Cities and counties could use their zoning and subdivision review powers to:
- Protect areas in which surface waters recharge groundwater.
  - Require water meters in new subdivisions and government-owned water systems.
  - Promote conservation through adoption of model conservation ordinances that regulate water use during periods of a water distribution shortfall.
- 9-2 DNRC can help to promote water conservation by
- Improving its system for handling and managing water data to make the data more accessible to the public.
  - Requiring measurement of water use for new water permits and change authorizations.
  - Reaching agreement with DEQ to coordinate information required from groundwater pump tests.
- 9-3 Pursuant to the mandate of its organic act, the USFS should optimize favorable flow conditions in its management. It should do so.
- 9-4 Individuals and water user organizations can take additional actions to provide for the long-

term, sustainable use of water by:

- Measuring water uses and diversions;
- Improving water conveyance efficiency;
- Managing groundwater provided by irrigation;
- Identifying, managing, and protecting areas in which surface waters recharge groundwater; and
- Managing the supply side, e.g. using artificial recharge.

9-5 Individuals, organizations, and, where appropriate, government agencies should work together to form sub-basin planning entities which in turn can and should develop and implement drought plans targeted at the objectives of local water users.

9-6 Government agencies and water user organizations should provide long-term, coordinated education for water users, including information about activities that might affect groundwater recharge and quality and the connection between wasting water and wasting electricity.

9-7 Specific research topics that should be pursued include:

- The connection between groundwater infiltration and base stream flow;
- The connection between the basin vegetation and base flow;
- Quantification of water conservation activities; and
- The 7-day average low flow in a 10-year period (sometimes known as 7Q10).

**Clark Fork River Basin Task Force  
2010 Renewable Grant and Loan Program Grant Application**

**Letters of Support**



May 5, 2010

Ms. Ann Schwend  
DNRC Water Resources Division  
P.O. Box 201601  
Helena, MT 59620-1601

***Re: Support for the" Clark Fork River Basin Task Force"  
Renewable Resource Grant Proposal***

Dear Ms. Schwend,

The Clark Fork Coalition is pleased to provide our full support for the "Clark Fork River Basin Task Force" grant proposal, which has been submitted to DNRC's Renewable Resource Grant and Loan Program. We believe that funding the continuation of the Task Force's work is critical for facilitating consensus-driven solutions to effectively managing our over-allocated and precious water resources in the Clark Fork basin.

The Clark Fork Coalition was founded in 1985 as a non-profit organization dedicated to protecting and restoring the 22,000 square-mile Clark Fork River watershed. We are comprised of 1,500 members who are united behind the goal of creating healthy and vibrant rivers and communities. In addition, the Clark Fork Coalition has had a DNRC-appointed "seat" at the Task Force table for over a decade, representing the interests of "conservation/environmental organizations" among the diverse stakeholders on the Task Force.

Many challenges face water management in Montana. However, groups like the Task Force create effective dialogue around how to cooperatively allocate and protect our vital water resources for future generations. The Coalition hopes these efforts will continue—we believe that this grant will allow the Task Force to continue its statutory responsibility to plan for secure sources of water for all water users in the Clark Fork basin.

Thank you for your time, and for considering funding the important work of the Task Force. Please feel free to contact me with any questions or concerns.

Sincerely,

A handwritten signature in purple ink that reads "Brianna Randall". The signature is written in a cursive, flowing style.

Brianna Randall  
Water Policy Director

PO Box 7593  
Missoula, MT 59807  
406/542-0539 Phone  
406/542-5632 Fax

RECEIVED

MAY 12 2010

D.N.R.C.

May 10, 2010

Ann Schwend  
Water Management Bureau, DNRC  
Box 201601  
Helena, MT 59601-1601

To whom it may concern:

I am writing in support of DNRC efforts to obtain grant support for the Clark Fork River Basin Task Force. As both a relatively new voluntary task force member and a resident of the basin I have been very pleased with both the breadth of issues considered and the input of the task force in addressing these issues.

The most critical issue in my opinion is water demands related to inevitable development within the basin and how this relates to water rights law, availability of resource, environmental impact, and limits on economic growth. I believe a key function of the task force is to consider these very complex and interrelated factors as a whole, both within the task force and through the citizen interactions sponsored by the task force.

Membership within the task force has maintained a well-rounded array of expertise within the group that is frequently supplemented by presentations of outside experts and community concerns. The Clark Fork River Basin Task Force should continue to serve as a well-founded source of information and advice regarding state law/regulation related to basin water and land use planning.

Sincerely,



Theodore J Williams, Ph.D.  
38807 Parker Lane  
Polson, MT 59860



PO Box 1247, Hamilton, MT 59840  
406.375.2272  
brwaterforum@bitterroot.net  
www.brwaterforum.org

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CHRIS CLANCY

May 4, 2010

Ann Schwend,  
DNRC Water Resources Division  
P.O. Box 201601  
Helena, MT 59620-1601

Re: RRGLP Grant

Dear Ms Schwend:

The Bitter Root Water Forum is in full support of the RRGLP grant project proposal submitted by the Clark Fork River Basin Task Force. The purpose of this project is to fund the Task Force during FY2012-2013 so that it can continue to carry out its statutory duties set forth in 85-2-350 and DNRC can meet its statutory responsibility found in 85-1-203. During FY2012-2013, the Task Force will benefit the conservation, development, management, and preservation of the Clark Fork basin water resources through the following tasks:

- Continuing to hold nine to ten Task Force meetings per year to provide a forum for all interests to communicate about water issues, identify short-term and long-term water management issues and problems and alternatives for resolving them, and identify data gaps regarding basin water resources, especially ground water.
- Convening conferences and workshops to address water management topics. While the specific conference topic or topics for FY2012-2013 have not been chosen, they might include reuse of water and mitigation alternatives for water right permits.
- Convening the Clark Fork River Basin Roundtable to coordinate the water management, planning, and research activities by local basin watershed groups, water user organizations, and interested individuals.
- Issuing policy papers on water management topics such as water right enforcement, the water right permit cumulative impact analysis, and alternatives for addressing exempt wells.
- Conducting listening sessions with local government officials.
- Reporting to the DNRC and legislative committees such as the Water Policy Interim Committee.

Thank you for your strong consideration of this project proposal. The Bitterroot watershed will be one of the watersheds within the Clark Fork River Basin to reap the positive benefits of the continued efforts of the Clark Fork River Basin Task Force.

Respectfully,

A handwritten signature in blue ink that reads "Laurie Riley".

Laurie Riley  
Executive Director



# SANDERS COUNTY BOARD OF COMMISSIONERS

RECEIVED

MAY 12 2010

D.N.R.C.

May 11, 2010

To Whom It May Concern:

The Sanders County Board of Commissioners fully supports the Clark Fork Basin Task Force application for the Montana Department Natural Resource Conservation grant application. Sanders County water right holders and water users are in need for solutions and public education of water right problems that affect our economy, recreation, home use and health. The Clark Fork Basin Task Force is working on solutions to these problems that directly affect our citizens:

- 1) Pennsylvania Power and Light (PPL) and Avista water rights at Thompson Falls, Noxon and Cabinet power dams.
- 2) The Thompson River Cogen
- 3) The Flathead Irrigation Project change in management.
- 4) Compact water right negotiations between Montana, the Federal Government and the Salish-Kootenai Tribes.
- 5) Ground water rights for household wells and subdivisions.
- 6) Aquatic invasive species in the rivers, lakes and reservoirs.
- 7) Waste water and water quality.
- 8) Storage water in reservoirs for water right mitigation.

It is very important that Clark Fork Water Task Force continues and receives funding.

Sincerely,

Board of Commissioners  
Sanders County, Montana

A handwritten signature in cursive script, appearing to read "Carol Brooker".

Carol Brooker, Chairman

A handwritten signature in cursive script, appearing to read "J. Gail Patton".

J. Gail Patton, Commissioner

A handwritten signature in cursive script, appearing to read "A.B. 'Tony' Cox".

A.B. (Tony) Cox, Commissioner