



MEMORANDUM

TO: Interested Public

CC: UCFRB Advisory Council, NRDP Staff

FROM: Doug Martin, NRDP Restoration Program Chief

DATE: January 24, 2023

SUBJECT: **DRAFT 2023** *UCFRB Aquatic and Terrestrial Resources Restoration Plans, Update, Solicitation of New Restoration Action Concepts and Potential Revisions*

Purpose and Scope

This memorandum describes the process and schedule the State of Montana (State) will use to update and revise the *2019 Upper Clark Fork River Basin Aquatic and Terrestrial Resources Restoration Plans, (Restoration Plans)*, and scope the issues that may be associated with implementation of any proposed restoration projects. This *2023 Restoration Plans Revision (2023 Revision)*, 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, 2016, and 2019 Restoration Plans*.¹

The *2012 Process Plan* and the *Restoration Plans* provide for the *Restoration Plans* to be reviewed, updated and revised since not all the aquatic and terrestrial priority restoration actions were known at the time of development. The *revisions* are to include a public solicitation of additional restoration project proposals and revisions to the *Restoration Plan* to improve implementation.

Since the approval of the *2012 Restoration Plans*, the State along with its partners have worked on implementing key elements of these plans. See *2022 Project Update Report*¹ for the most up to date summary of activities. 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.

The State does not propose any changes to the fundamental structure of the *Restoration Plans*, and is soliciting from the public, including governmental entities, restoration action concepts that would 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.

¹ Documents available at <https://dojmt.gov/lands/sites/upper-clark-fork-river-basin/>.

The 2011 Terrestrial Resource and the 2018 Final Aquatic Prioritization Plan provide relevant information on the priority 1 and 2 areas.¹

The *2023 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 being proposed for amendment.

The State proposes new recreation-dominant projects, such as those listed in Section 5 of the *Restoration Plans*, be submitted as part of this public solicitation, and be considered on a project-by-project basis for funding by the Advisory Council, the Trustee Restoration Council, and the Governor. All recreation-dominant funding was previously allocated in 2012 to the projects listed in Section 5 of the *Restoration Plans*, thus a reallocation of funds would need to be made if projects are recommended and approved by the Governor. Additional guidance on recreation-dominant projects is provided as an attachment to this solicitation.

In addition, NRDP is engaging in this scoping process to ensure that all impacts on the human environment associated with the restoration plan amendment and other restoration actions not yet implemented are identified.

Process for Public Solicitation

The process for the *2023 Revision of Restoration Plans* is specific to aquatic and terrestrial resource priority areas within the Upper Clark Fork River Basin (UCFRB) and the process is described in Section 5 of the *2012 Process Plan*.

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 already included in the *Restoration Plans* do not need to re-submit their abstracts.

For consideration as part of the *2023 Revision* process, interested individuals and entities must complete and submit the “Proposed Restoration Action Concept Abstract Form” provided in Attachment A, by **Friday March 3, 2023**. As indicated in the attached abstract solicitation form, only preliminary information is being requested for these restoration action concepts or potential revisions to the *Restoration Plans* at this time:

- general description of conceptual project;
- location;
- potential benefits;
- general schedule;
- how project coordinates and integrates with priorities listed in *Restoration Plans*, and;
- cost estimate.

For qualifying actions, the more specific information provided, the more likely the project or concept will be recommended. 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.

The State will also consider proposals by the public for revisions to the aquatic and terrestrial plans, including proposals that will improve the implementation of restoration actions included in those *Restoration Plans*.

NRDP is also looking for comments from the public about any concerns about impacts to the human environment, including cumulative and secondary impacts, from the implementation of restoration projects currently identified in the *Restoration Plans* or future restoration proposals.

Written comments must be submitted by March 3, 2023, at 11:59 p.m.

- Mailed to the Natural Resource Damage Program P.O. Box 201425, Helena, MT 59620-1425;
- Faxed to 406-444-0236, or
- Emailed to nrdp@mt.gov. Please use the subject line **“2023 UCFRB Restoration Plans Revision/Scoping.”**

NRDP will hold a virtual public workshop to discuss the solicitation process, solicitation guidance, project requirements, and review criteria from 6:00 to 7:30 pm on February 16, 2023.

How You Can Participate:

To attend the meeting via Microsoft Teams, see below meeting access information.

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Or call in (audio only)

[+1 406-318-5487,,939991010#](tel:+14063185487939991010#) United States, Billings

Phone Conference ID: 939 991 010#

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NRDP will make reasonable accommodations for persons with disabilities who wish to participate in this public meeting. For questions about accessibility or to request accommodations, please call Meranda Flugge at 406-444-0229 or email at

meranda.flugge@mt.gov as soon as possible but no later than 3:00 PM Tuesday February 14, 2023.

Evaluation of Restoration Proposals

Restoration actions will be evaluated using the following criteria:

- Technical Feasibility
- Relationship of Expected Costs to Expected Benefits;
- Cost-effectiveness;
- Results of Response Actions;
- Adverse Environmental Impacts;
- Recovery Period and Potential for Natural Recovery;
- Federal, State, and Tribal Policies, Rules, and Laws;
- Resources of Special Interest to the Tribes and DOI;
- Normal Government Functions; and
- Price.

Integration of Additional Restoration Proposals into the *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 *2023 Revision*. Using the legal and policy criteria specified above and the recent work completed with the implementation of the *Restoration Plans* (see NRDP web-page¹ and list of documents below), the State will evaluate all proposals to determine what actions to include in the *2023 Revision*. In addition, some, but not all components of a restoration action concept could be included. This criteria analysis will meet the substantive requirements of state and federal law. The State may enlist consultant assistance in preparing the *2023 Revision*, including cost estimates. The *draft 2023 Revision* 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 Restoration Plans are available at <https://dojmt.gov/lands/sites/upper-clark-fork-river-basin/>.

Guidance Documents:

- [Final Upper Clark Fork River Basin Long Range Priorities and Fund Allocation Guidance Plan \(2011\)](#)
- [Final Upper Clark Fork River Basin Interim Restoration Process Plan \(2012\)](#)
- [Final Upper Clark Fork River Basin Aquatic and Terrestrial Resources Restoration Plans \(2018\)](#)
- [2011 Upper Clark Fork River Basin Terrestrial Wildlife Resource Prioritization](#)
- [2018 Prioritization of Areas in the Upper Clark Fork River Basin for Fishery Enhancement](#)
- [Status of Aquatic and Terrestrial Restoration and Recreation Projects, December 2022](#)
- [DRAFT 2012 Upper Clark Fork River Basin Aquatic Resources Restoration Plan Monitoring and Maintenance Plan](#)

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

Whether a project proposal effectuates the restoration goals specified in the *2018 Aquatic and 2011 Terrestrial Prioritization Plans*² will be a major factor in the State's decisions about what projects are included in the draft *2023 Revision* for further development and implementation. Attachments 5-2, 5-3, and 5-4 of the *2012 Process Plan* provide additional guidance about the types of aquatic restoration, terrestrial restoration, and recreation projects, respectively, that are most likely to cost-effectively address restoration and lost-use needs in priority areas.

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.

Recreational projects must provide natural resource benefits in addition to recreational benefits, such as recreational trails that help prevent resource degradation by the user public and fishing access sites.

Review and Approval Processes and Public Participation

Similar to the past *Restoration Plans*, the *2023 Revision* 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 *2023 Revision* to the *Restoration Plans*.

In addition to the current opportunity for public input, this review and approval process provides multiple opportunities for meaningful public participation. The public can 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.

Schedule for 2023 Revision

The State has adopted the following schedule for the *2023 Revision* process: Solicit proposed restoration action concepts and suggestions for revisions to Restoration Plan through **March 3, 2023**. A 30-day public comment period for the *draft 2023 Revision* will be scheduled following this scoping, likely in May/June 2023. The Advisory Council and TRC will consider public comment and make recommendations to the Governor on proposed final revisions later in

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

2023, likely in September/October 2023 with a decision by the Governor to follow. [Note: dates subject to change.]

Attachment A
PROPOSED RESTORATION ACTION CONCEPT ABSTRACT FORM

The State of Montana, through the Natural Resource Damage Program (NRDP), is soliciting restoration action concepts for aquatic and terrestrial restoration projects and suggestions for revisions, to be considered as part of the 2023 revision of the Restoration Plans. This solicitation is being conducted pursuant to the procedures set forth in the UCFRB Aquatic and Terrestrial Resources Restoration Plans 2023 Revision, Schedule and Process and the *2012 Process Plan*, which specifies the type of priority projects and project location restrictions. The State will consider restoration action concepts and suggestions for revisions, as well as restoration alternatives generated by the State, in drafting its 2023 Revision of the Restoration Plans that will be submitted for public comment and consideration of the Advisory Council and Trustee Restoration Council and a final decision by of the Governor.

For restoration action concepts and suggestions for revisions to be considered, submit a project abstract or suggestions for revisions that covers the basic information indicated below to the NRDP **no later than Friday March 3, 2023**. Since proposals and Restoration Plans revision suggestions are being requested as abstracts, submittals should not be more than five pages. **For additional information, NRDP will hold a virtual public workshop to discuss the solicitation process, solicitation guidance, project requirements, and review criteria at 6:00 to 7:30 pm on February 16, 2023.**

Your Name and Contact Information: Provide mailing address, phone number, and e-mail contact information.

Project Purpose and Benefits: Indicate why the project or revisions is being proposed. Include the expected goals, objectives, and outcome of the project or revision. Describe how the project or revision would benefit aquatic or terrestrial resources within the Upper Clark Fork River Basin (UCFRB), and/or benefit the public's use and enjoyment of those resources.

Project Location: Provide a short description of the project location, along with a project map.

Project Description: Describe the components of the project and how it will be implemented. Also indicate any suggested lead entity and project partners for implementing the project. Indicate what progress, if any, has been accomplished to date on the project.

Integration/Coordination with Restoration Plans: Describe how the components of the project or revision will integrate and coordinate with current projects being implemented as part of the Restoration Plans.

Project Schedule: Indicate the timeframe needed to complete the project and any specific completion deadlines that would apply.

General Cost Information: Provide an estimate of total project costs. If possible, provide a categorical breakdown of the costs for the following categories: salaries/benefits; contracted

services; supplies and materials; travel and communication; equipment; or other (specify).
Indicate committed or anticipated matching funds.

Send Information **no later than Friday March 3, 2023**, to:

Natural Resource Damage Program

1720 9th Ave

P.O. Box 201425

Helena, MT 59620-1425

Phone: (406) 444-0205

Fax: (406) 444-0236

E-mail: nrdp@mt.gov