

TO: Columbia Basin Fish and Wildlife Authority  
FROM: Matt Colman, Trout Unlimited  
RE: Comments Request for BPA High Priority Proposals  
DATE: February 12, 2001

Project Number: #23021  
Project Title: Restoring Bull Trout Habitat in The Blackfoot River's North Fork  
Sponsor: Trout Unlimited

**In participating in the BPA Columbia Basin High Priority Project Grant Application process, we selected a project that met the following criteria:**

- ◆ **The project results in immediate on-the-ground benefits for the basin's fisheries.**
- ◆ **The project requires timely and prompt action to capitalize on willing participants to lock in biological benefits.**
- ◆ **The project provides dramatic and measurable benefits to a species adversely affected by hydropower, and listed under the Endangered Species Act.**
- ◆ **The project already has more than half of the required funding in place.**
- ◆ **The project has a strong array of partners already in place, that increases the likelihood of the long-term success of efforts to enhance and protect habitat.**

**In responding directly to the questions raised by the committee, I have enlisted the help of Mike McLane (MT DNRC) for his expertise regarding legal assurances that water would remain instream for the benefit of fish. I have also enlisted the expertise of Greg Neudecker (USFWS) regarding whether evidence exists to show that spawning and rearing area in tributaries limits population size, and to provide assurances that MDFWP is doing appropriate monitoring.**

**In the interest of the requested brevity, I have excerpted material from letters of support submitted by Mr. McLane and Mr. Neudecker, as responses to the committee's concerns. The complete texts of these supporting documents are attached to this message for further reference.**

**ISRP or CBFWA Comment or Issue #1:** Upon the reviewers' independent inquiry, it appears the water would remain instream for the benefit of fish; however, the response should describe the legal assurances that the water will remain instream for the benefit of fish.

**Response to #1:** (Please reference Letter of Support submitted by Mike McLane, Montana's Department of Natural Resources and Conservation, Watershed Planner -- Clark Fork Basin, sent as an attachment to this message.)

The project sponsor, Montana Trout Unlimited, has asked that we in clarify the legal status of protecting water for instream flow in the Blackfoot River System.

Montana Water law will extend water right protection to instream flows created through the lease and conversion of an existing water right. Leases can be established for a period of 10 years and renewed for an additional 10-year period. In the instance of leasing conserved or salvaged water the term of the lease may be set at 30 years.

Montana Department of Natural Resources and Conservation, Water Resources Division is the legal entity in Montana having the jurisdiction to approve and evaluate new water rights, water reservation and changes to existing appropriative water rights. As an agency we review and approve all new water rights and all water leases that convert water rights to instream flow.

Our review of the N. F. Blackfoot project proposal indicates that water leasing is a critical component of the applicant's plan. The applicant has proposed a positive action to acquire a protectable interest as allowed under Montana law.

Montana Law has three sections of code that specifically provide for the leasing of private water rights to provide instream flows. These are found in

- 85-2-436 – 438, MCA [1999], "Water Leasing Study" (Fish, Wildlife and Parks water leasing authority)
- 85-2-439 – 449, MCA [1999] "Upper Clark Fork basin Instream Flow Pilot Program" (a leasing program open to all interests but limited to the watershed above Milltown Dam – Blackfoot and Upper Clark Fork Watersheds)
- 85-2-408 – 409, MCA [1999] "Temporary Change Authorization of instream flow – Additional Requirements" (A leasing program open to all interests, except Department of Fish, Wildlife and Parks, and statewide in its geographic area of application.)

DNRC is encouraged to see the effort made to enhance instream flows and then to protect those flows developed through water conservation. We are also encouraged to see the water users and other affected interests looking at the shared benefits that can be derived through stream restoration and water conservation in the North Fork of the Blackfoot River.

**[We would like to add that the idea of protecting instream flows to benefit the state's fisheries is neither novel nor untested. Montana Fish, Wildlife and Parks presently has over fourteen water leases in place protecting instream flows and providing fishery benefits. In addition, Trout Unlimited has one lease in place and is in the process of negotiating others.]**  
**-- Trout Unlimited**

**ISRP or CBFWA Comment or Issue #2:** Although the proposal seems like a good approach to protect a strong existing population, the response should make a stronger case that bull trout in the North Fork are in jeopardy. What evidence exists to show that spawning and rearing area in tributaries limits the size of this population?

**Response to #2:** (Please reference Letter of Support submitted by Greg Neudecker, USFWS sent as an attachment to this message).

Excluding the Clearwater River, fluvial bull trout currently inhabit 14 sub-basins, and based on historical records, are extirpated from 10 drainages or approximately 110 miles of streams. Fluvial bull trout currently occupy approximately 430 river miles in the drainage, including 120 miles of mainstem river and 310 miles of tributaries. Spawning occurs in groundwater upwelling areas that represent approximately 24 of these 310 stream miles (Pierce et al. 1997). In 1989, only three of the 19 sampled tributaries had densities of bull trout YOY greater than one fish/100' (Peters 1990). The North Fork Blackfoot River (CPUE 5.6/100'), Monture Creek (CPUE 5.6/100') and Copper Creek (CPUE 3.8/100') contained the largest populations of juvenile bull trout in the Blackfoot Basin (Pierce et al. 1998).

MT Fish, Wildlife & Parks in its Blackfoot River Restoration Project: Monitoring and Progress Report, 1997-1998, list three restoration objectives: 1) Eliminate the loss of bull trout and westslope cutthroat trout to irrigation canals. 2) Manage riparian areas to protect habitat for native fish. 3) Improve recruitment of native fish to the Blackfoot River. As stated in the High Priority Proposal, all five irrigation ditches have been screened. In 1998, fish surveys were completed in four of five irrigation canals downstream of fish screens. No fish were collected in any of these ditch samples. The High Priority Proposal if funded, would help address objectives 2 and 3 listed above.

In MT Fish, Wildlife and Parks "Blackfoot River Fisheries Inventory, Monitoring and Restoration Report 2000" they list restoration objectives for Kleinschmidt Creek (a tributary to Rock Creek and the North Fork) as: reduce whirling disease infection levels, restore stream channel morphology for all life stages of trout, increase recruitment of trout to the Blackfoot River, and restore thermal refugia and rearing areas for North Fork bull trout. I believe the High Priority Proposal if funded would address all of these objectives.

Rock Creek (a tributary to the North Fork) historically supported spawning migrations of bull trout and cutthroat trout, and also was a migration corridor between the North Fork Blackfoot River and the Coopers Lake and upper Dry Creek drainages (Pierce et al. 1997). MT Fish, Wildlife & Parks in its Blackfoot River Restoration Project: Monitoring and Progress Report, 1997-1998, found very low numbers of westslope cutthroat trout and bull trout in Rock Creek. That same report also listed Restoration Objectives for Rock Creek as: 1) Restore Migration corridors for westslope cutthroat and bull trout. 2) Restore natural stream morphology to improve rearing and spawning habitat for all fish using the system. Again, if funded the High Priority Proposal would address these issues.

While the North Fork River Watershed is one of three strong holds for bull trout in the Blackfoot Watershed, bull trout numbers are believed to be a fraction of what they were historically. In fact tributaries to the North Fork such as Rock Creek and Kleinschmidt Creek, bull trout are just barely measurable. We believe instream flow enhancement and habitat restoration projects will provide better access to spawning sites; improve complex habitat for staging bull trout; improve water temperature; and significantly improve juvenile bull trout rearing habitat. Because of these reasons, the North Fork Watershed is our highest priority for restoration work in 2001. We also believe that restoration efforts in the North Fork Watershed will give us the greatest chance for bull trout recovery in the Blackfoot River Watershed.

**ISRP or CBFWA Comment or Issue #3:** Reviewers need assurances that MDFPW is doing appropriate monitoring; e.g. Page 13, Objective 2. The number of juvenile bull trout also will be influenced by population size. It will be difficult (require extended dataseries) to separate effects of habitat improvements from effects of population density. What is the monitoring plan? (Specifically related to juvenile bull trout)?

**Response to #3:** (Please reference Letter of Support submitted by Greg Neudecker, USFWS sent as an attachment to this message).

Montana Fish, Wildlife & Parks has documented its inventorying and monitoring activities through a series of reports including:

Peters, D. and R. Spoon 1989. Preliminary Fisheries inventory of the Big Blackfoot River. Montana Fish, Wildlife and Parks (MTFWP)

Peters, D. 1990. Inventory of Fishery resources in the Blackfoot River and Major Tributaries. MTFWP

Pierce, R. 1991. A Stream habitat and Fisheries Analysis for six tributaries fro the Blackfoot River. MTFWP

Peters, D. and R. Pierce 1995. Aquatic Restoration in the Blackfoot River and Rock Creek Drainages. MTFWP

Pierce, R., D. Peters and T. Swanberg 1997. Blackfoot River Restoration Project Progress Report. MTFWP

Pierce, R. and D. Schmetterling 1999. Blackfoot River Restoration Project: Progress and Monitoring Report 1997-1999. MTFWP

Pierce, R. and C. Podner 2000. Blackfoot River Fisheries Inventory, Monitoring and Restoration Report 2000. MTFWP

Specific fish population monitoring ongoing in the North Fork River Watershed include:

North Fork: Five levels of fish population surveys have been undertaken on the North Fork Blackfoot River including: 1) bull trout redd counts established in 1989 and redone yearly; 2) juvenile bull trout shoreline samples in five index sections originally established in 1989 and redone in 1990, 1991, 1994, 1996, 1998, 2000; 3) mark-and-recapture population surveys in the lower reach of the North Fork (RM 5.9-2.1) originally established in 1989 and redone as listed above; 4) fish surveys in irrigation canals; and 5) radio telemetry studies beginning in 1994.

Rock Creek: Five levels of fish habitat and fish population surveys have been completed in Rock Creek including: 1) instream habitat surveys, 2) riparian inventories, 3) temperature monitoring, 4) fish population monitoring at several locations, and 5) pre- and post-restoration project surveys.

Kleinschmidt Creek: Three levels of fish habitat and fish population surveys have been completed in Kleinschmidt Creek including: 1) fish population surveys at three locations established in 1998, 2) stream temperature monitoring, and 3) a whirling disease sentinel cage study.

Blackfoot River: Two long-term monitoring sections were established in the Blackfoot River below the North Fork Blackfoot River in 1989. These spring monitoring reaches track estimated fish population densities in the Blackfoot River. We believe these numbers are also good indicators for the success of our restoration efforts in tributary streams including the North Fork.

The long-term monitoring plan is to first and foremost continue monitoring all of the established monitoring reaches listed above at a minimum of once every two years. Reports will be generated at least every two years to document native fish populations. We will also monitor all restoration projects within the North Fork Watershed before and after restoration and quantify in reports bull trout and westslope cutthroat trout responses.

More detailed information may be obtained from the reports listed above or by contacting Ron Pierce, a Fisheries Biologist with MTFWP in Missoula, MT (406 542-5532) . Ron is the principle fisheries biologist working on the North Fork Project and has been involved with all phases of this project.

Thank you for your consideration. If you have any further questions or concerns, please contact me immediately at (406) 522-7291, or e-mail me at: [mcolon@tu.org](mailto:mcolon@tu.org).

Sincerely,

Matt Colson  
Trout Unlimited  
321 East Main, #411  
Bozeman, MT 59715