# V. CLOSURE OF THE BASIN TO NEW WATER RIGHTS PERMITS

## A. RECOMMENDATION

The Upper Clark Fork River Basin Steering Committee recommends that the legislature act to close the upper Clark Fork River Basin to the issuance of most new surface and ground water use permits. The area closed would include the entire Clark Fork and Blackfoot River drainages above Milltown Dam. The closure is not intended to affect water uses that do not require a water permit. It would be conditioned so that it would not preempt new permits for the development of:

1) Storage for beneficial uses;
2) Stock water;
3) Ground water for domestic use;
4) Expansion of zero-consumptive hydropower generation at existing projects; and
5) Superfund remedies, except for dilution, required by the U.S. Environmental Protection Agency for Superfund sites designated as of January 1, 1994.

"Domestic use" means use of water common to family homes, including use for culinary purposes, washing, drinking water for humans and domestic pets, and irrigation of a lawn or garden of less than 1 acre, not to exceed a total of 3.5 acre-feet per year. The term includes municipal uses for expanded domestic use but does not include commercial or industrial use.

The exemption for Superfund remedies should expire after five years on January 1, 2000, so that applications for new water rights permits for this purpose would have to have been filed on or before December 31, 1999.

The closure and the exemptions will be reviewed by the on-going basin-wide committee every five years, and necessary changes will be recommended to the legislature. The closure can be modified or ended by action of the legislature after the review.

## B. DISCUSSION

### 1. Advantages

The preceding proposal to close the basin to most new water rights would increase protection of existing water rights by eliminating the need to object to applications for new permits, by reducing the need to enforce existing water rights against new permits, and by reducing the cost of protecting existing water rights. A closure would also prevent additional diversion of water from the basin's streams and rivers and thereby protect the existing fishery, aquatic life, and water quality.

### 2. Disadvantages

This proposal would restrict the availability of new water use permits, and hence the development of additional water throughout the basin.