

**DRAFT State of Montana's Response to Public Comments
on the**

**April 2022 NRDP Funding Recommendation for Rock
Creek Lease Renewal Project**

Prepared by the Montana Natural Resource Damage Program

April 12, 2022

Table of Contents

Introduction.....	1
Comment Summary and Response.....	2
Appendix A	
• Public Comment Letters	A1

Introduction

As part of the implementation of the *Upper Clark Fork River Basin (UCFRB) Aquatic and Terrestrial Resources Restoration Plans* (Restoration Plans), on March 11, 2022, the Natural Resource Damage Program (NRDP) released the Rock Creek Lease Renewal Project¹ documents for public comment. The comment period ran through April 10, 2022.

In 2000, the Montana Fish, Wildlife, and Parks (FWP) and others contributed to a water conservation project on Rock Creek that involved a flood to pivot irrigation conversion including a fish screen, pipeline and two center pivots. The conversion project made available up to 27.22 cubic feet per second (cfs) of water to be leased for purposes of instream flow. The term of the original lease was for 20 years. During that time, Bighorn Cattle Ranch LLC purchased the irrigated ground and water rights from the original lessor. There are a total of six water rights in this lease, including the second and third priority rights on Rock Creek. Five of the six water rights associated with this lease are senior to the Milltown Water Right, which means that increased flows in the Clark Fork River will contribute to meeting instream flow targets of the Milltown Water Right. The previous lease has effectively re-watered 1.5 miles of Rock Creek that were often dewatered due to historic irrigation practices. At the time the project was first considered, the value of the water leased was estimated to be \$3.00 per acre-foot per year. In the water rights change process, DNRC found a total volume of 6,831.76 acre-feet of water is available for in-stream flow purposes. As a result of negotiations with the owner, FWP is proposing to pay \$4.51 per acre foot. The annual cost would be \$30,827.50, payable in one lump-sum of \$308,275.00 for the term of the 10-year renewal. Bighorn Cattle Ranch has tentatively agreed to this amount. FWP has requested match funds from the Natural Resource Damage Program, aquatic flow allocation in the amount of \$154,138 (50% project funding from FWP and 50% project funding from NRDP).

For outreach on this public comment period NRDP posted the public comment announcement on the NRDP web-page and sent notice of this opportunity for public comment to approximately 287 individuals/entities on the NRDP mailing lists related to the Upper Clark Fork River Basin.

NRDP received two comment letters during the public comment period. The two comment letters indicated general support of the project and NRDP's funding recommendation stating that "Maintaining clean, cold and connected tributaries to the mainstem river is a vital component to restoring the Upper Clark Fork" and "Partnerships such as this lease, are a vital piece of the puzzle in your efforts to restore and replace precious resources in the basin." See Appendix A for copies of the comment letters. NRDP does not propose any changes to the funding recommendation based on the response to comments.

This draft response to comments document summarizes the public comments received and provides NRDP's draft response to the comments. The draft response will be considered at the April 21, 2022, meeting of the Advisory Council, and the upcoming meeting of the Trustee Restoration Council (TRC). More information about the time/location of these meetings can be found at <https://dojmt.gov/lands/council-meetings/>. This draft response may be revised based on input from the TRC and final decision by the Governor.

¹ Note that this is a different creek from the Rock Creek outside of Missoula that is listed as a Priority 2 in the *Upper Clark Fork River Basin Aquatic and Terrestrial Resources Restoration Plans* (2019).

Comment Summary and Response

Comments in support of the project and funding with NRD funds – 2 letters

Comments: Two comment letters indicated general support for the project. The major reasons for this support include “Maintaining clean, cold and connected tributaries to the mainstem river is a vital component to restoring the Upper Clark Fork” and “Partnerships such as this lease, are a vital piece of the puzzle in your efforts to restore and replace precious resources in the basin.”

Response: NRDP appreciates this acknowledgment of support from the public. After consideration of public comments, NRDP recommends approval for the project subject to the funding conditions for the Rock Creek Lease Renewal specified in the funding recommendation document.

Appendix A – Public Comment Letters



April 6, 2022

Natural Resource Damage Program
P.O. Box 201425
Helena, MT
59620-1425

Re: Rock Creek Lease Renewal Funding

On behalf of the Clark Fork Coalition, I am writing in support of the NRDP Rock Creek lease renewal funding recommendation. Maintaining clean, cold and connected tributaries to the mainstem river is a vital component to restoring the Upper Clark Fork. Our understanding is that this project will continue to protect a minimum flow of 5 CFS to lower Rock Creek and provide cold-water refuge for trout in the Clark Fork River. We look forward to seeing this important lease renewed and are interested in tracking the fishery response.

We thank MT FWP and NRDP for the ongoing commitment to protecting flows in Rock Creek.

Sincerely,

A handwritten signature in blue ink that reads "Karen Knudsen". The signature is fluid and cursive, with the first and last names clearly legible.

Karen Knudsen
Executive
Director

PO Box 7593
Missoula, MT 59807

T: 406.542.0539

F: 406.542.5632

www.clarkfork.org

From: tommstad@bresnan.net <tommstad@bresnan.net>
Sent: Thursday, March 10, 2022 10:50 AM
To: Natural Resource Damage Program <nrdp@mt.gov>
Subject: [EXTERNAL] RE: PUBLIC COMMENT NOTICE - Rock Creek Lease Renewal

Dear NRDP:

I would like to comment on the Rock Creek Water Right Lease Renewal.

I am in favor of renewing the lease. Water is in short supply in most years in the UCFRB and water is the life blood of the riparian areas and aquatic life of the area. Partnerships such as this lease, are a vital piece of the puzzle in your efforts to restore and replace precious resources in the basin. Thank you.

Tom Mostad
2115 E. Broadway St.
Helena, MT 59601
