

Upper Clark Fork River Basin Steering Committee
Meeting Summary
June 23, 2010

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
Holly Franz	PPL Montana, LLC
Bob Benson	Clark Fork Coalition
Stan Bradshaw	Montana Trout Unlimited (TU)
Jim Dinsmore	Granite Conservation District
Jim Quiggley	Little Blackfoot River
Jules Waber	Powell County

Public

Darryl Barton	City of Deer Lodge/Clark Fork River Technical Advisory Committee
Rankin Holmes	Clark Fork Coalition

Agency

Pat Saffel	Department of Fish, Wildlife and Parks (DFWP)
Jason Lindstrom	DFWP Fishery Biologist

Staff

Gerald Mueller	Facilitator
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Agenda

- Review summary of the May 25, 2010 Meeting
- Updates
 - Water Policy Interim Committee
 - Water Words
 - Other Organizations
- Prioritization of Tributaries in the Upper Clark Fork River Basin for Fishery Enhancement
- Basin Closure
- Revised Basin Water Management Plan Outline
- Meeting with Basin Watershed and Other Interested Groups Regarding the Water Management Plan Revision
- Public Comment
- Next Meeting

May 25, 2010 Meeting Summary

The Steering Committee made one change to the May 25, 2010 meeting summary. On page 2, the answer to the following question was changed to read “Some of the other groups with...” The corrected version is:

Question - What groups were represented on the committee that WPIC asked to develop the

content for the marketing legislation?

Answer by Holly Franz - I represented PPL Montana. Some of the other groups with representatives on the committee included Trout Unlimited, the Senior Water Right Coalition, the Montana Association of Realtors, the Montana Farm Bureau, and the Montana Water Resources Association.

Updates

Water Policy Interim Committee (WPIC) - Gerald Mueller reported that the WPIC will meet on July 26 and 27. An agenda for this meeting is not yet available but will be posted on the committee's web page at the following address.

http://www.leg.mt.gov/css/Committees/interim/2009_2010/Water_Policy/Meeting_Documents/meetings.asp#meeting7

WPIC will likely consider legislation that it wishes to introduce during the next session including a bill addressing water marketing that Holly Franz discussed at the May Steering Committee meeting.

Water Words - Gerald Mueller passed out a draft of the latest issue of the *Water Words* newsletter, that is about to be published. Articles in this issue address: *Landowner's Guide to Fixing Streams on Working Lands*, a joint publication of the Clark Fork Coalition (CFC) and the Watershed Restoration Coalition (WRC); two CFC projects, a hydrologic study on the Dry Cottonwood Creek Ranch and analysis on the Westside Ditch of options for restoring instream flows while maintaining agriculture productivity; a CFC and WRC survey assessing the health of upper basin Clark Fork River tributaries; and a summary of WRC restoration programs. The *Water Words* calendar includes a fall meeting convened by the Steering Committee to discuss the basin water management plan revision with basin watershed groups and other interested entities. *Water Words* is a cooperative project of CFC, WRC, the Blackfoot Challenge, and the Steering Committee. As was the case with the first issue, the Steering Committee budget will fund this issue.

Other Organizations - Bob Benson mentioned that the *Landowner's Guide to Fixing Streams on Working Lands* is available as a hard copy and an online version at the following web address.

<http://www.clarkfork.org/publications/landowners-guide-2010.html>

Mr. Benson also mentioned that the Natural Resource Damage Program has apparently scrapped the roadmap that was meant to guide the program expenditures. The Upper Clark Fork River Basin Advisory Council is meeting today to begin discussions of something to replace it. DEQ's Joel Chavez has reported more widespread and deeper metals contamination than expected, a fact that may increase the need for spending on remediation and restoration. Since the onset of the NRDP, several groups and entities have been concerned that NRD funds be spent first on cleaning up and restoring the river. Scrapping the roadmap may relax focus on this priority.

Rankin Holmes reported on a conservation roundtable held this past Monday to bring together the groups that are working on restoration projects in the upper Clark Fork River basin. The roundtable allowed groups to share information about their restoration and monitoring projects and identify opportunities for partnerships. The roundtable may be reconvened on a quarterly schedule.

Prioritization of Tributaries in the Upper Clark Fork River Basin for Fishery Enhancement

Pat Saffel, DFWP's Fisheries Manager for Region 2, reported on a prioritization conducted jointly by DFWP and NRDP of opportunities for enhancing the fisheries in the tributaries of the upper Clark Fork River. He used a PowerPoint presentation entitled "Prioritization of Tributaries of the Upper Clark Fork Basin for Fishery Enhancement." A copy of this presentation is available on the Steering Committee web page at the following web address.

http://dnrc.mt.gov/wrd/water_mgmt/clarkfork_steeringcomm/default.asp

The presentation is available for informational purposes only, and its contents should not be used in any manner without approval from the DFWP and NRDP.

The draft final versions of the report documents, *Prioritization of Tributaries in the Upper Clark Fork River Basin for Fishery Enhancement* and *Rating Summaries for the Prioritization of Tributaries of the Upper Clark Fork River Basin for Fishery Enhancement* are available, respectively, at the following web addresses.

<http://www.doj.mt.gov/lands/naturalresource/resources/projects/2010tributaryprioritization.pdf>

<http://www.doj.mt.gov/lands/naturalresource/resources/projects/2010ratingssummary.pdf>

A 60-day comment period on these documents will begin soon.

The following are highlights of meeting participant questions and comments and responses by Pat Saffel and Jason Lindstrom.

Question - Is German Gulch in the priority mix?

Answer - Yes. The study included tributaries of Silver Bow Creek.

Question - This study did not address the mainstem of the Clark Fork River. Is there a schedule for prioritizing reaches of the mainstem?

Answer - No.

Question - Your tenth slide addresses the value of the current fishery and of habitat enhancement and protection. Are the values monetized?

Answer - No. Value is in reference to achieving fishery goals, not dollar amounts.

Question - Where are the PIT tag detectors located?

Answer - The detectors are located on the stream bottoms and the fish swim over them. We have a couple on the Clark Fork mainstem and some on tributaries of Silver Bow Creek.

Question - You mentioned that until this year, the last time you shocked fish in the mainstem was 1987. How do the numbers of fish this year compare?

Answer - The fish numbers this year immediately below the Warm Springs ponds dropped significantly from about 1,000 fish per mile in 1987 to between 150 - 200 per mile this year. During the 1990s, the ponds were redone, and we now have operational issues with them. The most significant issues appear to be ammonia, pH, and temperature. We are trying to understand the cause and effects of this fish density change. Below the ponds to Drummond, the fish density

this year was 250-300 fish per mile, similar to the 1987 numbers. Numbers are also down in lower Warm Springs Creek (i.e. below Meyers Dam), the lower Little Blackfoot River (from its confluence with the Clark Fork to Telegraph Creek), below Galen, and in lower Racetrack Creek. Below Drummond, the measured fish densities dropped significantly this year. Flint Creek may be a source of mercury and dissolved oxygen depletion in the Clark Fork mainstem below Drummond. Fish numbers in Flint Creek itself remain good, so again, we are not sure what is happening to cause the density decline in the mainstem. We are modeling water quality to identify causes of mortality. Our work at Milltown indicates that fish are more sensitive than reflected in the current water quality criteria.

Comment - DEQ is currently developing numeric nutrient standards. You may want to contact Dr. Mike Suplee about your fish and water quality concerns.

Comment - The University of Montana studies the metals concentrations in the blood of osprey chicks. The highest mercury levels were at Drummond.

Question - Didn't the data collected by Dan McGuire indicate that upper Clark Fork fish numbers were increasing?

Answer - Yes; however over the last four years, fish and aquatic insect numbers were down and flatworm numbers were up.

Comment - Except below the Warm Springs ponds, 2009 was a banner year for fish numbers.

Question - The recent high water in the river is eroding slickens areas upstream of Deer Lodge. Do you expect this to be good for fish?

Answer - It can't help. 1996-97 was also a high flow year, and aquatic insect numbers dropped.

Question - Are you measuring copper concentrations?

Answer - Graduate students and the USGS are collecting metals concentration data.

Question - Is it correct that several fish tags have been found under eagle nests?

Answer - Avian predation is significant. Heron, osprey, and eagles are taking fish. Normal mortality in tagged fish is on the order of 5%. In the upper Clark Fork, the mortality of tagged fish is in the 40-50% range.

Question - Is Cottonwood Creek connected to the mainstem of the river?

Answer - It is marginally connected during the summer.

Question - Is the National Parks Service at Grant-Kohrs a willing participant in restoration work on Cottonwood Creek?

Answer - The Parks Service has had some problems with the restoration efforts.

Comment - The CFC has suggested a siphon on Cottonwood Creek to reconnect it with the mainstem. The Park Service has had concerns about child safety and a siphon. However, as the Grant-Kohrs Supervisor has become familiar with our restoration efforts, she is coming around. We see an opportunity for a project on Cottonwood Creek.

Question - Are there cutthroat trout in Cottonwood Creek?

Answer - There are cutthroat above Baggs Creek. We have not been able to fix the passage barrier there.

Question - The prioritization in this study reflects the interests of both the NRDP and DFWP. If only DFWP interests were addressed would the priority for native fish be higher?

Answer - Yes. We will likely dedicate the Future Fishery Program funding to bull trout and cutthroat restoration.

Question - Have you found bull trout in the lower Little Blackfoot?

Answer - We have found one bull trout in this area. Above Telegraph Creek, cutthroat is dominate. The density is low below Avon. We are using radio telemetry in the lower Little Blackfoot.

Comment - I have caught cutthroat in the Little Blackfoot River.

Answer - When they are present they are easy to catch. Most of the cutthroat we capture have hook scars. Native fish are an important recreational fishery. Until very recently, native fish have been about 10% of the Clark Fork River fishery; now they are only about 1%.

Question - You said that in the Clark Fork both low and high flows are problematic for the fishery. Once metals are removed under the current remediation and restoration plan, do you expect the high flow problems to end?

Answer - Yes. We advocate not skimping on metals removal. At present, the state wants to remove more metals than does EPA.

Comment - The Steering Committee is beginning the process of revising its 1994 water management plan for the upper Clark Fork basin. The theme of revision is developing a flow plan to compliment the remediation and restoration efforts. We would be interested in DFWP's input regarding flows for the mainstem and tributary fisheries.

Response - Achieving the 90 cubic feet per second at Deer Lodge would be very important.

Basin Closure

Section 85-2-338(5) MCA provides: "The steering committee, consistent with the Upper Clark Fork River basin comprehensive management plan, shall:

(a) review the Upper Clark Fork River basin closure and exceptions as provided in 85-2-336 no less than every 5 years after April 14, 1995, and make recommendations to the legislature regarding necessary changes..." Gerald Mueller solicited information about recent water permitting activity in the basin from DNRC's Helena and Missoula Regional Office Managers, respectively, Terry Eccles and Bill Schultz. He also asked for their comments on the closure. Appendix 1 below contains a file memo summarizing the managers' comments and includes the permit data from both.

Highlights of the meeting participant discussion of the information provided by Mr. Eccles and Mr. Schultz follow. Answers and responses are by Gerald Mueller.

Comment - I am not sure what the jurisdictions of the Helena and Missoula regional offices are.

Response - I will find out.

Comment - Please ask the Missoula office for information about the 602 exempt well notices of completion within its jurisdiction.

Response - I will do so.

Comment - Exempt wells do not require water right permits. Owners of these wells are supposed to file notices of completion of such wells. The numbers of such wells in the basin is useful “big picture” information.

Comment - Regarding Mr. Eccles concerns about the period of use, focusing permitting on the critical use period, generally July through September, may protect the stream flow during this period, but wells would also affect flow during the remainder of the year. Hydropower production is valuable during the winter months. The impact of changes needs to be assessed for the entire year. I would not favor allowing irrigation permits be used to mitigate year round well production.

Comment - When we were developing the 1994 water management plan, we thought about exempting non-consumptive uses. We did not do so exempt for expansion of existing hydropower generation. We should ask for information about non-consumptive permitting activities in other basin.

Response - I will do so.

Revised Basin Water Management Plan Outline

Gerald Mueller passed out a version of the draft basin water management plan revision outline based on comments at the May Steering Committee meeting. See Appendix 2 below. He asked for additional comments. Except for editing addressing spelling and numbering, there were no comments on the substance of the outline.

Steering Committee Action - With the editing changes, those members of the Steering Committee present at this meeting agreed to circulate this version of the outline.

Meeting with Basin Watershed and Other Interested Groups Regarding the Water Management Plan Revision

Gerald Mueller stated that at its May meeting, the Steering Committee agreed to convene a meeting of basin watershed groups and other interests to discuss the outline and solicit their participation in the plan revision. He suggested that the meeting occur sometime in October in Deer Lodge. He asked for names of organizations and others to invite to the meeting.

Steering Committee Action - Those members of the Steering Committee present at this meeting agreed to target the week of October 18 to convene the meeting. The invitation should include the draft revision outline and a summary of the activities that occurred as a result of the plan.

Public Comment

There was no additional public comment.

Next Meeting

The next two meetings were scheduled for Thursday, September 2, 2010 at St. Mary's Center in Deer Lodge. The agenda for the September meeting will include discussion of the water right change process.

Appendix 1

Memorandum

Date: June 15, 2010

To: Files

From: Gerald Mueller

RE: Terry Eckles and Bill Schultz Upper Clark Fork Basin Closure Comments

Applicants seeking ground water permits pursuant to HB831 sometimes seek to use an irrigation water right or water stored for irrigation purposes. The period of use for these rights is limited to the irrigation season. They may not adequately mitigate ground water use outside of this period of use. HB831 requirements might be modified to focus on the period of critical stream flow, generally July through September. While a hydrogeologic study might still be required, details of how mitigation may occur outside the critical period may be relaxed somewhat.

One issue that comes up periodically is someone asking about a water right for a microhydro development. The UCF closure has no exception for non-consumptive uses, such as allowed in the Teton, Upper Missouri, and Madison & Jefferson. Without the exception for non-consumptive use, a microhydro permit is essentially not attainable. Not certain if this is by design or if the Committee would want to consider an amendment that would allow non- consumptive permit applications.

Helena Regional Office Water Right Permit Applications

602 are exempt wells
600 are wells larger than 35 gpm/10 acre-feet/yr

Count of APTP_CD					
FRMR	BOCA_CD	APTP_CD	WRST_CD	Total	
2007	76F	602	ACTV	43	
			TERM	1	
		602 Total			44
	76F Total				44
	76G	602	ACTV	73	
			TERM	2	
	602 Total			75	
	76G Total				75
	76GJ	602	ACTV	27	
			602 Total		
76GJ Total				27	
2007 Total				146	
2008	76F	602	ACTV	48	
			TERM	3	
		602 Total			51
	76F Total				51
	76G	602	ACTV	97	
			TERM	3	
	602 Total			100	
	76G Total				100
	76GJ	600	TERM	1	
			600 Total		
602		ACTV	24		
	602 Total			24	
76GJ Total				25	
2008 Total				176	
2009	76F	602	ACTV	37	
			CANC	1	
			PEND	2	
		TERM	1		
	602 Total			41	
	76F Total				41
	76G	602	ACTV	52	
			PEND	3	
			TERM	3	
	602 Total			58	
76G Total				58	
76GJ	602	ACTV	21		
		602 Total			21
76GJ Total				21	
2009 Total				120	
2010	76F	602	ACTV	9	
			PEND	4	
		602 Total			13
	76F Total				13
	76G	602	ACTV	8	
			PEND	8	
	602 Total			16	
76G Total				16	
76GJ	602	PEND	2		
		602 Total			2
76GJ Total				2	
2010 Total				31	
(blank)	(blank)	(blank)	(blank)		
		(blank) Total			
	(blank) Total				
(blank) Total					
Grand Total				473	

May 18, 2

Up_Clark ForkPermits-Cl s-Water Reservations

APPL #	BASIN	APPL TYPE	OWNER LAST NAME	VERSION STATUS	YEAR RCD	MONTH RCD	DAY RCD	FORM RCD COMMENT HB831	ISSUE DATE	COMMENT
30041590	76F	600	BIG SKY LAKE HOMEOWNERS ASSOC	TERMINATED	2008	3	24			Inadequate response to deficiency letter
30043262	76F	606	4227 HIGHWAY 83 TRUST	ISSUED	2008	9	2		1/29/2009	Change Authorization - Domestic
30043398	76G	606	RUSSELL PROPERTIES & ERICKSON	ISSUED	2008	9	12		10/27/2009	Change Authorization-Irrigation POD/POU
30043966	76E	606	ROCKING J RANCH LLC	ISSUED	2008	11	5	HB831	10/5/2009	HB831 Mitigation Change
30043968	76E	600	ROCKING J RANCH LLC	ISSUED	2008	11	5	HB831	10/5/2009	HB 831 Permit
30044937	76F	638	USDA FS - BOLES CR	ISSUED	2009	1	26	USFS Water Reservation	6/29/2009	Instream Flow
30046650	76G	638	USDA FS - BLACKTAIL CR	ISSUED	2009	8	6	USFS Water Reservation	5/11/2010	Instream Flow
30046651	76F	638	USDA FS - W FK CLEARWATER R	ISSUED	2009	8	6	USFS Water Reservation	5/11/2010	Instream Flow
30046652	76F	638	USDA FS - PLACID CR	ISSUED	2009	8	6	USFS Water Reservation	5/11/2010	Instream Flow
30047720	76F	638	USDA FS - DEER CR	ISSUED	2009	12	17	USFS Water Reservation	5/11/2010	Instream Flow

Appendix 2
Upper Clark Fork River Basin Water Management Plan Revision Outline
May 26, 2010 Draft

I. Goal of the Revision

A. Goals of the 1994 Plan

1. To provide for continued planning and management of the waters of the upper Clark Fork River Basin rooted at the local level; and
2. To balance all of the basin's beneficial water uses.

B. The goal of the revision is to develop a basin flow plan to complement the remediation and restoration plan(s).

II. History

A. Steering Committee

1. Formation
2. Accomplishments

B. 1994 Plan

1. Implementation of the recommendations

C. Other basin watershed groups

III. Basin Information

A. Hydrology

B. Demographic and land use changes

C. Water uses

1. Consumptive and non-consumptive uses
2. Irrigated lands
3. Existing water rights

D. Water measurement and supply forecasting system

1. Stream gauges
2. Snowtel sites
3. Water supply forecasts

E. Basin remediation and restoration activities

IV. Water Regulatory Framework

A. Water law

B. Adjudication status

C. Basin closure

V. Water Management Issues

A. Water right enforcement

B. Dewatered reaches

C. Milltown Dam water right change

D. Aboriginal Confederated Salish and Kootenai Tribal rights

E. Future water needs

VI. Flow Plan Components

A. Target flows

B. Water sources

C. Drought plan

VII. Recommendations