

MEMORANDUM

TO: Members of the UCFRB Remediation and Restoration Advisory Council

FROM: Doug Martin, NRDP

DATE: January 14, 2015

SUBJECT: January 21, 2015 Council Meeting

The Advisory Council will meet at **1:00 p.m.** on **Wednesday, January 21, 2015** at the Elk's Lodge in Deer Lodge. Attached are the agenda and backup meeting materials, along with the draft meeting summary from your last meeting in October 2014. Below is a summary of the major agenda items.

2012 Aquatic and Terrestrial Resources Restoration Plans Implementation

NRDP staff will provide a brief update of the *Status of Aquatic and Terrestrial Restoration and Recreation Projects*. A copy of the status of all projects is provided in the meeting backup material. One project of note is that the Drummond Kiwanis Club land acquisition closed in December 2014.

2012 Aquatic and Terrestrial Resources Restoration Plans 2015 Update

At your October 2014 meeting, staff discussed the required 2015 review and update/revisions for the *2012 Aquatic and Terrestrial Resources Restoration Plans*. The AC requested the staff develop a process and schedule for the 2015 Update of the *2012 Aquatic and Terrestrial Resources Restoration Plans* and present it at the January 2015 meeting.

At your January 21st meeting, NRDP staff will present a summary of the 2015 Update process and schedule for the *2012 Aquatic and Terrestrial Resources Restoration Plans*. The process and schedule for this update is provided in the attached memorandum, "2012 Aquatic and Terrestrial Resources Restoration Plans, 2015 Update, Process and Schedule."

Fiscal Report 2nd Qtr. 2015/Program Update: Kathy Coleman, NRDP, will provide a summary and hard copies of the fiscal report for 2nd quarter year (FYE) 2015 Restoration Fund report at the meeting as the data was not available at the time of this mailing. This report covers both project and fiscal status.

A few NRDP program updates will be presented: staffing, engineering procurement, and 2015 NRDP Lessons Learned #2 Conference to be held at Fairmont Hot Springs April 15, 16, and 17.

UPPER CLARK FORK RIVER BASIN REMEDICATION AND RESTORATION ADVISORY COUNCIL

DEER LODGE MEETING

Wednesday, January 21, 2015

Bill Rossbach, Chair
Missoula

Maureen Connor
Vice-Chair
Philipsburg

Kay Eccleston
Anaconda

Roy O'Connor
Missoula

Jim Kambich
Butte

Jon Krutar
Ovando

Mick Ringsak
Butte

Jim Davison
Anaconda

Tom Livers, Director
Dept. of Environmental Quality

Jeff Hagener, Director
Dept. of Fish, Wildlife and Parks

John Tubbs, Director Dept. of
Natural Resources and
Conservation

Ron Trahan, Chairman
Confederated Salish & Kootenai
Tribes

Jacqueline Lavelle
U.S. Dept of Interior

MEETING AGENDA

- | | |
|-------------|--|
| 1:00 – 1:15 | Introductions and Administrative Items |
| | <ul style="list-style-type: none">• Past meeting summary |
| 1:15 – 1:30 | NRDP Update – Doug Martin |
| | <ul style="list-style-type: none">• NRDP Staff Scientist Positions – New Hires• 2015 NRDP Conference – Lessons Learned #2• Questions Advisory Council and Public |
| 1:30 – 2:00 | UCFRB NRDP Restoration Activities |
| | <ul style="list-style-type: none">• Project Update Implementation 2012 Restoration Plans• 2nd Qtr Fiscal Report – Kathy Coleman• Questions from Advisory Council & Public |
| 2:00 – 3:00 | UCFRB 2012 Restoration Plans Revision – Doug Martin |
| | <ul style="list-style-type: none">• 2012 Process and Restoration Plans Requirements• UCFRB Aquatic and Terrestrial Resources Restoration Plans Update – Schedule and Process• Advisory Council Discussion• Public Comment |
| 3:00 – 3:30 | Additional Public Comment |
| | <ul style="list-style-type: none">• Next Meeting Logistics• Announcements/Wrap-up |

Note: Full Council mailing materials are posted on the NRDP website at:
<https://doj.mt.gov/lands/advisory-councils/>.

October 15, 2014 Advisory Council Final Meeting Summary

Held from 1:00 to 3:30 p.m. at the Fairmont Resort

Note: The Advisory Council went on a tour of the SBC access sites prior to the meeting.

Council Members Present: Bill Rossbach, Jon Krutar, Laurence Siroky, Jeff Johnson, Jim Davison, Mary Price, Maureen Connor, Roy O'Connor, Mick Ringsak, Kay Eccleston, Jim Kambich.

Administrative Items: None

Rob Collins gave an update on the NRDP Chief Position.

Fiscal Update: Kathy Coleman

Maureen asked about the educational funds. Bill asked what the \$4 million in educational funds earned in interest. Kathy responded that \$2,000 was earned last year on \$2 million.

Kathy stated there was a mistake in the educational funds numbers and that she would be sending a new spreadsheet.

NRDP Update: Rob Collins

Rob gave an overview of all the staff duties that are outside the AC's obligations, such as those on Butte CD negotiations, Anaconda Uplands, Clark Fork River, Mike Horse, Yellowstone, and East Helena.

Mick asked why the Butte CD is taking so long and when will the CD be signed. Rob responded that the reason it was taking so long is there are many entities at the table, i.e., BSB, EPA, MR, the State, and the railroad. Most of these types of negotiations have taken three years, so no guarantees, but it is planned for the end of 2015.

ADLC Ground Water Summary: Alden Beard

Jon Krutar asked if the water savings included savings due to meters. Alden acknowledged that some savings were due to meters, but he did not know much is due to meters versus leakage.

Mary Price asked was the goal to eliminate all leakage. Alden noted that not all leakage would be eliminated, but he thought ADLC would beat the national average for municipal water systems.

BSB Ground Water Summary: Dave Schultz

Maureen asked if the \$1.7 million included bringing power to the Basin Creek Water Plant Site. Dave responded yes.

2012 Aquatic and Terrestrial Restoration Plans Review: Doug Martin

Doug gave a review of the *2012 Restoration Plans*.

Non-Flow Aquatics Project Update: Doug Martin

Doug gave a summary of NRDP led work on the non-flow projects.

Maureen requested the aquatic tributary riparian assessments be put on the NRDP website. Doug stated that could be done.

Aquatic Flow Projects: Tom Mostad

Tom gave a summary of the status of the flow projects.

Maureen asked if a water district is proposed by the Racetrack water users. Tom responded that a deal cannot be made unless someone claims responsibility. It needs to be clear who are the spokesmen for the Racetrack group. There are lots of water issues and conflicts in the Racetrack area.

Mary asked if landowners are talking to other entities for assistance concerning the Westside Ditch issues. Tom replied that we are working on getting others to assist. Matching funds were not required, but we will try to get other funding. We are looking very closely at the overall value of the project.

Kay asked at what point does one reprioritize projects. Tom responded that we are looking at several projects at once and can look at a variety of approaches.

Kay recognized that it is difficult to balance the right level of effort. Tom stated that water purchase, not unlike land acquisitions, is difficult since we do not know all what's on the table.

A discussion was held concerning the location of Whalen Ditch and what areas on the CFR are affected.

Bill commented that there is a lot to consider with water valuation and we need to be cautious. Water in one area may be best to buy compared to another area. One needs to realize there is never the same value of water in all areas. Tom agreed and noted that benefit allocation and determination is difficult. Bill suggested that it may be prudent to obtain more water for instream flow sooner rather than later with the current state of climate change and other issues.

Rob commented that \$70 to \$100 million is necessary to revamp the whole Silver Lake water system and that we may end up paying a significant amount for the Silver Lake system if that option is pursued. Bill noted the AC listened long and hard to Rick Larson last year and will remain suspect of the Silver Lake system possibilities.

Tom briefly discussed the recent RFQ for water rights consultant assistance and stated that DNRC is breaking new ground in their determination of some water rights issues and we disagree with some of DNRC's points. He also mentioned that a recent tour of Columbia Basin Water Transaction Program (CBWTP) helped folks get the message out of how the process can and may work.

Terrestrial Plan Projects: Greg Mullen

Greg gave a summary of the NRDP progress on terrestrial projects.

Rob noted that the Garrity purchase was going to the Land Board next week.

Recreational Projects: Doug Martin

Doug gave an update of all the recreational projects in the *2012 Restoration Plans*, including the Milltown Project.

Jon asked about the bridge abutment. Doug responded that MDT was doing an environmental study that would lead to a design build, but funding is an issue. The Tiger grant submitted several years ago did not get funded.

Mary noted that the lack of access to the confluence area issue needs to be addressed; people are really frustrated and landowners are losing patience. Doug explained that DEQ, NRDP, and FWP are working behind the scenes, but acknowledged that it is taking a long time.

Bill Rossbach commented that International Paper is responsible for the delay and they are playing a game of chicken where they would like the State to clean up the property, since they want the access, but would likely be at a large cost.

Rob asked if anyone had spoken to the railroad. Doug responded yes, the Railroad has been contacted, but they have no future plans to change the rail bridge.

2012 Restoration Plans Revision: Rob Collins

Rob discussed the mandatory revisions to the *2012 Restoration Plans* and what the staff thought should be done. We should get proposals, not just ideas like we did in the past, and solicit for proposals in January 2015.

Maureen commented that she has reservations about rewriting the Plan because it has taken a long time to get going to this point. She went on to say that she thought we should stick to priorities already in the plan.

Mick commented we should stick to those entities that have already submitted ideas. Doug stated that we are already working with most of the entities that are in the plan priorities.

Roy commented that submitters should go back to the plan to determine what should be submitted.

Bill commented the NRPD staff should submit a plan in January 2015 for how the Plan needs to be changed, along with the schedule and process to be completed by the end of 2015.

Kay asked if we are changing the funding allocation. Mary stated that we should not and we should stick to the percentages in the plan.

Announcements:

The next meeting is planned for January 21, 2015.

Maureen made a request to support the State Water Plan since it would help make getting water for instream flow a priority for DNRC. Maureen also noted that the Compact would be a big thing for the basin if it gets approved.

Rob asked Maureen if the Compact has a better chance of passing this time. She thought so.

Mary commented that limited negotiations are currently going on now and she was cautious about the results.

There was additional discussion on this issue and it was agreed that the Milltown water rights would be good to keep instream.

**Upper Clark Fork River Basin Restoration Fund
Quarterly Project and Fiscal Status Report
Second Quarter Fiscal Year 2015
January 2015**

Status of Aquatic and Terrestrial Restoration and Recreation Projects

Group 1 Aquatic Flow Projects (Section 3.2.1)

The 2012 *Restoration Plans* identified nine potential flow augmentation projects as the highest priority for project development and due diligence work by the State and Project Sponsors. Work on these Group 1 projects to date has mainly involved water rights, flow assessment, and coordination tasks needed to determine the likely flow benefits and viability of the projects, and completing the needed contractual agreements with Project Sponsors for this project development work. The NRDP has executed master contracts with the Clark Fork Coalition and Trout Unlimited that cover general flow project management and development tasks on five Group 1 projects: Pauley Ranch, Helen Johnson, Whalen/Westside Ditch, Clark Fork River above Deer Lodge, and Harvey Creek flow improvement projects. The following descriptions provide updates specific to these five projects, all of which have proceeded with the involvement of NRDP. No funding decisions will be made until after the projects have progressed through the Department of Natural Resources and Conservation (DNRC) process.

- **Helen Johnson Ditch:** The Clark Fork Coalition completed the due diligence and flow measurements needed to proceed with the DNRC change authorization process. An application has been submitted and DNRC has responded with a deficiency letter. A response to the deficiency letter has been submitted and DNRC is making its completeness determination.
- **Pauley Ranch:** The Clark Fork Coalition completed the due diligence needed to proceed with the DNRC change authorization process. A pre-application meeting was held with DNRC and the change authorization application is being drafted. The Clark Fork Coalition will submit a change application in early 2015.
- **West Side and Whalen Ditch:** NRDP contracted with an engineer to investigate the potential of purchasing water from the West Side Ditch Company, and possibly the Whalen Ditch owner, by examining the water conservation options for these inefficient ditch systems. The engineer's conclusions are presented in the Draft Preliminary Design Report that is available on the NRDP website. Using the Draft Preliminary Design Report, NRDP and Clark Fork Coalition are working with the ditch owners to assist with infrastructure improvements that will salvage water for instream flow purposes. The West Side Ditch and Whalen Ditch water users have submitted letters expressing their willingness to work with NRDP to combine these ditches into one piped system.

- **Harvey Creek:** Trout Unlimited is evaluating a potential flow acquisition project that would involve the purchase of alternative irrigation equipment to reduce the need for the full water right. Trout Unlimited would like to transfer the water rights to the State, if acceptable, and if an agreement can be reached between Trout Unlimited and the landowner. Trout Unlimited will continue to develop this project with the landowner.
- **Clark Fork Above Deer Lodge:** The Clark Fork Coalition is conducting initial efforts to identify potential flow projects that would augment instream flow in the dewatered sections of the Upper Clark Fork River between Warm Springs and Deer Lodge. Five new potential flow projects have been identified on the mainstem. Landowner meetings, flow monitoring, and water rights due diligence are in progress. Two of the five projects are close to reaching preliminary project terms and letters of intent to proceed.

Work is also occurring to varying degrees on the four other Group 1 flow projects, as well as on basin flow monitoring efforts, as described below:

- **Silver Lake Water System:** NRDP has contacted Butte-Silver Bow (BSB) to gage their willingness to work on a short-time lease to gain a better understanding of how the Silver Lake water could improve the flow in Warm Springs Creek. BSB has not yet responded to NRDP's request.
- **Clark Fork Meadows:** Title and appraisal work on this land acquisition project were completed in spring 2013. Water rights would be transferred to the State, if the land acquisition is approved. NRDP provided the appraisal to the property owner in June 2013. No further work will occur on this project unless the property owner indicates consent to the State's appraised value.
- **Flint Creek and Racetrack Creek:** These two Group 1 flow projects are still at the conceptual, scoping stage.
- **Racetrack Creek:** The Racetrack Water Users Group is evaluating whether it wants to pursue organizing into a legal entity, such as a water district or irrigation association, in order to explore options with NRDP and Clark Fork Coalition for increasing stored water at numerous impoundments in the drainage for instream flow purposes. A separate funded grant project is being implemented that involves a storage water right for Racetrack Lake (see page 11).
- **Flint Creek:** Clark Fork Coalition and NRDP are working with a water user interested in a short-term donated lease near the confluence of Lower Willow Creek and Flint Creek. Water rights research, flow monitoring, and a letter of intent secured from the landowner for a five year donated lease is being completed. A water rights change application is currently being drafted for submittal to DNRC. Clark Fork Coalition and NRDP also contacted Granite Headwaters Watershed Group about potential flow projects that might be worth exploring in the near future. Although, it appears there are no current projects, NRDP will continue to develop projects with this group. A synoptic flow study

of Flint Creek was completed and an additional gaging station was installed to monitor flow within the Flint Creek. Additional project development and outreach is in progress.

- **Flow Monitoring:** NRDP completed a synoptic flow study on Clark Fork River (CFR) mainstem between Warm Springs and Deer Lodge. Six additional continuous flow and temperature monitoring sites were established in 2013 and 2014 in CFR, Racetrack Creek and Warm Springs Creek.

Aquatic Non-Flow Projects: (Section 3.2.2)

Work on the non-flow aquatic projects in priority watershed areas has involved landowner contacts, evaluation of current riparian habitat conditions and fish passage/entrainment problems, prioritization of restoration actions, and the development of restoration project designs in the eight watersheds targeted for work. The assessment efforts are leading to the development and implementation of projects that will protect/enhance riparian habitat, improve fish passage, reduce fish entrainment, and/or improve in-stream habitat. These assessment and project development efforts are, for the most part, being accomplished through contracts and task orders between NRDP and two Project Sponsors, the Watershed Restoration Coalition (WRC) and Trout Unlimited (TU).

Task orders with TU have been executed for project management, fish passage and entrainment assessments, related prioritization of restoration work, and project development/implementation in the Browns Gulch, Blacktail Creek, Little Blackfoot River, Warm Springs Creek, Flint Creek, and Harvey Creek watersheds.

Task orders with the WRC have been executed for project management, riparian and instream habitat assessments, related prioritization tasks, project development/design, and implementation for restoration work being considered in the Browns Gulch, Blacktail Creek, Little Blackfoot River (and tributaries), and Flint Creek watersheds.

Summaries of activities within each of the targeted watersheds are described below.

- **Browns Gulch:** Fish passage, entrainment, riparian assessments, and the prioritization for restoration projects have been completed. Prioritization for riparian habitat enhancement projects identified projects upstream of Hail Columbia Gulch as a higher priority than projects in lower Browns Gulch because of the presence of cutthroat trout residing in this reach. Four projects are being developed on private property where landowners agree to work on enhancing the riparian and instream habitat. Two of the projects include passive restoration, riparian fencing, and placement of pine beetle killed trees along the stream corridor to protect streambanks. The other two projects are addressing streambank erosion and the removal of a culvert.
- **Blacktail Creek:** Fish passage, entrainment, riparian assessments, and the prioritization for restoration projects have been completed. Montana Tech completed the riparian assessment and assisted NRDP, FWP, WRC, and TU with the prioritization of riparian habitat projects, which was completed in spring 2014. Blacktail Creek was split into two

reaches, upstream of the Butte Country Club (BCC) and from the southern border of the BCC to Lexington Avenue. The upper reach has many landowners that WRC and TU have been working with to develop projects. Two fish passage projects are being developed (Redferns and Butte Silver Bow) and contracts will be used to complete these projects in 2015. Beaver habitat issues are also being investigated in the upstream reach along with riparian habitat preservation and enhancement projects. Due to the large number of landowners developing, integrating, and coordinating projects, the process is time consuming and difficult. Through and downstream of the BCC property, work has been completed on a conceptual design report to address riparian habitat condition, streambank erosion, and instream habitat issues to improve native trout habitat. The conceptual design report proposes construction of a new floodplain and channel, development of wetlands, removal of abandoned road grades, and revegetation. A final design is planned to be completed spring/summer 2015 with construction proposed for fall 2015. This lower Blacktail Creek project is being integrated with the Butte Natural Resources Council work on Blacktail Creek.

- **SBC/German Gulch:** DEQ's 2013 remedial bid package for the last three miles of Silver Bow Creek along Durrant Canyon covered the removal of about 25,000 cubic yards of streamside tailings from lower German Gulch. DEQ's 2013 bid package also includes a concrete fish barrier to be constructed on Silver Bow Creek approximately one mile upstream of Fairmont Bridge. The purpose of the barrier is to eliminate migration of rainbow and brown trout into upper Silver Bow Creek allowing the native westslope cutthroat trout, coming primarily from German Gulch, to persist upstream of the barrier without risks of hybridization and competition from the mentioned species, respectively. Both projects were completed in 2014.
- **Warm Springs Creek:** Fish passage and entrainment assessments and draft prioritization for fish passage and entrainment projects have been completed. Based on review of existing information, a riparian assessment is not needed. Prioritization of restoration actions is to be completed in early 2015.
- **Cottonwood Creek:** The WRC and NRDP hired an engineer to finalize the engineering design work for the Kohrs Manning Ditch in the Cottonwood watershed. Ditch owners are currently reviewing the design. Project design is scheduled to be completed in 2015, with construction proposed for late 2015.
- **Little Blackfoot River Watershed:** Fish passage, entrainment, riparian assessments, and the prioritization for fish passage and entrainment projects have been completed. NRDP and WRC selected a contractor to complete the riparian assessment in spring 2014. Prioritization of restoration actions identified projects on Spotted Dog Creek and Snowshoe Creek as the highest priorities. In addition, work on larger reaches of the mainstem of the Little Blackfoot River where landowner cooperation has been obtained is being pursued as well. WRC and TU continue to engage with landowners within the priority areas of the Little Blackfoot River watershed to promote potential projects.

- **Flint Creek Watershed:** Fish passage, entrainment, and riparian assessments have been completed. Selection of a contractor to complete the riparian assessment occurred spring 2014 and the riparian assessment fieldwork was completed by fall 2014. Prioritization of restoration actions is to be completed early 2015 with project development to follow.
- **Harvey Creek:** Task orders executed with TU for the Harvey Creek watershed involve installation of riparian fencing (completed October 2013), the design and installation of a fish screen (completed fall 2014). In addition, TU has additional riparian fencing planned for another mile of stream and completed the assessment of a culvert and fish barrier that appears to be failing. TU is also working with landowners to address entrainment issues in several diversions along Harvey Creek.

NRDP developed monitoring and maintenance task orders for work at the Milltown site (Section 3.2.2.1), including vegetation monitoring and annual maintenance, weed control, and completion of the Federal Emergency Management Agency (FEMA) floodplain mapping that involves a 50% cost-share with the Environmental Protection Agency. A vegetation pilot test was started in summer 2013 to evaluate treatments to enhance vegetation establishment on a section of the restored floodplain.

NRDP contracted with GEUM Environmental Consulting for the development of a Watershed and Basin Monitoring and Maintenance Plan (Section 3.2.3). This plan is being coordinated with project implementers, as well as resource managers, to guide maintenance and monitoring of aquatic resources at the project, watershed, and basin level. This plan will gauge the effectiveness of funded activities in meeting the aquatic restoration goals set forth in the *2012 Restoration Plans*. This document is available on the NRDP website.

Mainstem Clark Fork River - Flint Creek to Rock Creek (Section 3.2.2.1) – Fish Population Evaluation and Follow-up Actions: NRDP and FWP contracted with Respec, Inc. to complete a literature review of the information that is available to determine the reason for the low trout densities in this reach of the Clark Fork River. The initial literature review is complete and the State is assessing what additional research is necessary to determine the best actions to implement to address the low trout densities.

Terrestrial Projects: (Section 4.0)

Work in FY14/15 has involved land transaction research and development along with due diligence steps on two acquisition projects that were funded either entirely with terrestrial priority funds (the Garrity property) or through a combination of terrestrial and aquatic priority funds (the Confluence property):

- 1) **Confluence property:** This project involved the State's contribution of partial funding (\$400,000 or 25%) for acquisition of a 202 acre property located near the confluence of Rock Creek and the Clark Fork River. In June 2013, NRDP issued its funding recommendation document on this project for public comment. Following public comment and a favorable funding recommendation from the Advisory Council and Trustee Restoration Council, the Governor approved the project for funding in November

2013, subject to several funding conditions. NRDP finalized the purchase with the Five Valleys Land Trust in May 2014.

- 2) **Garrity Mountain Addition property near Anaconda:** This project involved the State's contribution of partial funding (\$1.28 million or 93%) for acquisition of a 640 acre property located a few miles west of Anaconda and adjacent to the Garrity Mountain Wildlife Management Area. In May 2014, NRDP issued its funding recommendation document on this project for public comment. Following public comment and a favorable funding recommendation from the Advisory Council and Trustee Restoration Council, the Governor approved the project for funding in October 2014. NRDP, in coordination with FWP and The Conservation Fund, finalized the purchase in November 2014.
- 3) **Harris Property near Milltown:** In 2013, NRDP completed needed title work and appraisal work on this 160 acre property located east of and adjacent to the Milltown properties conveyed by NorthWestern Corporation to the State in 2010. The appraisal was reviewed by the landowner. The entity holding a first right of refusal option to purchase the property has decided to execute their option to acquire the property. NRDP entered into an agreement with the new landowner to protect the restoration investment made at Milltown.
- 4) **Clark Fork Meadows property near Galen:** See update on p. 4 under flow projects.

NRDP is also working with Five Valleys Land Trust and FWP on other potential land acquisition prospects included in the *2012 Restoration Plans*, although this work is more at the conceptual planning stage and has not involved any due diligence tasks, such as title and appraisal work. NRDP and FWP are also working to address the terrestrial land abstracts and habitat projects included for funding consideration in the *2012 Restoration Plans* for which work has yet to be initiated.

Three terrestrial monitoring projects that were covered in the *2012 Restoration Plans* (Section 4.2.6) are underway or completed:

- 1) **Bird Monitoring:** The Avian Science Center completed its report on the results of bird monitoring at several FWP Wildlife Management Areas in the UCFRB conducted during spring 2013. This effort focused on the Spotted Dog Wildlife Management Area, where a baseline of bird utilization was established before FWP began managing grazing intensity.
- 2) **Beaver Habitat Mapping:** In July 2013, the NRDP executed a contract with a consulting ecologist to develop a watershed-scale analysis of beaver habitat suitability and identify passive restoration and non-lethal beaver management opportunities to facilitate stream restoration in the UCFRB. Results are expected in late 2014.
- 3) **Flint Creek Mercury Study:** NRDP worked with the Granite Headwaters Watershed Group to develop a scope of work and budget for the coordination of a study on the

nature, extent, and impacts of mercury contamination in Flint Creek, to be completed in late 2014 and 2015. The Watershed Group's watershed coordinator first task will be to compile available information before further planning this study. In consultation with the Watershed Group, the NRDP contracted with the University of Montana for some limited sediment sampling and mercury analyses in the Flint Creek Watershed that was conducted in December 2013.

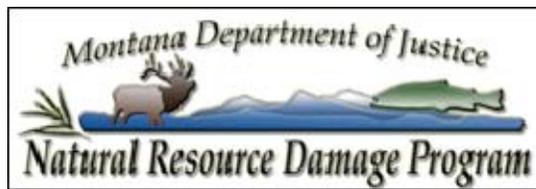
Recreation Projects: (Section 5.0)

NRDP has been working with Project Sponsors on needed project development and due diligence tasks on the six recreation projects included in the *2012 Restoration Plans*. These projects are funded with the proportionate allocations of aquatic and terrestrial priority funds identified in the *2012 Restoration Plans*.

- 1) **Drummond Kiwanis Riverside Park:** Following public comment and a favorable funding recommendation from the Advisory Council and Trustee Restoration Council, the Governor approved the project for funding in November 2013, subject to several funding conditions. The land acquisition is expected to be completed by December 2014. Improvements to the site should begin in spring 2015 with the trail opening expected in summer 2015.
- 2) **Deer Lodge Trestle Park:** NRDP and Powell County finalized a phased contract that has enabled the County to conduct some initial outreach and design tasks. Remedial investigation work being conducted by DEQ at the former CMC roundhouse is expected to be completed in early 2015, after which the project can go forward.
- 3) **Washoe/Hafner Dam Parks:** NRDP and Anaconda Deer Lodge County (ADLC) executed a contract in December 2013 for the 2nd phase of work that mainly entails project management, engineering, and design work for recreational improvements based on Phase I 2013 LIDAR results and Phase III implementation. ADLC has issued a bid package and performed preliminary work on the site in Fall 2014 with full construction slated to begin spring 2015.
- 4) **Milltown State Park:** FWP and NRDP signed a memorandum of agreement for the Milltown State Park project work covered in the *2012 Restoration Plans*. Most of the recreational trail and access feature development work at the Park conducted in 2013 is being done pursuant to the 2009 Milltown State Park grant. FWP produced an Environmental Assessment for the development of the Gateway and Confluence Areas of the Milltown State Park, which will enable FWP to proceed with construction in 2014. FWP and Missoula County are working together to gain the needed access to the Confluence Area. This access is needed to develop the amenities planned for the Confluence area of the Park. FWP is also developing a plan to establish trails on the south side of the river upstream of the former dam site. The trails on the south side will provide public access to the former reservoir area.

- 5) **Bonner Dam Removal:** NRDP set up an interagency agreement with DNRC to remove the remains of the Stimson Dam on the Blackfoot River in fall 2013 and spring 2014. DNRC combined the Stimson Dam removal work with the remaining funds from the 2009 grant project to remove bridge piers, logs, and debris that are creating a hazard to river recreationalists along the Blackfoot River between the Weigh Station Fish Access Site and the Pedestrian Bridge (see p. 10). This work was completed in January 2014.

- 6) **Clark Fork River Fishing Access Sites:** FWP and NRDP are working on a memorandum of agreement for FWP to begin the scoping process on certain Upper Clark Fork River department-owned properties, which are currently undeveloped fishing access sites, to determine the feasibility of developing the fishing access sites to include improvements, such as boat launches, latrines, and designated parking. FWP plans on contracting with private engineers for the development, design, and construction of two to three fishing access sites a year located in the Upper Clark Fork River. Other state agencies owning key river parcels will also be contacted to inquire of their interest in partnering. One or two private owners may also be contacted to see if they are interested in selling small parcels to FWP to develop into fishing access sites.



MEMORANDUM

TO: UCFRB Advisory Council

CC: NRDP Staff

FROM: Doug Martin

DATE: January 13, 2015

SUBJECT: *2012 UCFRB Aquatic and Terrestrial Resources Restoration Plans, 2015 Update, Schedule and Process*

Purpose and Scope

This memorandum describes the process and schedule the State of Montana (State) will use to update and revise to the *2012 Upper Clark Fork River Basin Aquatic and Terrestrial Resources Restoration Plans, (2012 Restoration Plans)*. This *2015 Restoration Plans Update (2015 Update)*, which will be an addendum to the *2012 Restoration Plans*, is based on the natural resource damage (NRD) provisions in state and federal superfund law and on the requirements of the *Final 2012 Upper Clark Fork River Basin Interim Restoration Process Plan, (2012 Process Plan)* and the *2012 Restoration Plans* approved by Governor Schweitzer in May 2012 and January 2013, respectively¹.

The *2012 Process Plan* and the *2012 Restoration Plans* state that not all of the aquatic or terrestrial restoration actions will be known at the time of the *2012 Restoration Plans* development and provide that those plans are to be reviewed, updated and revised two years after the Governor's approval. The *2012 Restoration Plans*, Section 6.0, also indicates the updates to the restoration plans will include a public solicitation of additional conceptual restoration proposals. The *2012 Process Plan* at Section 5.4 describes the process for the review and approval of the updates and revisions to the *2012 Restoration Plans*.

Since the Governor's approval of the *2012 Restoration Plans*, the State along with its partners have worked on implementing key elements of these plans. See January 2015 Quarterly Report and *2012 Restoration Plans* Fact Sheet available at NRDP web-site¹ for the most up to date summary of activities and documents that have been prepared to implement and prioritize the restoration actions outlined in the plans. The State proposes to continue the implementation of these restoration actions, which have already been prioritized, and integrate eligible, new restoration action concepts with these actions. In addition, the State will recommend several edits/modifications to the *2012 Restoration Plans* that the State believes are necessary

¹ Documents available at <https://dojmt.gov/lands/ucfrb-restoration-plans/>

clarifications and will improve projects implementation. For instance, Table 6-1 of the *2012 Restoration Plans* needs to be corrected to account for \$700,000 budgeted to Lost Creek when it should be in the non-flow aquatic contingency fund. Also, the Terrestrial Plan (Section 4.0) should be revised to include a project ranking process and clarifications associated with project development.

Process for Public Solicitation of Additional Aquatic and Terrestrial Restoration Action Concepts

The process for the *2015 Update of 2012 Restoration Plans* is specific to aquatic and terrestrial resource priority areas within the Upper Clark Fork River Basin (UCFRB); Section 5 of the *2012 Process Plan* describes this process. Sections 5.1 and 5.2 of the *2012 Process Plan* identify the fund allocations and project location restrictions specific to these priority areas, respectively. Section 5.3 describes the plan development process, including the public solicitation of restoration action concepts. Additional guidance is provided in Section 5.3 on the types of aquatic and terrestrial restoration projects to be included in the restoration plans.

The State does not propose any changes to the fundamental structure of the *2012 Restoration Plans* (allocations or priority areas) and to work within the existing budget amounts for all the resource areas shown in Table 6-1 of the *2012 Restoration Plans*. The *2015 Update* is only for the aquatic and terrestrial restoration resources; the groundwater resources are addressed in restoration plans approved by the Governor for Butte Silver Bow and Anaconda Deer Lodge counties and are not subject to the revision provisions of the *2012 Process Plan* or the *2012 Restoration Plans*. New recreation-dominant projects, such as those listed in Section 5 of the *2012 Restoration Plans*, are not eligible for funding.

As recognized in the development of the *2012 Restoration Plans*, there is a wealth of knowledge and relationships that other entities can bring to the restoration planning process. As part of the restoration planning phase, the State will once again be soliciting from the public, including governmental entities, restoration action concepts that would coordinate or integrate with the *2012 Restoration Plans* planning, project implementation, or prioritization as well as protect or enhance fishery or wildlife resources in Priority 1 and 2 areas or in the aquatic and terrestrial injured resource areas for which the State made restoration claims. Restoration action concepts may include the identification of partners whose assistance and cooperation may be helpful or necessary during implementation of a restoration alternative. Projects included in the *2012 Restoration Plans* do not need to re-submit their abstracts. This solicitation is only for new restoration action concepts.

For consideration as part of the *2015 Update* process, interested individuals and entities must complete and submit the “Proposed Restoration Action Abstract” that is provided in Attachment A, by **Friday March 30, 2015**. As indicated on this abstract solicitation form, only preliminary information is being requested for these restoration action concepts at this time:

- general description of conceptual project,
- location,
- potential benefits,

- general schedule,
- how project coordinates with priorities listed in *2012 Restoration Plans*,
- how project integrates with restoration actions being implemented by these plans, and;
- cost estimate.

For qualifying actions, the more specific information that is provided, the more likely the project or concept will be accepted. Since development work for some projects is anticipated to have been completed by the submission date, the State may request project details during its evaluation process.

Integration of Additional Restoration Proposals into the *2012 Restoration Plans*

The State will carefully consider incorporating these restoration action concepts submitted by the public, along with State-generated restoration action concepts, in the *2015 Update*. Using the legal and policy criteria specified in Section 6 of the *2012 Process Plan* and the recent work completed with the implementation of the *2012 Restoration Plans* (see NRDP web-page and list of documents below), the State will evaluate all proposals to determine what actions to include in the *2015 Update*. In addition, some, but not all components of a restoration action concept could be included. This criteria analysis will meet the substantive requirements of the federal NRD law and regulations. The State may enlist consultant assistance in preparing the *2015 Update*, including cost estimates. The *draft 2015 Update* will also include a summary of all the restoration action concepts submitted as part of this solicitation and indicate why proposals were not included.

Information and documents pertaining to the implementation of the 2012 Restoration Plans are available at [//dojmt.gov/lands/ucfrb-restoration-plans/](http://dojmt.gov/lands/ucfrb-restoration-plans/). Documents include:

- Status of Aquatic and Terrestrial Restoration and Recreation Projects, January 2015
- UCFRB Aquatic Resources Monitoring and Maintenance Plan,
- Final Riparian Assessments for Browns Gulch, Blacktail Creek, Little Blackfoot River watershed, and the Flint Creek (includes Boulder Creek) watershed (draft only),
- Lower Blacktail Creek Conceptual Restoration Design,
- 2013 Bird Surveys Spotted Dog WMA Report – includes Spotted Dog WMA, Milltown, Stuart Mill Bay FAS, and Blue-eyed Nellie WMA

Guidance for Aquatic and Terrestrial Restoration in Priority 1 and 2 Areas

Whether a project proposal effectuates the restoration goals specified in the *2011 Aquatic and Terrestrial Prioritization Plans*² will be a major factor in the State's decisions about what projects are included in the *2015 Update* for further development and implementation. Attachments 5-2 and 5-3 of the *2012 Process Plan* provide additional guidance about the types of aquatic and terrestrial restoration projects, respectively, that are most likely to cost-effectively address restoration needs in priority areas.

² Documents available at <https://dojmt.gov/lands/ucfrb-restoration-plans/>

The identification of priority areas to focus future restoration efforts in the UCFRB has and will continue to greatly contribute to meeting restoration goals and obtaining the greatest resource benefit from the dollars spent. Both aquatic and terrestrial prioritization documents emphasize, however, that identifying areas to focus fishery and wildlife protection and enhancement efforts does not constitute any predetermination of the merits of funding a particular project. A proposed project in a priority area may or may not be a worthwhile funding prospect, depending on whether it appropriately and cost-effectively addresses the factors that adversely affect or limit the aquatic or terrestrial resources in that particular area.

Review and Approval Processes and Public Participation

Similar to the *2012 Restoration Plans*, the *2015 Update* will be produced pursuant to the *2012 Process Plan* and generally be subject of the same review and approval steps that were previously used. The *2015 Update* will be subject of a public comment period of at least 30 days and consideration by the Upper Clark Fork River Basin Advisory Council (Advisory Council) and the Trustee Restoration Council (TRC). Following consideration of public input and the recommendations of these two councils, the Governor will make the final decision on the *2015 Update* to the *2012 Restoration Plans*.

This review and approval process provides multiple opportunities for meaningful public participation. The public has the opportunity to provide public comments on the draft revisions during the designated comment period, and also at the meetings of the Advisory Council and TRC at which these revisions are considered. Input from the Advisory Council also serves as an avenue of public input. Opportunity for public input will also occur prior to issuance of the *2015 Update* through the State's planned public solicitation of aquatic and terrestrial restoration action concepts.

Schedule for 2015 Update

The State proposes the following tentative schedule for the *2015 Update* process: Solicit "Proposed Restoration Concept projects" February 16, 2015 through March 30, 2015. A 30-day public comment period for the *draft 2015 Update* scheduled for May 28, 2015 through June 29, 2015. The Advisory Council and TRC will consider public comment and make recommendations to the Governor on proposed final revisions in August 2015 with a decision by the Governor to follow. [Note: dates subject to change.]

Future Restoration Plan Revisions and Updates

The State proposes that the AC, TRC, and Governor consider whether or not another revision is necessary two years after the Governor's approval of this *2015 Update*. The *2012 Restoration Plans* took several months to establish contracts and the required administrative tasks necessary to initiate work. The State and its partners are currently in the process of implementing many of the restoration actions included in the *2012 Restoration Plans*. A review after two years is proposed based on the status of implementation of these restoration actions.

The frequency of later reviews/revisions can be addressed in subsequent plans. The revisions to the restoration plans could include a public solicitation of conceptual restoration proposals.