

Clark Fork Basin Watershed Management Plan

Background: In 2001 the Montana State Legislature passed House Bill 397. Codified as the “*Clark Fork River basin task force – water management plan*”, this statute directed the Governor’s Office to designate an appropriate entity to convene and coordinate a task force to prepare a water management plan for the Clark Fork River. (85-2-350(1), MCA 2003). This task force, the Clark Fork Basin Task Force (Task Force), was directed to submit their completed work, *The Clark Fork Basin Water Management Plan*, to the legislature by September 15, 2004.

Because the State Water Planning process is specifically referenced in HB 397, *The Clark Fork Basin Water Management Plan* developed by the Task Force must now be considered for inclusion as a section of *Montana State Water Plan*.

The statutory requirements for a State Water Plan section require the Department of Natural Resources and Conservation (DNRC) to submit to the Environmental Quality Council (EQC) and the legislature prior to the regular session the state water plan or any section of the plan, additions or revisions. (85-1-203(3), MCA (2003)).

Clark Fork Task Force: The Governor’s designee, the Montana Consensus Council, convened the Task Force and identified fourteen representatives of the broad range of Basin water interests who volunteered to serve as its members. Over the past two and half years, this group of citizens explored basin conditions and water law and considered opportunities for future water supply, water conservation and water management. They developed a draft management plan, held five public meetings in different portions of the basin and developed a final plan based upon public comments received at those meetings. The Task Force through their facilitator will present that work at the September EQC meeting.

Next Steps: *The Clark Fork Basin Water Management Plan* will be considered for inclusion as a section of the *State Water Plan*. Before November, the DNRC will provide public notice considering adoption of *The Clark Fork Basin Water Management Plan* as a State Water Plan section. Public hearings will be conducted in several Western Montana cities. The EQC is invited – but is not required - to participate in these hearings.

After public notice, hearings, public comment, and due consideration of public comments *The Clark Fork Basin Water Management Plan* will be considered by DNRC for adoption, in total or in part, as a section of the State Water Plan. At that point, the EQC becomes the recipient of the newly adopted section (85-1-203 (3) MCA (2003)). The legislature, through a joint resolution, may modify or reject the plan section. (85-1-203 (4) MCA (2003)).

Attachments:

Clark Fork Basin Watershed Management Plan – Summary Report

Clark Fork River Basin Task Force -- Water Management Plan 85-2-350 MCA (2003) MCA

State Water Plan. 85-1-203 MCA (2003).

85-2-350. (Temporary) Clark Fork River basin task force -- water management plan. (1)

The governor's office shall designate an appropriate entity to convene and coordinate a Clark Fork River basin task force to prepare a water management plan for the Clark Fork River basin pursuant to 85-1-203. The designated appropriate entity shall:

(a) identify the individuals and organizations, public, tribal, and private, that are interested in or affected by water management in the Clark Fork River basin;

(b) provide advice and assistance in selecting representatives to serve on the task force;

(c) develop, in consultation with the task force, appropriate opportunities for public participation in the development of a water management plan; and

(d) ensure that all watershed and viewpoints within the basin are adequately represented on the task force, including a representation from the following:

(i) the reach of the Clark Fork River in Montana below its confluence with the Flathead River;

(ii) the Flathead River basin, including Flathead Lake, from Flathead Lake to the confluence of the Flathead River and the Clark Fork River. At least one representative from this basin must be a representative of the Confederated Salish and Kootenai tribal government.

(iii) the Flathead River basin upstream from Flathead Lake;

(iv) the reach of the Clark Fork River between the confluence of the Blackfoot River and the Clark Fork River and the confluence of the Clark Fork River and the Flathead River;

(v) the Bitterroot River basin as defined in 85-2-344; and

(vi) the Upper Clark Fork River basin as defined in 85-2-335.

(2) The task force shall examine, for applicability to the water management plan, existing laws, rules, plans, and other provisions affecting water management in the Clark Fork River basin, including:

(a) the temporary closure of Bitterroot River subbasins pursuant to 85-2-344;

(b) the closure of the Upper Clark Fork River basin pursuant to 85-2-336;

(c) the restrictions on ground water development in the Upper Clark Fork River basin provided for in 85-2-337; and

(d) the Upper Clark Fork River basin management plan, adopted as a section of the state water plan pursuant to 85-1-203.

(3) The task force shall prepare a water management plan for the Clark Fork River basin pursuant to 85-1-203. The water management plan must identify options to protect the security of water rights and provide for the orderly development and conservation of water in the future.

(4) The task force shall submit an interim report annually by October 31 on its activities to the governor and the legislature.

(5) The water management plan, including the information prepared by the task force under this section, must be submitted to the 59th legislature, as provided in 85-1-203, by September 15, 2004. (*Terminates April 15, 2005--sec. 6, Ch. 447, L. 2001.*)

History: En. Sec. 1, Ch. 447, L. 2001.

85-1-203. State water plan. (1) The department shall gather from any source reliable information relating to Montana's water resources and prepare from the information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may conduct studies; adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies; perform research or employ other competent agencies to perform research on a contract basis; and hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the "state water plan". The state water plan may be formulated and adopted in sections, these sections corresponding with hydrologic divisions of the state. The state water plan must set out a progressive program for the conservation, development, and utilization of the state's water resources and propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses. Before adopting the state water plan or any section of the plan, the department shall hold public hearings in the state or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general county circulation in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

(3) The department shall submit to the environmental quality council established in 5-16-101 and to the legislature at the beginning of each regular session the state water plan or any section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.

(4) The legislature, by joint resolution, may revise the state water plan.

(5) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate component of the inventory.

(6) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

(7) In developing and revising the state water plan as provided in this section, the department shall consult with the environmental quality council established in 5-16-101 and solicit the advice of the committee in carrying out its duties under this section.

History: En. Sec. 5, Ch. 158, L. 1967; amd. Sec. 138, Ch. 253, L. 1974; R.C.M. 1947, 89-132.1(1) thru (5); amd. Sec. 18, Ch. 573, L. 1985; amd. Sec. 1, Ch. 381, L. 1989; amd. Sec. 417, Ch. 418, L. 1995; amd. Sec. 70, Ch. 545, L. 1995.